

May 25, 2010

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
May 25, 2010 6:00 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.

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 May 11, 2010 and the Called Meeting of May 13, 2010. SECOND by Commissioner Fricks. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

RESOLUTIONS:

BOARD OF COMMISSIONERS OF FLOYD COUNTY WATER SYSTEM PARITY BOND RESOLUTION

SERIES 2010:

County Attorney Manning stated they have before them the Board of Commissioners of Floyd County Water System Parity Bond Resolution for a Series 2010 Bond Issuance. He stated this would call for the payment of all outstanding bonds from the 1999 Issuance. The 2003 Bonds would remain outstanding. He stated this is partly a tax-exempt bond, which would pay off the outstanding 1999 Bonds, and it is also part of the Recovery Zone Bonds for the new water project that will be ongoing with these funds. This is a necessary step to move forward with the issuance of the bonds that have been planned for some time now.

Chairman Lumsden called for a motion. Commissioner Fricks made a MOTION to Adopt the Water Bond Refinancing Resolution, as outlined by the County Attorney. SECOND by Commissioner Bagwell. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

FIRST READINGS:

**(PUBLIC HEARING TO BE HELD
ON JUNE 8, 2010 AT 2:00 PM)**

1. PROPOSED INTERGOVERNMENTAL AGREEMENT BETWEEN FLOYD COUNTY, GORDON COUNTY AND THE GORDON COUNTY-FLOYD COUNTY JOINT DEVELOPMENT AUTHORITY.

Chairman Lumsden stated the Public Hearings will be held on June 8, 2010 at 2:00 p.m.

**PUBLIC HEARINGS:
(FIRST READING HELD
MAY 11, 2019)**

1. FILE #53-2010Z, REQUESTS REZONING FROM AGRICULTURE RESIDENTIAL (A-R) TO COMMUNITY COMMERCIAL (C-C) TO CONSTRUCT A DIRT BIKE RIDING PARK

**AND RECREATION FACILITY ON PROPERTY
LOCATED ON HIGHWAY 100. ZONING MAP E16,
PARCELS 050, 051. (PLANNING COMMISSION
RECOMMENDATION: APPROVE WITH THE
CONDITION OF APPROVAL OF THE GEORGIA
DEPARTMENT OF TRANSPORTATION
CONCERNING THE RIGHT-OF-WAY AND
ENTRANCE TO THE PROPERTY. [VOTE: 7-1]):**

Chairman Lumsden declared the Public Hearing open, and asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this item. Ms. Hiller stated the subject property consists of two lots, which total approximately 160 acres, and is currently used for timber production. She stated the request to rezone the property to Community Commercial would allow use of the property for an amusement or recreational attraction. In this case, what is being proposed is an outdoor motorcycle dirt bike riding track with accessory uses that could include such things as restaurants, camping, cabins, and some retail sales. She stated that use requires, at a minimum, the C-C zoning. Additional development standards for the ULDC that would apply would be 200-foot buffers, 500-foot separation from residential property, and fencing, as well as other development standards, such as paved driveways and parking, landscaping, buffers, accessibility for handicap citizen, and provision of sanitary facilities. She stated the plan would also have to have an erosion and sediment control plan, as well as a stormwater management plan. The current use, which is agricultural production, timber in this case, would become a non-conforming use. She stated north along the highway, there is a power line that crosses and goes through the property. It is a very low development, low-density area with rural residential and agricultural uses. She stated the aerial photo shows a right-of-way, or a strip of land, that goes from Fosters Mill Road into the property. The property is located in the rural character area, which is characterized by limited public facilities, utilities and services. She stated this property does not front on an open publicly maintained road, but it does have approximately 50-feet of frontage on a public right-of-way that is not developed. The right-of-way accesses Highway 100, which is Fosters Mill Road, approximately 1000-feet to the west of the property. She stated public water and sewer is not available. The rural character area is also defined as an area where viable agriculture should be protected from incompatible development, and the rural character should be maintained. She stated by its nature, an outdoor recreational development has the potential to create traffic, activity, noise, and dust in excess of what currently exists on the site, and therefore does have the potential for adverse impacts on surrounding properties. Because of the lack of utilities, services, infrastructure to support this activity, potential adverse impacts on the adjacent properties, and the future land use map recommending agricultural use for this property, the Planning Department Staff recommended denial of the request.

