

March 9, 2010

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
March 09, 2010 2:00 P.M.**

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

OTHERS

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

CALL TO

ORDER: Chairman Lumsden 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:

Alvin Jackson, 23 Conn Street, stated he is the Chairman of the MLK Commission. He stated they are in the process of promoting Unity in the Community, which is their theme for the year. They have put together activities for the month of April called Rome-Floyd Spring into Peace. He stated this was the idea of Ruth Demeter, a member of the MLK Commission.

Ruth Demeter, 43 Bluff Mountain Drive, thanked the Commissioners for their support of the MLK Commission. She stated as mentioned, the theme this year is Unity in the Community. In the process of preparing for the events, two things became clear to them. One is that there is disunity in the community. She said at the same time, there are many people that would like things to be more peaceful in Floyd County. She stated to that end, they invited people to join them to participate in Rome-Floyd Spring into Peace. This is going to be a month long series of events in the month of April. She stated the intention is to bring awareness to the community both of what is needed to create peace, and the opportunities and blessings that they already have here in Floyd County. She said the mission of Rome-Floyd Spring into Peace is to make Rome and Floyd County a peaceful community through respectful dialog, inclusiveness and love. She stated there are four weekly themes in the month, which are Hunger, Housing and Shelter, Non-violence, and Interface Dialog and Cultural Awareness. She stated each week they are going to focus on one of those themes and showcase non-profit community groups that are taking action in that regard. She invited everyone to attend their opening event on Wednesday, March 31, 2010, from 5 – 5:30 p.m. at the Floyd County Library. She asked that they invite any

organizations that they belong to if they would like to be listed as a supporter. Ms. Demeter and Mr. Jackson thanked the Board for their time.

ADOPTION OF MINUTES:

Chairman Lumsden asked County Attorney Tommy Manning if the minutes were in order. Mr. Manning stated the minutes had been reviewed and were in order. Commissioner Mayes made a MOTION to adopt the minutes of the Regular Meeting of February 23, 2010. SECOND by Commissioner Bagwell. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

PROCLAMATIONS:

CHILD ABUSE PREVENTION MONTH:

Commissioner Mayes presented Ms. Beth Dabbs, Victim Witness Assistance Program Director, with a Proclamation recognizing April as Child Abuse Prevention Month. Mr. Malcolm Smith thanked the Board for their support and invited the community to join them at noon on April 1, 2010, at the Dempsey Building on Broad Street as they kick off the month with their pinwheel prevention display.

(Proclamation/Resolution Book, Page 157)

**RECOGNIZE FINANCE DEPARTMENT STAFF
FOR GOVERNMENT FINANCE OFFICERS
ASSOCIATION (GFOA) AWARD OF FINANCIAL
REPORTING:**

Commissioner Whitefield presented Gary Burkhalter, Finance Director/Comptroller and his staff with a Certificate of Achievement from the Government Finance Officers Association (GOFA). He stated that this award goes to governments whose annual financial reports are judged to adhere to program standards, and represents the highest award in government financial reporting. He stated the county is very blessed to have an outstanding Finance Department, and they have received this award twenty-two years in a row. He congratulated them and thanked them for all their hard work.

Gary Burkhalter introduced Brenda Hancock, Susie Gass, Sheryl Allen, Jennie Leonard, Pat McConnell, Amanda Blackwell, and Adonna Puckett. He stated Pam Shiflett, is also a part of their team, but is out of the office today. He stated he would just like to say thank you for the support of management and the commission for what they do. He said his staff is hardworking financial professionals and this is a great honor.

**FIRST READINGS
(PUBLIC HEARINGS TO BE HELD
ON MARCH 23, 2010 AT 6:00 PM)**

- 1. FILE #31-2010SUP, REQUESTS SPECIAL USE PERMIT FOR LAWN AND GARDEN SERVICE BUSINESS IN SUBURBAN RESIDENTIAL (S-R) ZONING DISTRICT ON PROPERTY LOCATED ON THOMAS ROAD. ZONING MAP L12Y – PARCEL 069. (PLANNING COMMISSION RECOMMENDATION: APPROVE WITH CONDITION THAT SETBACKS, BUFFERS, AND LANDSCAPING ARE IN COMPLIANCE WITH THE ULDC. [VOTE: 10-0]).**

