

August 25, 2009

**REGULAR MEETING
FLOYD COUNTY
BOARD OF COMMISSIONERS
August 25, 2009 6:00 P.M.**

PRESENT: Chairman John Mayes, Commissioners Irwin Bagwell, Garry Fricks, Eddie Lumsden and Chad Whitefield.

OTHERS

PRESENT: County Attorney Tommy Manning, County Clerk Kathy Arp, County Manager Kevin Poe and Assistant County Manager Blaine Williams.

CALL TO ORDER: Chairman Mayes called the meeting to order.

INVOCATION: Commissioner Whitefield led the Invocation.

PLEDGE OF

ALLEGIANCE: The Pledge of Allegiance was led by Commissioner Bagwell.

PUBLIC PARTICIPATION:

Harold Gipson, 256 Fields Road, Cedartown, stated he is here today to discuss the Fair and Accurate Credit Transactions Act (FACTA). He stated he comes to the Board as a Certified Identity Theft Risk Management Specialist, and to mention and bring the news to them that at no cost whatsoever to the county his company can provide the mandatory training that the FACTA Act requires, along with the written policies and procedures, which are provided after a risk assessment is done.

Chairman Mayes asked Mr. Gipson if he has any information on paper that he would like to submit to them. Mr. Gipson stated he does not have anything with him on paper. However, he stated he could easily return with information or have information sent to them directly. County Manager Poe requested Mr. Gipson take his contact information and send him the corresponding documents. Mr. Gipson thanked the Board. Chairman Mayes thanked Mr. Gipson.

CITY OF ROME 175TH ANNIVERSARY:

Chairman Mayes asked Assistant Manager Blaine Williams to make an announcement regarding an upcoming event. Assistant Manager Williams stated on behalf of the City of Rome and their 175th celebration, there is going to be an attempt to set a Guinness World Record of the world's largest Toga party on Saturday, September 5, 2009

at The Forum Civic Center, from 1:30 p.m. to 3:30 p.m. He stated they will have to officially count everybody and have them in the arena for the record setting photo. There will be an official from the Guinness Book of World Records to certify the count. He stated that at 4:00 p.m. there will be bands and fireworks on the levy. He encouraged everyone to attend because we need all the participation we can get to set the world record.

**ADOPTION OF
MINUTES:**

Chairman Mayes asked County Attorney Tommy Manning if the minutes were in order. Mr. Manning stated the minutes had been reviewed and were in order. Commissioner Fricks made a MOTION to adopt the minutes of the Regular Meeting of August 11, 2009. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

PROCLAMATIONS:

ENTER INTO MINUTES 2010 CENSUS

PARTNER PROCLAMATION:

County Manager Poe stated the proclamation authorizes Floyd County to work with the 2010 Census Committee to support their goals of having an accurate count, and to help distribute information to the proper resources in the community. He stated this assistance will help them have as fair and accurate count as possible.

Chairman Mayes called for a motion. Commissioner Bagwell made a MOTION to approve the 2010 Census Partner Proclamation and enter the proclamation into the Minutes as recommended by the

County

Manager

. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

**PUBLIC HEARINGS:
(FIRST**

READINGS

**HELD
AUGUST 11, 2009 AT 2:00 PM)**

REZONING/SPECIAL USE PERMIT REQUESTS

- 1. FILE #74-2009Z, REQUESTS REZONING FROM SUBURBAN RESIDENTIAL (S-R) TO LIGHT INDUSTRIAL (L-I) FOR EXISTING AUTO REPAIR AND AUTO PAINT AND BODY SHOP ON PROPERTY LOCATED AT 1528 & 1544 CALHOUN AVENUE. ZONING MAP K13X – 365, 366. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 9-0]):**

Chairman Mayes asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property consists of two lots. She stated the lot to the west has an office building on it, and the other lot has the actual repair shop. To the north across the street is undeveloped, previously developed, property. She stated according to the tax records the larger building that is being used as an auto shop was constructed on the property in 1958. The current business of collision repair has occupied the property since the mid 1990's. She stated the surrounding properties are all zoned S-R (Suburban Residential) as was this property. However, they are not all residential either. To the south is a single-family residential neighborhood, but to the east and west along Calhoun Avenue there is a mix of residential and commercial types of uses. She stated the future land use map identifies the area for commercial use, and it is located in the urban growth character area where services and utilities are generally available to support development. She said the applicant does not have the 300-foot setback from residential properties that this use requires. However, he has appealed that and the Board of Adjustments then granted some relief from that 300-foot setback.