She stated at the Planning Commission meeting, the applicant was questioned about the kind of activities that would go on there. Their response was that this would not be a racing track, but rather a recreational track. She stated they were

also asked about noise on the property, and their response was that the motor bikes could be muffled to a decibel level in the low 90's. She believes 94 was the number that was used. She stated there was no one at the Planning Commission meeting to speak in opposition to the request. This comes to the Board with a Planning Commission recommendation to approve with the condition of approval by the Georgia Department of Transportation concerning the right-of-way and entrance to the property. She provided the Board with a paper copy of the site plan. (Site Plan on file in Clerk's Office.)

Chairman Lumsden reviewed the Public Hearing procedures, and in order to stay within the allowed time frames, he suggested a few spokespersons for each side due to the large number of people signed up.

Support: Hans Davidson, 92 Twins Lake Road, stated he and Andrew Hill are business partners, and they are here to try to rezone their property from Agriculture Residential (A-R) to Community Commercial (C-C) in order to build a motocross park. He stated he would like to address some of the concerns that they have heard over the last couple of weeks that the local neighbors have, with one of the biggest concerns being noise. He stated dirt bikes are loud, and it is important for tracks to address these concerns. Otherwise, they will not have a place to ride in twenty years. He stated they would enforce a strict 94-decibel sound policy, and for any bike that does not adhere to this sound level, they will offer baffles that can be inserted to lower the sound level of the bike. He stated another way that they are addressing noise is with their track setup. They are putting the track in the middle part of the property, with the property setback over 1000-feet from the road. He stated the location of the track itself will be close to three fourths of a mile away from the entrance of the property, and right around a mile from any local neighbor. He said the track design is another factor in combating the noise. He stated they are eliminating long straight of ways where bikes can be held wide open, not only for sound concerns, but also for riders safety so they cannot go too fast. They are planning to conduct sound tests around the property and make changes to the design of the track until they get the desired sound results that they are looking for.

He stated dust is another concern that has been brought to them. He stated that the traditional track is made by clear-cutting a section of land, then building a track that overlaps back and forth, and is groomed with a bulldozer, which has steel tracks that tear up the ground. He said over time this will produce a dusty environment. He said they are sticking to the existing fire breaks on the property, which will meander around to form loops that will cloverleaf back on one another making track maintenance and irrigation easier. He stated instead of using a dozer, they will be using a compact track loader. A compact track loader is a smaller dozer type with rubber tracks that produces less of a footprint on the surrounding area, and will aid in erosion and dust control. He stated camping is another concern that they have heard. It will be people traveling in from outside the area. He stated dirt biking is a family sport. If a child rides, the dad has to work on the bike, and they usually bring their families. He stated some people might choose to camp at the area, while others will choose to go

into town and get a hotel room. They will not have camping until they have the facilities and the manpower to oversee it. He stated the facilities are going to be as barebones as possible. They are trying to bring out the natural beauty of the place. Along with a meager budget, they are going to have a parking lot, and a viewing and spectator area, which will consist of a fenced in patio, an arbor or something along those lines. He stated that will include an ADA (American Disabilities Act) compliant bathroom and the track. He stated this is not a racetrack. He stated this is going to be for recreation riding only. The whole purpose of this is to take competitiveness out of the sport, and offer a place that will remind people of why they started to ride in the first place. He stated he has been doing this his whole life, and gives lessons. They would just like to provide a place for their kids to ride.

He stated the traffic is another issue that turned them away from the racing thing. When there is a racetrack people come in droves, and they have to be there by a certain time. He stated with a riding track, people will filter in and out throughout the day and week depending on when they have time to ride. Their hours of operation will be daytime hours only. He stated the hours will be 10:00 a.m. to 5:00 p.m., Monday through Saturday. They will not open until after lunch on Sunday, because they will be in Church. He said they are doing everything they can to ensure this does not negatively affect the surrounding community. He stated during hunting season the track will not open until 11:00 a.m., to benefit the riders and the hunters. They do not want to chance any riders being hit by stray bullets, and he likes to hunt himself, so they would not want to scare off any of the wildlife traveling through the area. He stated the only impact that they hope to have on the surrounding community is an economic one. They are looking forward to being part of the Highway 100/Fosters Mill area, and they think they can bring a good amount of business to the area. They are centralized between Atlanta, Birmingham and Chattanooga who all have a lot of riders. He said but what is more important than what they will be bringing to the local economy, is the service that they will be providing for the citizens of the county. He stated there are many riders in this town that do not have a place to ride so they end up traveling to other tracks or riding on private land. They are just trying to provide a regulated place for people to enjoy their sport.