- 2. FILE #32-2010Z, REQUESTS REZONING FROM AGRICULTURE RESIDENTIAL (A-R) TO COMMUNITY COMMERCIAL FOR MARKETING PURPOSES OF PROPERTY LOCATED ON HIGHWAY 27 SOUTH AT BOOZE MOUNTAIN ROAD. ZONING MAP 117X – PARCELS 044, 049 AND ZONING MAP H17 – PARCELS 064A, 064B. (PLANNING COMMISSION RECOMMENDATION: DENY WITHOUT PREJUDICE. [VOTE: 10-0]).**

Chairman Lumsden stated Public Hearings will be held Tuesday, March 23, 2010 at 6:00 p.m.

**PUBLIC HEARING:
(FIRST READINGS HELD
FEBRUARY 23, 2010 AT 6:00 P.M.)**

- 1. AMENDMENT TO FLOYD COUNTY CODE §2-18 RELATED TO WRECKER AND TOWING SERVICE (2010-001A):**

Chairman Lumsden declared the Public Hearing open, and asked if there is anyone wishing to speak in support or opposition of this proposed amendment.

Oppose: Bobby Loyd, Loyd's Wrecker Service, 1501 Turner McCall Blvd., stated that none of them (*service providers*) have agreed to this, and half of it is

still back in the 1970's and 80's. He stated some of the codes are against the Federal Motor Carrier Codes. The pricing is not up to date. He stated the only thing they are asking is to have a meeting with Commissioner Mayes, Chief Shiflett, and a representative from all of the wrecker companies to go over this together, and maybe update it to their standards. Not to take anything away from anybody, but they (*commissioners*) truly do not have a clue as to what it takes for them to go out and work a wreck. He stated they do not have a clue as to what kind of employees they have to have, or what kind of equipment they use. He said they cannot charge for oil dry, but when the wrecker company is dispatched, they are sure to tell them to bring the oil dry. They have to pay for it and it should not come out of the \$75.00 that they get from the call. He stated they are now trying to tell them they get the same amount if they receive a call to tow a vehicle wrecked all to pieces as they do for a vehicle that just breaks down regardless if they have to stay and sweep glass for half an hour. All they are wanting is just a fair shake. To sit down and try to come to an agreement on everything. He stated in the past they would send a letter and call all of the wrecker services in to go over it. Most of the time it was not what they wanted, but it pleased everybody and they all got along. That is all they are asking for now.

Ricky Gresham, G&R Towing, 1801 Dean Avenue, stated he has been in business in Rome for going on seven years. He stated Mr. Loyd covered most of what he was going to say. They are here just trying to be unified in a world that is hard financially, and people are having a hard time finding jobs. He stated as business owners they are trying to make a living, better themselves, and help the community by providing jobs for other people who are being treated unfairly. He said the government is trying to push them in certain directions. Tell them how to run their business, and what they have to do to pacify them. He stated they are not making a killing working for the county. It is a little bit of extra money. Their main business is their shops, with their wrecker services doing jobs on the side. They feel that they are being pressured into things, so they would just like to sit down and have a discussion to get things straightened out on a level playing field. He thanked the Board for their time.

Discussion: Chairman Lumsden stated the plan is for them to be able have that meeting with Commissioner Mayes, the Police Chief, and others that are involved in this process.

Mr. Loyd stated that he had just received word from Officer Treglown, FCPD, that a meeting had been set up for Monday, March 15, 2010, at 9:30 a.m. Commissioner Mayes stated he will be at that meeting.

Chairman Lumsden asked if there was anyone present to speak in support of the proposed amendment. Seeing none, he declared the Public Hearing closed, and called for a motion.

Commissioner Mayes made a MOTION to Table the proposed amendment related to Wrecker and Towing Service. SECOND by Commissioner Whitefield. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

**2. AMENDMENT TO FLOYD COUNTY CODE §2-4
RELATED TO ALCOHOLIC BEVERAGES
(2010-002A):**

Chairman Lumsden declared the Public Hearing open, and asked if there is anyone wishing to speak in support or opposition of the proposed amendment. Seeing none, he asked if there is any further discussion.

County Attorney Manning stated the proposed amendment was discussed in length at caucus, and there was a desire of the commissioners to consider the issue further.