Chairman Mayes declared the Public Hearing open, reviewed the Public Hearing procedures, and asked if there is anyone who wishes to speak in support or opposition of this item. The applicant/owner, Billy Dean, was present at the meeting, but did not wish to speak.

There was no one present to speak in opposition of the request. Chairman Mayes declared the Public Hearing closed and called for a motion. Commissioner Fricks made a MOTION to approve the zoning request from S-R (Suburban Residential) to L-I (Light Industrial). SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

2. FILE #82-2009SUP, REQUESTS SPECIAL USE PERMIT FOR MANUFACTURED HOME ON SUBDIVISION LOT IN SUBURBAN RESIDENTIAL (S-R) ZONING DISTRICT ON PROPERTY LOCATED ON 41 PINECREST DRIVE. ZONING MAP F13Y-047. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE:7-2]):

Chairman Mayes asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property is within a subdivision referred to as the Benton Subdivision and therefore requires a special use permit to place a manufactured home on the property. She stated the surrounding properties are also zoned S-R (Suburban Residential) and developed with site built and manufactured single-family dwellings. She stated there are manufactured homes to the west and across Pinecrest Drive to the south. There is also a duplex to the south, along with site built single-family dwellings. She stated approval of the request would not introduce a different development, or be incompatible, although there are site built homes as well in this subdivision. She stated no one spoke in opposition at the Planning Commission meeting, but there was a letter presented from an adjacent property owner. She said he owns lot #48, immediately to the north, and he expresses his objection because he feels that the placement of a manufactured home would affect the value of his property as well as the value of adjacent properties. She stated there was discussion about where the manufactured home shown in the ariel photo actually falls on this property. She said the applicant owns two little slivers of land to the south of this property. However, the manufactured home that is on there now appears to be not on those two small slivers, but actually to encroach into this property. She stated the applicant indicated that he did not believe that it did. It was pointed out that there is often some distortion when the ariel photos are applied to the lots, but because of the size of this, it seems likely that it could. She stated in follow up discussions with this

applicant it was suggested that he get a plat of the property to ensure that it would be appropriate to get the special use permit. She said if there is already a manufactured home on each of the three lots, that is all he can place there. He cannot place an additional home of any kind on the property because it is in an area that is sewerred. She stated it also came up at that time and in the follow up discussions, that there may be some misunderstanding about where the northern property line is for this property. So again, that would affect whether there is actually space on this property to place a manufactured home. She said for those reasons, staff would recommend that the Board postpone this and give the applicant a chance to clarify: 1) where the property lines are; 2) where that existing manufactured home is on the property; and 3) to determine whether there is actually a site for an additional structure on that property or not.

Chairman Mayes declared the Public Hearing open and asked if there is anyone who wishes to speak in support or opposition of this item.

Support: Lamar Davis, 20 Trillium Trail, stated he believes the discussion, and the confusion, was that he has a doublewide that is there now. The property that he is trying to get permission to put the doublewide on has already had a doublewide there. He stated it has the tie downs, water and sewer, power pole, gas meter, and the driveway on this property. He said parcel 47 is a larger piece of property than parcel 45 and 46. He said by it having a doublewide on there before, and having all the things for him to put it back on there, what he is trying to do is turn this back into an income producing piece of property instead of it just sitting there growing grass. He stated at this particular time it is not making him any money. He wants to turn this into a home, and if they are ever out that way and look at the property, they will see that he is very strict as to the type of people he rents to. He stated his property out there is very well maintained. He goes by there at least once every ten days. He stated he believes in keeping his things up and having his people to keep it up. He is asking their permission to make a home there.

Assistant Manager Williams asked Mr. Davis how long ago it was that there was a manufactured home on that piece of property. Mr. Davis stated he bought that entire strip in foreclosure and he has no direct knowledge. Assistant Manager Williams asked Ms. Hiller is there potential for some setback issues or a variance to accommodate that based on what she sees right now. Ms. Hiller stated if indeed the existing manufactured home sits only on the lower two properties, he may be able to put another one on there. However, a drainage ditch runs through there, so that does limit how he could develop that lot. She stated if he cannot meet the setbacks, he would certainly have the option of going to the Board of Adjustment and getting some variances to accommodate that. Assistant Manager Williams asked Ms. Hiller if she has asked for a plat to show how it might lay out. Ms. Hiller stated Phil Helton contacted the applicant and asked him if he could get a site plan that would sort of clear up that confusion. She stated she does not know if he has tried to or not, but they have not seen one in any case. Commissioner Fricks asked besides the zoning, that issue will be addressed actually with setbacks and applying the ULDC, is that correct. Ms. Hiller stated even for building permits they do not always get a site plan when they place a