Andrew Hill, 1030 Northwest 19th Terrace, Del Ray Beach, Florida, thanked the Board for allowing them to speak today. He stated to make this quick, this has been a long road getting to where they are today, and it is an achievement for them. He said he understands the concerns, based on their request to rezone from A-R to C-C, and he knows there is a question lingering out there, of what will happen to the community, or rather the area down the road, long-term. He stated his answer to that question is that this approval from the Planning Commission came to them only conditionally. He said the condition was that the area be used only for amusement venues, and/or activities that are allowed under the current agricultural zoning. The stipulations, as well as the thirty-year leases on the property, solidify the fact that there really is no future threat of housing developments or any large undertakings being built on the property. He stated just as Mr. Davidson said, they are going to keep it to the bare minimum. One, in part, because of the cost of starting a business, and two to

minimize the impacts. Their plans are not to develop the land, as some people might think when they are informed of their request to rezone the property, but actually ninety-nine percent of the land will remain the same. He stated they do not plan to have any other businesses on the property aside from their own. He understands from a community standpoint all of the concerns generated as a result of their proposition. He stated he feels their understanding of the situation makes them a better candidate for the intended use of the property. Combined, they have over forty years experience in this industry and sport, and he feels that they do need to set the right example here so there is a future of this sport.

He stated Fosters Mill Road is a very nice, but also a very rural, road and 160 acres to him is a large piece of property. The distance, as well as the sound, the trees, the layout they are providing, the track and the firebreaks definitely comforted him when starting this because he knew that sound was going to be an issue. He stated they will be enforcing these baffles and regulating the sound. He understands that from an outside point of view, from someone who may not know anything about the sport or the activity itself, it may not seem like the friendliest of sports. But the actual scenario is that it is a century-old tradition. Typically, the tradition is passed from father to son, but more recently entire families. He stated it is based on exercise, recreation and fun. Drugs, alcohol, or any other substances that could harm someone's body directly inhibits their ability to ride, which leads him to state that these activities generally do not take place at a park such as this. He stated they have been at this for quite some time now, and for the past year they have been very willing to accommodate the city, the county, and all immediate landowners. His time invested, hopes and dreams, are to be able to launch this project and career, not only as a member of the community, but also as an asset. He stated he would just like to further remind the county, as well as the community, that this area will serve as a park for everyone to enjoy. He thanked the Board for their time.

Opposition: Douglas Couey, 4971 Blacks Bluff Road, stated that his property is approximately a half of a mile from this property. He stated he has been asked by several people to speak on their behalf of why they are all opposed to the track. They have numerous objections to the rezoning, and most of them have been stated by the Planning Commission Staff. He stated he has copies of the minutes of the Planning Commission, which list all of the objections. He said there are two major reasons that the people of this community object to the rezoning. He stated one reason being increased noise and air pollution, which would adversely affect their quality of life and lower the value of their properties. The other reason being the rural character of the area would be changed, and this rezoning does not conform to the Unified Land Use Plan as shown on the future land use map. He stated this would result in a spot zoning and he does not believe it would be desirable in any plan. This property is approximately 1,000-feet east of Highway 100, and access to the property is on an undeveloped, non-maintained right-of-way. He stated this property is stated to be a public right-of-way, but in his sixty-five years of residency, he has no knowledge that the county has ever maintained it. Public sewage is not available, and almost all septic tanks approved in this area of the county have to be a pressurized pump tank system.

He stated they just had one put in at their church about five years ago. It is a three-tank pump system for a very small church and fellowship hall. He stated he does not think that the property would support commercial use because of the sewage problem. Access to the property is off Highway 100, which is a heavily traveled highway. He stated there have been 187 accidents on this ten-mile stretch over the last five years, which equates to about 37 accidents per year. They feel like the increased traffic could also increase potential for more accidents.