Chairman Lumsden declared the Public Hearing closed, and called for a motion. Commissioner Bagwell made a MOTION to Table the proposed amendment regarding Alcoholic Beverages. SECOND by Commissioner Fricks. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

CHAIRMAN'S REPORT:

No Report.

COMMISSIONER'S REPORT:

1. Administrative/Finance Committee – Commissioner Whitefield, Chairman

No Report.

2. Public Safety Committee – Commissioner Mayes, Chairman

No Report.

3. Public Works Committee – Commissioner Bagwell, Chairman

No Report.

4. Water Committee – Commissioner Fricks, Chairman

No Report.

5. Judicial Services Committee (CJIS) – Chairman Lumsden, Chairman

No Report.

6. Special Committee Reports

- a. Fire Overview Committee**
- b. Joint Services Committee**
- c. Joint Development Oversight Committee**
- d. Joint Solid Waste Oversight Committee**

There were no Special Committee reports.

CLERK'S REPORT:

Consent Agenda

County Clerk Kathy Arp stated there are seven items on the Clerk's Consent Agenda that have been reviewed, and are submitted for approval. Commissioner Bagwell made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

1. Tax Refunds:

- a. Pear Valley Associates, LLC, 2400 Garden Lakes Blvd., \$299.68
- b. JWRE, Inc., 2400 Garden Lakes Blvd., \$99.59
- c. Erick W. Stiles, 22 Ridgeview Drive, Silver Creek, \$9.21
- d. Hardie S. Jackson, 556 W. Wesley Road, Atlanta, \$157.47
- e. Dan & Sharon Simon, P.O. Box 525, Rockmart, \$702.12
- f. Brooks & Givens, LLC, 16 Commerce Court, \$2.87
- g. Jeff Martin, 175 Pinson Road NE, \$309.86
- h. S & R Leasing, 100 Capitoline Drive NE, \$2,874.04
- i. T. D. Money, 888 Floyd Springs Road, Armuchee, \$181.28

- 2. Adopt Resolution Amending Section 1-03 of the Rules of Procedure for Floyd County Commission.**
- 3. Malt Beverage Application, James M. Day, Piggly Wiggly, 3880 Martha Berry Highway. (Add Wine Sales).**
- 4. Malt Beverage Application, Bina Chokshi, Laxmi Vaibhav, LLC, Rome Food Mart #5, 4970 Rockmart Road, Silver Creek. Ownership Change (Beer)**
- 5. Self-Service Fuel Permit, Bina Chokshi, Laxmi Vaibhav, LLC, Rome Food Mart #5, 4970 Rockmart Road, Silver Creek. Ownership Change.**
- 6. Authorize execution of amended contract documents with Tusa Consulting Services for Communications System Project. (2009 SPLOST)**
- 7. Authorize Chairman to execute Letter of Support for Action Ministries DCA grant request for funding to assist in operation of Transitional Housing Program.**

MANAGER'S REPORT:

**1. AUTHORIZE EXECUTION OF CHANGE ORDER
FROM JOHN ANDERSON SERVICE COMPANY
FOR HVAC RENOVATION PROJECT AT FLOYD
COUNTY HEALTH DEPARTMENT:**

County Manager Poe stated that while they were doing the work that the county had previously authorized, they found some additional issues that need to be addressed related to duct work insulation and to repair corner joints in the ductwork. He recommended approval of this change order in the amount of \$8,900.00 for them to complete the work to get this system operating as well as possible.

Commissioner Mayes made a MOTION to approve the Change Order from John Anderson Service Company in the amount of \$8,900.00 as presented. SECOND by Commissioner Whitefield. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

- 2. LETTER OF SUPPORT FOR APPALACHIAN VALLEY FIBER NETWORK, LLC GRANT APPLICATION TO NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA) WITH IN-KIND MATCH:**
- 3. INDEMNIFICATION AGREEMENT REGARDING IN-KIND MATCH FOR APPALACHIAN VALLEY FIBER NETWORK, LLC GRANT APPLICATION:**

County Manager Poe deferred items #2 and #3 to the County Attorney. County Attorney Manning stated he would suggest they take up items #2 and #3 together. He stated along those lines, since the title of the document they are considering is called a Memorandum of Understanding, he would also suggest that the Board add Memorandum of Understanding Between Appalachian Valley Fiber Network, LLC, Floyd County, Blue Streak Cable and Telecommunications, LLC, and Parker FiberNet, LLC, to the agenda by 4/5 vote.