residential structure on a property. However, that was before they did some further investigation and realized how close it was going to be there. Commissioner Fricks asked at what point in time do they be administer their setback requirements. She stated in the field when he tries to put a structure on there. Commissioner Fricks stated so really it would be to the applicant's advantage to make sure that he can comply with the setback requirements.

Commissioner Whitefield asked how long has the home that is causing some confusion been there. Mr. Davis stated since 1998. He stated there was a mobile home there and the tie downs are still on the lot. so unless there has been some change since the mobile home was there before he does not understand why he cannot place another one on the lot. He would have a survey before he tied money up in a mobile home to make sure he is in compliance with all regulations.

Commissioner Fricks asked if they take no action now, they could actually get that worked out and come back next time for the Board to take action. County Attorney Manning stated if they took no action or voted to defer, either way would mean that this issue would come before the Board of Commissioners at the next meeting. He stated by that time they might know whether this would work without a variance or not.

There was no one to speak in opposition of the request. Chairman Mayes declared the Public Hearing closed.

Commissioner Whitefield made a MOTION to Table File #82-2009SUP until the next meeting to give Mr. Davis the opportunity to explore all of his options and make sure that he is in fact in compliance. He stated that meeting will be September 8, 2009 at 2:00 p.m. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

ULDC TEXT AMENDMENTS

- 1. REVISE OR DELETE ARTICLE 2.2.3 B. AND 2.2.3 C. REGARDING PUBLIC INPUT DURING ZONING HEARINGS. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 9-0]):**

Commissioner Whitefield stated they have before them a text amendment that changes the way public input is received during zoning meetings. He stated the City Attorney noted during a review that the current policy is disproportionate in time. The proponent has a greater amount of time than the opposition so this will clear that up and allow for an equal amount of time by both parties during the public hearings. He stated each side is to receive ten minutes.

Commissioner Fricks asked will this affect our public hearings as well. County Attorney Manning stated yes, the change affects public hearings before the Planning Commission and before the City and County Commissions. He stated it will allow ten minutes for the applicant. The applicant can reserve some period of that time for rebuttal. It allows ten minutes for the opposition, and then that portion of the ten minutes that were reserved by the applicant will be allowed for rebuttal. Commissioner Bagwell asked County Attorney Manning if the applicant could defer all their time for rebuttal. County Attorney Manning stated the way it is written they could, but he does not know that it would be in their best interest. Commissioner Bagwell stated this brings us under state compliance. County Attorney Manning stated he thinks this is consistent with the state Zoning Procedures Act.

Chairman Mayes declared the Public Hearing open, and asked if there is anyone who wishes to speak in support or opposition of this item. Seeing none, he declared the Public Hearing closed.

Commissioner Whitefield made a MOTION Adopting an Ordinance to revise Article 2.2.3 b. and 2.2.3 c. regarding public input during zoning hearings as submitted by the Planning Commission. SECOND by Commissioner Lumsden. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

CHAIRMAN'S REPORT:

No Report.

COMMISSIONER'S REPORT:

- 1. Administrative/Finance Committee – Commissioner ~~Chad Whitefield~~,
Chairman**

No Report.

2. Public Safety Committee – Commissioner —Eddie Lumsden–, Chairman

No Report.

3. Public Works Committee – Commissioner Irwin Bagwell, Chairman

- a. Recommendation to accept the following roads within the Wood Glen Subdivision, Phase II onto county maintenance: Foliage Way NE, Treehouse Trail NE, Honeytree Trail NE, Sapling Court NE, Split Branch Court NE and Detention Pond #1 (located on lot #30).**

Commissioner Bagwell stated this item was brought before the Public Works Committee with a recommendation to accept the following roads within the Wood Glen Subdivision, Phase II onto county maintenance: Foliage Way NE, Treehouse Trail NE, Honeytree Trail NE, Sapling Court NE, Split Branch Court NE and Detention Pond #1 (located on lot #30).