He stated this area is one where people have lived their whole lives. He stated some have lived here 70 to 80 years, and land has been in families for generations. Dr. Davidson, the property owner, does not live in this community, nor would he be affected by this rezoning. He stated according to the minutes of the zoning meeting, Dr. Davidson's proposed business would represent only a small operation and be conducted at certain times. He stated this is not the issue. The issue is the request to rezone to C-C (Community Commercial) which entails approximately 230 different uses. Once the property is zoned, very rarely, except at the owner's request, would it ever be rezoned again, so basically this is permanent rezoning. He stated they, the adjoining landowners to Dr. Davidson's property, are not trying to restrict his recreational use of his property, but they do object to a commercial operation that they consider to be a nuisance. He stated the noise level of motorcycles/dirt bikes are close to 100 decibels, and to him, there is a particularly irritating whine to them and the variation in noise, which makes it even worse. He has neighbors that ride dirt bikes around in the community now. He stated they are about a half a mile away, and the noise is irritating, but it is their property so they have that right. He does not object to that, but he does object to it commercially. The community does not feel that this property would be suitable for commercial use because of the reasons stated. He stated they do not think that Hans Davidson understands what all it entails to build a commercial development there. He thinks that maybe he is thinking of doing a small operation with port-a-potties, and things like that, but that is not what the zoning is. He stated the zoning is for commercial enterprises. He thanked the Board.

Jerry Grissom, 4460 Blacks Bluff Road, stated he lives within a 40-acre stretch of this property. He stated he would like to ask all the people of their community who are against this to stand and be seen. They have worked hard in a short period of time to give them the petition they have before them with 209 signatures opposing this. He stated he has had people calling him today wanting to sign this petition that did not get to sign it. They have a lot of handicapped people, and people who are sick that could not be here. He stated they have had a tremendous showing from their community that does not want this, and as Mr. Couey said, if they change this, it will never get changed back. He stated if they would like a fine example, look at the store down at Fosters Mill Road. They were all told that the store would be a country store, and it would serve the community. Do they know what they have now? He stated Mr. Timms no longer runs it, and has leased it out. He said they have pornography and gambling going on. He asked is that what they want to turn loose on their community. He does not think so. He stated they do not need this, not at all. He said there are 213 principal uses that can go with this property if they vote for this. He is asking the Board, on behalf of the

community and the people who are raising their families there, to please vote against this. He stated he would like to ask the Commissioners one question. He asked how many of them would like to have this behind their house. He thanked the Board on behalf of the community.

Daniel Bolt, 4780 Blacks Bluff Road, stated he is with Fellowship of American Christians, Inc. He stated his heart goes out for these two men. He stated they are articulate, and verbalize well. He said that Hans Davidson came over and spoke with him for about two hours one day. He stated he had a son that was killed in a wreck several years ago. He has never gotten over that, so he listened to every word he had to say. He thinks, as Jesus said, the spirit is willing but the flesh is weak. He stated he does not believe that Mr. Davidson really knows what he wants, and was evasive on some things. He knows what has happened in this county with all these places that have gambling and pornography on the inside. He stated this has been a problem for years and nobody addresses it. He feels he should treat everyone the same, love everyone, and he hates to say that he is against this, but he is. He stated if Mr. Davidson is serious, all he has to do is go about eight or nine minutes from where he wants to put this track to a place called Piney Woods. There is land everywhere. He stated if he goes there, he could have his cake and eat it too, if he is really sincere about this. He said he has seen people have come in here and ask for things, and then they cannot get them out. He stated if they do not disprove this thing to begin with, they stand a chance of being stuck with another one. He is against it one-hundred percent. He thanked the Board.

Tim Putnam, 2621 Foster's Mill Road, stated his property line is the one that goes all the way down the entrance that they are planning to use as the road. He stated his property and Mr. Moore's property is on the east side of this property. They really do not want the road opened up because over the years, as it was opened up, they had trouble with burglary and theft. He stated they saw nothing but trouble the more people they let in and out on that road. If he is talking about 100 or so people a week, they have to get in and out of there somewhere, and there are two other landowners involved in that same right-of-way that should be considered.

Rebuttal: Mr. Hill stated he would just like to respond to some of the comments that were brought up about the 200 some odd uses of the property. He stated he wants to reiterate that it will not be this number of uses, due to the fact that their approval from the Planning Commission is coming to them conditionally. There are only amusement venues, as well as other activities allowed under current agriculture residential zoning so the activities would be limited within a reasonable amount. Mr. Davidson stated he would like to address Mr. Putnam's issue of the road use. He stated if they did fix the road to county standards, or whatever is required, the gate would stay there. Mr. Hill or he will be there at all times. He stated if they are not there, the gates will be closed, and no one will be able to come in or out. He stated he understands what he is talking about with the traffic flow, but people can pull up there now and do the same thing that he is concerned about, there is just less of a chance. He stated they were talking about the sewer for the infrastructure of the property. He said there is a well on the side of the property. He stated as far as food concerns, they will have concessions.