4/5 VOTE REQUIRED

4. MEMORANDUM OF UNDERSTANDING BETWEEN APPALACHIAN VALLEY FIBER NETWORK, LLC, FLOYD COUNTY, BLUE STREAK CABLE AND TELECOMMUNICATIONS, LLC, AND PARKER FIBERNET, LLC:

Commissioner Whitefield made a MOTION to add the Memorandum of Understanding between Appalachian Valley Fiber Network, LLC, Floyd County, Blue Streak Cable and Telecommunications, LLC, and Parker FiberNet, LLC, to the agenda. SECOND by Commissioner Bagwell. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

County Attorney Manning stated as discussed in Caucus, the Commissioners have before them a proposed Letter of Support for Appalachian Valley Fiber Network, LLC's Grant Application to National Telecommunications and Information Administration (NTIA) for an in-kind match by Floyd County. He stated they also have before them a Memorandum of Understanding, that he would suggest be agreed upon and signed by all parties prior to any Letter of Support being delivered to the NTIA.

He stated for background, this is a proposed project in which Appalachian Valley Fiber Network, LLC, is seeking to receive a grant from the National Telecommunications and Information Administration. He stated that grant would be used to bring broadband technology to rural parts of northwest Georgia and eastern Alabama. The reason that the county is being asked to look at this project is that the county has already agreed through the SPLOST that passed in 2009 to move forward with building a communication system for an amount of over \$26 million that was approved by the voters of Floyd County. He stated if the grant was awarded, the SPLOST project, which is scheduled to continue and to do exactly what was intended with the vote of the citizens, would also create an opportunity for the microwave towers, to also have fiber optic cable that would run to those same towers. The fiber optic cable opportunity would probably not be available unless this grant is approved because of the remote areas where these cables are located. He stated this is a chance to bring fiber optic technology to rural areas of Floyd County, where such opportunities otherwise might not exist for a long period of time.

He stated they have before them a Memorandum of Understanding that they have reviewed in detail. Since they have not been involved in this project for very long, one of the biggest concerns for the county is, were there to be some federal requirements or mandates by virtue of participating in this grant process, would that somehow affect the SPLOST project by slowing it down or increasing the cost. He stated they have been informed that it would not. But one of the things that this Memorandum of Understanding would do is require the other parties participating in this grant application to indemnify the county should those representations be incorrect, and it turn out that there were some bureaucratic obstacles, delays, or costs caused by participating in the grant process.

He stated there are a few changes that he would recommend if they decide to pass the document that they have before them. He stated there is one change to the

address at the top, which is 12 E. 4th Avenue. The Northwest Georgia Regional Development Commission was originally a part of this, but their understanding is that they are not a party to the agreement, nor is Blue Streak, LLC, so those two parties would be omitted. On page 2, number 4, after the word indefeasible right of use, add "not less than twenty years," and strike the previous reference to twenty years. He recommended that they eliminate the language that addresses the concerns of Appalachian Valley Fiber Network, LLC, item number 7, and insert in its place that "the grant participants in the county agree to comply with all aspects of Georgia law." He would then strike the last sentence of #9, and the signature lines for Blue Streak, LLC and Northwest Georgia Regional Development Commission.

He stated finally, if they decide to approve these two documents, he would also suggest that on the Letter of Support, in the second paragraph, first line, after the word residents that they put subject to the terms of a Memorandum of Understanding (AVFN the county and others). The last thing is in the title portion after Appalachian Valley Fiber Network, LLC add "AVFN". He stated he thinks this would address the concerns that the county has right now. That combined with a letter that was received from Appalachian Valley Fiber Network, LLC's counsel, Mr. Blake Ross, would suffice.

Chairman Lumsden called for a motion. Commissioner Fricks made a MOTION to approve the Letter of Support and Memorandum of Understanding with the recommended changes outlined by the County Attorney.

County Attorney Manning stated to clarify, that would be to approve the signing of the Letter of Support provided the Memorandum of Understanding was executed by all the parties. Commissioner Fricks agreed. SECOND by Commissioner Whitefield. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

ATTORNEY'S REPORT:

No Report.

ADJOURNMENT:

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

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

FLOYD COUNTY BOARD OF COMMISSIONERS

EDDIE LUMSDEN, CHAIRMAN