Commissioner Bagwell made a MOTION to accept the recommendation of the Public Works Committee to accept the roads listed within the Wood Glen Subdivision, Phase II and Detention Pond #1 onto county maintenance as submitted. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

- b. Request from Public Works Director to amend Equipment Budget to allow for purchase of three fuel dispensers for \$25,000.**

Commissioner Bagwell made a MOTION to approve the request from Public Works Director to amend the Equipment Budget to allow for purchase of three fuel dispensers for \$25,000. He stated funds would be transferred from the public works gas and fuel budget, and it is not going to be an increase to the overall budget. SECOND by Commissioner Lumsden. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

4. Water Committee – Commissioner —Garry Fricks–, Chairman

No Report.

5. Judicial Services Committee – Commissioner —Eddie Lumsden–, Chairman

No Report.

6. Special Committee Reports

a. SPLOST Committee – (Fricks)

No Report.

b. Work Release Committee – (Lumsden and Mayes)

1) Consider adoption of plan to begin hiring staff for new Work Release Center.

County Manager Poe stated construction of the new Work Release Center is due to be complete in November of this year. He stated in order for us to be ready to start operation January 1, 2010, which is our recommendation, we are requesting that the Board authorize the creation and filling of eight (8) additional correctional officer positions. All of those people will have to be certified correctional officers. He stated that requires them to go through training at the Public Safety Training Facility in Forsyth, Georgia, along with our own in-house training. In order to staff the center, and be in operation January 1, 2010, the prison staff needs to be able to fill those positions in order to get those people ready to go to training in October.

Commissioner Fricks made a MOTION to adopt the plan as outlined by the County Manager to begin hiring staff for the new Work Release Center. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden

" Whitefield
Chairman Mayes

Motion Carried

c. Fire Overview Committee – (Lumsden and Whitefield)

No Report.

d. Joint Services Committee – (Mayes and Whitefield)

No Report.

e. Joint Development Oversight Committee – (Fricks and Whitefield)

No Report.

f. Joint Solid Waste Oversight Committee – (Bagwell and Whitefield)

No Report.

CLERK’S REPORT:

Consent Agenda

County Clerk Kathy Arp stated there are five items on the Clerk’s Consent Agenda that have been reviewed and are submitted for approval.

County Attorney Manning stated on item #3, there are actually four Resolutions concerning that condemnation for two different tracts. He stated two of the resolutions are for the condemnations of the two separate tracts, and two are for construction easements.

Commissioner Whitefield made a MOTION to approve the Consent Agenda as presented with the notes as stated by the County Attorney. SECOND by Commissioner Lumsden. VOTING:

YES

NO

Commissioner Bagwell

" Fricks

" Lumsden

" Whitefield

Chairman Mayes

Motion Carried

1. **Malt Beverage Application, Karen C. Lee, Rome Cinemas, 2535 Shorter Avenue, Consumption on Premises: Beer (New).**
2. **Declare 1993 Ford Crown Victoria (VIN #2FACPWPX161840) surplus.**
3. **Approve Resolution authorizing condemnation of a portion of the Berry Family property for right-of-way on the Armuchee Connector Project (2006 SPLOST).**
4. **Authorize payments for right-of-way acquisition on Highway 411 Frontage Road Project (2006 SPLOST) to the following land owners:**
 - a. **Herbert David and Greta Litton, Zoning Map M15-017B, Parcel 18, \$78,150.00**
 - b. **Johnson Farm, Zoning Map L15-013, Parcel 12, Tract 1, 2, 3, 4, 5, \$526,500.00**
 - c. **Johnson Farm, Zoning Map L15Z-022, Parcel 14, \$231,150.00**
 - d. **B. H. Braden, Zoning Map M15-022, M15-025, M15-006 and M15-013, Parcel 19, Tract 1, 2, 3, 4, 5, 6, 7, \$686,900.00**
 - e. **Robert D. and Becky L. Winn, Zoning Map M15-010, Parcel 29, \$40,000.00**
5. **Authorize payments for right-of-way acquisition on Armuchee Connector Project (2006 SPLOST) to the following land owners:**
 - a. **Dr. Daniel Glenn Todd, Zoning Map J12X-044, \$336,000.00**
 - b. **Berry College, Zoning Map J12W-001, \$332,871.00**

MANAGER'S REPORT:

**1. APPROVE SUBMITTAL OF THE 2009
BYRNE JUSTICE ASSISTANCE GRANT
FOR ROME JUDICIAL CIRCUIT (CJIS)
PLAN:**

County Manager Poe stated they have before them a request to authorize the Chairman to sign the appropriate documents for submittal of a 2009 Byrne Justice Assistance Grant (JAG). He stated this is money that is coming down from the federal government to the State of Georgia to the Criminal Justice Coordinating Council. He said \$334,688.00 has been allocated to the Rome Judicial Circuit to help with making our criminal justice system more efficient and effective. A committee has been in place working on trying to accomplish those goals for the last couple of years. He stated that committee has prioritized a list of projects to submit to utilize this \$334,688.00. He recommended the Chairman be authorized to sign the documents for submittal of this grant, which is due by September 1, 2009.

Commissioner Lumsden made a MOTION to approve the submittal of the 2009 Byrne Justice Assistance Grant for Rome Judicial Circuit (CJIS) Plan and

authorize the Chairman to sign the documents related to the grant. SECOND by Commissioner Whitefield. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

2. APPROVE CONTRACT WITH NORTHWEST GEORGIA PAVING FOR NORTH TERMINAL PHASE II WORK AT RICHARD B. RUSSELL REGIONAL AIRPORT:

County Manager Poe stated we are requesting permission to contract with Northwest Georgia Paving to start on the North Terminal Phase II work at the Richard B. Russell Regional Airport. He stated this was presented to the Board earlier, and there were some concerns that there would not be enough money in the budget to cover the cost. This is primarily a DOT funded project and the DOT will pick up seventy-five percent of the cost. He stated in working with the contractor on the county's twenty-five percent of the cost, Northwest Georgia Paving has agreed to defer the county's payment to them until January of 2010. He said from a budget and cash flow standpoint that is going to help. He recommended the Board allow them to proceed with the project. He stated the county will have to pay the 75% upfront to the contractor for the work, but the DOT will reimburse the county in the appropriate period of time within this calendar year. The project includes grading, paving, erosion control, storm water control and pavement markings for aircraft parking and ramp area. He stated the total amount of the project on the contract is \$488,758.00. County Attorney Manning stated with regard to the proposed contract he would also recommend that the Board consider authorizing the Chairman, in addition to the Contract, to sign the letter that has been submitted by Northwest Georgia Paving offering to accept payment from the county next year, just so that is documented in the minutes. He stated they would need to consider for approval the Contract, plus the letter that the contract agrees to that payment plan.

Commissioner Lumsden made a MOTION to approve the Contract with Northwest Georgia Paving for North Terminal Phase II work at Richard B. Russell Regional Airport and authorize the Chairman to sign the related documents including the letter accepting the payment plan as stipulated by the County Attorney. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

3. DISCUSS PROPOSAL TO TRANSFER JAIL POSITION #441-149, #441-150 AND #441-163 TO FACILITIES MANAGEMENT, AND FOR FACILITIES MANAGEMENT STAFF TO TAKE OVER MAINTENANCE OF THE JAIL BUILDINGS:

County Manager Poe stated this is a proposal to transfer three positions at the Jail to the Facilities Management Department. He stated several years ago the Sheriff took over maintenance responsibilities at the Jail. Before that, the Facilities Management staff was responsible for maintaining the Jail as well as every other county facility. He stated the previous Sheriff moved towards having his own staff being responsible for that. He stated he thinks that it is in the best interest of the county, and the Sheriff is supporting this proposal, that they now shift those positions over to Facilities Management and go back to having Facilities Management coordinate and be responsible for all repair and maintenance of the Jail. He stated they have listed the three positions that they would like to have transferred, along with the funding for the positions from the Jail budget to the Facilities Management budget.

Commissioner Bagwell made a MOTION to transfer Jail position #441-149, #441-150 and #441-163, and the funding for these positions, to Facilities Management, and for Facilities Management staff to take over maintenance of the Jail buildings. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

ATTORNEY'S REPORT:

No Report.

OTHER BUSINESS:

Chairman Mayes welcomed the Junior Service League participants in attendance.

ADJOURNMENT:

There being no further business to come before the Board, MOTION was made by Commissioner Whitefield, SECOND by Commissioner Lumsden, that the meeting be adjourned. VOTING:

YES

NO

Commissioner Bagwell

" Fricks

" Lumsden

" Whitefield

Chairman Mayes

Motion Carried

**FLOYD COUNTY BOARD OF
COMMISSIONERS**

JOHN MAYES, CHAIRMAN