They are not putting a restaurant or any type of eatery in there. He stated they will have the well for drinking water, and they will put in an ADA compliant bathroom with the proper septic. They will also be irrigating the track by pumps from the lake that is on site. He stated they will have a cement pad with the proper receptacles for bike servicing and cleaning so no oil will get into the ground. Mr. Hill stated he would like to make one more point. He stated there was a comment on their knowledge of building codes. He would just like to say that he works for a general contractor himself, and he is fully aware of maintaining an ADA compliant facility, building all of the structures to code, and so forth. He stated he does have a great knowledge of construction.

Discussion: Chairman Lumsden asked the Board if they have any questions. Commissioner Fricks asked when they said that they pre-measured the sound projected, how do they do that, and what kind of process is it. Mr. Davidson stated when a bike comes in they have to be under 94 decibels. He stated they will start the bike and hold it at half throttle, and if it goes over 94 decibels then they will have to be baffled. He said the current bikes running around out there on private property are not baffled, and they ride openly around the power lines and along the road, which causes the sound to travel further. He stated not only would they be able to keep the sound down at their property, but also they can aid the current noise problems caused by dirt bikes.

Commissioner Mayes asked is there any reason that the riders would remove those baffles. He asked do they harm the motor or reduce the power. Mr. Davidson stated they may lose some horsepower, but these bikes are running at 55 horsepower, which is more power than anyone can use. He stated these are little things that they will strictly enforce to ensure that they have a place to ride. He said he has seen tracks come and go over the last twenty years of riding because of the big sound issue. He stated there was a track there before, in the 1970's, on Highway 100 adjacent to where they want to build, and he was told that it was very noisy. Again, the bikes had straight pipes and they were louder because they were unregulated. He stated there was also a racetrack that sat right on the road.

Commissioner Fricks asked what is the closest that the track would be operating to any of the adjacent neighbors. He stated if a bike is operating at 90 decibels, a distance of space would create a lessening effect of it, so how close are they talking about operating. Mr. Hill stated about three quarters of a mile. Mr. Davidson stated it would be about 3,000 feet to Mr. Putnam's property. They showed the distance to each property using the site plan. Commissioner Fricks asked secondly, are they planning on leaving vegetated buffers. (*Mr. Hill and Mr. Davidson's comments inaudible.*) Commissioner Fricks stated they mentioned earlier that the hours of operation would be limited to 10:00 a.m. to 5:00 p.m. Mr. Davidson stated when they say 10:00 a.m. to 5:00 p.m., the bikes would not be running before 10:00 a.m. or after 5:00 p.m. at any time of the year. He stated on Sundays the bikes would not start up before noon. It is strictly a daytime operation. He stated it is not a racetrack.

Commissioner Bagwell asked how many riders they anticipate on a daily basis. Mr. Hill stated he is sure it will fluctuate. He stated their projections through the week are ten to fifteen people, and on the weekends, they cannot say for sure, but it will increase. They would expect maybe fifty people or so. Mr. Davidson stated from the research they have done they are shooting for around a hundred riders a week. He stated some weeks it may go over that a little bit, some weeks it may be under, but that is what the places around here average. Commissioner Fricks stated they said in the Planning Commission that they do not have any planned events. That it is actually just a recreational thing. Mr. Hill stated there will be no sanctioned races or anything such as that. Mr. Davidson stated they could have a day where a professional comes out to do a signing, or maybe a benefit ride, but no races or anything like that. Commissioner Bagwell asked is there a maximum number of riders where they would cut people off coming in. Mr. Hill stated they probably would be limited in their facilities. He stated getting farther into that, he believes that would be the Building Department's decision on the occupancy level or how many people it will hold. He said this has been a work in progress, and still is, but they would be waiting until they applied for their Certificate of Occupancy to get that answer.

Commissioner Fricks asked Ms. Hiller why would they define this as Community Commercial for this use. Ms. Hiller stated according to the ULDC, this would fit the category of amusement or recreational attraction outdoors, and the lowest classification that would accommodate that is C-C. She stated furthermore, in their early talks with the applicants, they indicated that they might have other uses in the future that would include food establishment, campgrounds, and possibly even cabin or room rentals that might go in down the line. For that reason, the Community Commercial zoning was appropriate. Commissioner Fricks stated he was looking at the allowed uses in the existing agriculture residential, and he thinks part of the concern that everybody has is what the potentials are. He stated he understands their concern, if they open it up to C-C, of how many allowable uses there are. For example, carnivals, fairgrounds, rodeos, horseshows, shooting, and special events of community interest are allowable in agriculture residential. He stated he was not sure how this one would be defined, so he guesses just by the means of it having to use motorcycles instead of horses. He said he just does not see the difference between the two. Ms. Hiller stated the recreational or amusement attraction allows them to operate full-time, not just as a special event of community interest, but that definition also includes such things as a go-kart track. She stated outdoor recreation can be things like go-karts, or other outdoor sporting events, and the way that this was described to them is that people would come and pay money to participate, not spectators, in these events.

Commissioner Fricks asked if someone has a turkey shoot on their property out there is that allowable use. Ms. Hiller stated if someone does that as a special event of community interest, it is allowed in the A-R district twice a year. Commissioner Fricks stated he knows that there is the 14-day one on there, he thinks they just changed that ordinance not too long ago, about the distance because they were doing haunted houses on some tracts. He stated he thinks that ordinance was actually changed right before October of this year. The definitions of the principal uses, he just saw where it

listed carnivals, fairgrounds, rodeos, horseshows, shooting, and he just did not see why they would have to shift it all the way over to community commercial in order to do that. Ms. Hiller stated she thinks if they look in the definition section of the code under amusement or recreational attraction, what that describes is a kind of activity where people go and pay their money to participate. Commissioner Fricks asked what about a horseback riding arena. Ms. Hiller stated this is considered to be more of an agricultural use by the code, and it even allows a personal horseback riding arena. Commissioner Fricks asked is it not comparable if someone has an agricultural commercial arena that allows people to come in and ride. He stated he is just trying to parallel these. He thinks they are leaning toward it because it is motorcycles, it has the sound issues, and he understands the sound issues, but how do they differentiate. He would like to parallel them, not differentiate them. Ms. Hiller stated they decided how to classify it by talking to the applicants. Getting an idea of what they were proposing to do on the property, and then comparing that to their definitions of what various uses are. She stated then they went back to their tables to see what zoning districts would be required for those. Community Commercial was the lowest zoning district, in their opinion, that would accommodate the use they were describing. Commissioner Fricks stated they can do a feed and tack store, sell agricultural products, lawn and garden services, commercial fishing lake, bed and breakfast, or passive parks. He stated there are quite a few uses allowable by right in terms of agriculture residential, and he guesses the primary difference is the mechanisms that are being used here. Ms. Hiller stated the way the ULDC looks at a lot of these things is how high the intensity can be, and will be, associated with the use. She stated a lot of the things that are allowed in A-R are fairly low intensity uses that sort of relate to the agricultural character. Commissioner Fricks asked how did they determine the intensity. Ms. Hiller stated they do not interpret the intensity. She said what they do is look at the definitions that they had, and the list of uses that are permitted in different zoning districts in their tables. She stated they go by those.

Commissioner Fricks stated another question he has, and the thing that concerned him is, do they know of and can they designate any areas that are zoned Community Commercial that would be suitable for this operation. He stated he thinks density is a problem with being adjacent to this. A more isolated location would be better suited for this use. He stated any community commercial areas are going to have an increase in density of the population that will affect a greater number of people. He asked Ms. Hiller does she really think that the best use for this is community commercial, and if she does, where on the land use map does she think it would be. Ms. Hiller stated her suggestion would be, if they are looking for a piece of land that is already zoned Community Commercial to accommodate that, they could do a search through GIS to identify parcels of land that are already zoned that way and that would be large enough for the operation. She stated they would be glad to provide that information to any applicant that requests it. Commissioner Fricks stated the next question he would have is, are there any alternatives to Community Commercial that allows this use other than having to rezone. Ms. Hiller stated in her opinion, again based on their discussions with the applicants and their reading of the definitions, she would say no. Commissioner Fricks asked Ms. Hiller if she can refer to the definitions she

is talking about. Ms. Hiller stated the definition of an amusement or recreational attraction outdoor, which is in Article 8 of the ULDC. Commissioner Fricks stated he is going to use Zion Farms as an example. He stated they had a designation of a zoning area that allowed recreational. They had commercial uses, a stable, a cross-country track, and they held events. He stated it was also residential. It was a multi-use type scenario, he cannot remember what it was, but they worked with the Coopers and it was something that he had never heard of before. (*Ms. Hiller's comments inaudible.*)

Commissioner Bagwell asked Ms. Hiller who is going to apply for the cut on Highway 100. Ms. Hiller stated the applicant would be responsible. Commissioner Bagwell asked Mr. Davidson if he has spoken with the DOT, and if so, what did they tell him. Mr. Davidson stated he has spoken with the DOT a couple of times. He stated right now, they have just been trying to figure out what they have to do to get the road. If they are going to have to put in a right-of-way, and other details. He said one of the problems that they have had is not knowing who owns the right-of-way. Commissioner Bagwell asked Mr. Davidson did the DOT tell him that they would give him a cut on Highway 100. Mr. Davidson stated they have not told him that yet. He stated they have been doing everything that they have asked them to do, but all that they know so far is that they do have the line of sight that they are going to need, and that the road will have to meet DOT standards. Commissioner Bagwell asked if they told them they would have to have a decel lane. Mr. Davidson stated they have not told them that yet, so they do not know. They are trying to find all of that out. He stated they told them that they have the line of sight that they need, but they do not know if they are going to have a decel lane because that will depend on the amount of traffic that will be coming through the area. The DOT representative thought that everyone would be coming at one time, and he had to tell her that is not the case. He stated he explained to her that people are not going to be lining up to get in here. He hopes they do not have to have a decel lane.

Commissioner Bagwell asked what kind of preparations does he anticipate having to make to the road from Highway 100 back to where the property starts. Mr. Davidson stated it is going to have to be 30 or 40-feet wide. He stated he is not sure which one they are going to require yet, but either way they have enough room to do that. They could build it up to county standards and turn it over to the county. He stated they are not going to build the road all the way to the track. They are only going to fix it to the specs they require back to the gate. He stated they are going to put in a bigger gate, and clear a couple of trees there so people can go in and out. Commissioner Bagwell stated he assumes that it is a dirt road now, and asked if they plan to put gravel down. Mr. Davidson stated it is a dirt road. He stated he will put gravel down inside his property, but the access to the road will be whatever the DOT requires. They do not know if they are going to want them to pave it, put concrete, or put road rock, but they will do whatever they say. *Dr. Davidson's comments inaudible.* Commissioner Bagwell asked Dr. Davidson how many feet are they talking about from Highway 100 to his property line. (*Dr. Davidson's comments inaudible.*) Commissioner Bagwell stated so they anticipate to build a county spec road from Highway 100. (*Dr. Davidson's comments inaudible.*) Commissioner Bagwell asked if they have a cost

estimate of this road that will be built to county specs, and then turned over to the county if it goes that far. (*Dr. Davidson's comments inaudible.*)

Commissioner Bagwell asked Assistant Manager Williams what is 1000-feet of county spec road. Assistant Manager Williams stated County Manager Poe would know better than he, but he will say that what the development standards call for is at least a 30-foot wide commercial drive with an improved surface. He stated the issue with DOT is that they want to deal with a single entity in the road. The other option that they could pursue, as they have said, is like anybody with these public platted streets, they bring it up to county standards and the county will accept it on the maintenance. He stated to further inform Commissioner Bagwell, it would probably need to be curb and gutter as opposed to open ditch because of the 50-foot width. County Manager Poe stated they will have to comply with the county's current standards that are in the ULDC based on the width of the right-of-way.

Chairman Lumsden stated they have someone that apparently would like to weigh in relative to this, so he is going to permit just this one. A lady from the audience (*did not identify herself*) stated she has owned that 20-acres next door there that runs down 1200-feet. She stated it is only 40-feet between her and Tim Putnam. She stated when he says he has approximately 50-feet of right-of-way that is a twenty-five percent misstatement from the get go. She stated it is 40-feet. Tim Putnam and her husband did agree with Dr. Davidson to allow that fence to be put about 400-feet from Highway 100 because they were being stolen from. She stated they agreed because everything they owned was being taken, but they did not permanently give away the road frontage that they purchased. They purchased 1200 feet of road frontage down Mr. Putnam's side and their side. She stated it is an old closed county road, like Mr. Couey said, that has not been taken care of since any of them have been alive, but it is a county road. She did pay for 1200-feet of road frontage on it. She stated if Dr. Davidson gets this changed forever, and puts his fence there permanently, seems to her that she is personally losing 800-feet of road frontage on this fine new road he wants to build that she has already paid for. She stated that Mr. Davidson spoke of how these tracks come and go, how he has seen them come and be there for a few years, and then leave because noise is usually the problem. She stated she understands baffles and two-cycle motors are a lot quieter now than they used to be, but if they change this now, it is going to be changed forever.

Frank Bing, 2757 Foster's Mill Road, stated he lives adjacent to the property. He stated in the mid to late 1970's, George Gibson owned the property that the lady owns now. At that time there was a recreational track there and every weekend was pandemonium and noise. He stated he met Mr. Davidson the other day, and he is a great fellow. He has nothing personal against him. He stated that this is not a personal issue, but this is an issue of property rights versus property rights. He stated he would not want to tell them what to do with this property any more than he would want them to tell him what to do with his. With that being said, they live in the country for a reason. He stated they live there because it is the country. They do not have cable, or garbage pick-up, but they love it that way. He stated all during the week they have

nothing but noise, it starts at Fosters Mill store and goes for five miles. Anyone that has been on Highway 100 knows that they have nothing but noise out of pulpwood trucks five to six days a week. He stated they put up with it, and the only time that they have any peace and quiet is on Saturdays and Sundays. He stated that he explained this to Mr. Davidson the other day. He stated what days do they want to race motorcycles, none other than Saturdays and Sundays. So now they will have seven days of noise in that area. They have no more country. He stated one bee flying around at 95 decibels is annoyance, but one hundred bees flying around is no longer 95 decibels, it is 95 decibels times one hundred. This property is also eaten up with power lines from Georgia Power coming straight from Plant Hammond. He stated at night he can hear logs five miles away at Georgia Kraft. If they think that all that noise is going to be stopped by a few trees, it is not so. He stated they went through this very same thing thirty years ago, and thirty years ago, the same thing drove them crazy. He wishes they could keep the noise down. He stated if someone can ride their motorcycle and keep the noise down, he would not mind. He thanked the Board.

Jean Rogers, 269 Boyd Road, stated she has also been talking to DOT. She stated she is sure they are fully aware that no one owns the easement that has been discussed for thirty minutes. It is just there. She stated she owns it just as much as anyone else does. The lady from DOT says that they will not do anything until it is proven to them who owns that piece of property. She asked who is going to prove it. She stated she talked to Ms. Hiller. She tried to argue with the guy who worked up the petition saying somebody owns it, but nobody owns it, so where does that leave them now with DOT.

Mr. Couey stated Mr. Davidson brought up where he lives, so he thought he would try to explain it. He stated all the property around the timber company is privately owned. This gentleman in the plaid shirt is ninety-four years old. He asked if they would like to know why nobody showed up at the Planning Commission. He stated it was because he did not understand it, he thought it was down at the Fosters Mill store. He read it in the paper. He stated if it had not been in the paper, he would not have known about it. They had a motocross bike situation around the right-of-way that they are discussing long before the zoning. He stated they could hear it all around the property. The point is, they cannot control the noise. He stated they make promises, but look at the promises the city made to the people on Blacks Bluff Road when they put that waste treatment plant there. They said that it would not smell, but if they have ever been down that road, they know better. He stated that is the reason everyone moves. If they allow this, they can do anything they want to.

Chairman Lumsden declared the Public Hearing closed, and called for a motion. Commissioner Whitefield stated he would like to get clarification on one point. He stated right now the easement does not have an owner, and DOT will not deal with the easement until there is an owner. The applicants have not heard back from DOT about a decel lane. He said there are all kinds of DOT questions that remain unanswered, and potentially, if there is not an owner of that easement that could

become a long-term problem, which could really draw this whole process out. He asked if all that is correct. Commissioner Bagwell stated that is the way he sees it.

Commissioner Whitefield made a MOTION to deny the rezoning of File #53-2010Z. SECOND by Commissioner Bagwell. VOTING:

YES

NO

Commissioner Bagwell

Commissioner

Fricks

"

Mayes

" Whitefield

Chairman Lumsden

Motion Carried

Commissioner Whitefield stated for the record, his motion to deny was based on the fact of not having a clear-cut answer from DOT.

ULDC REVISIONS:

1. REVISE OR DELETE ARTICLE 8 DEFINITIONS, REGARDING THE DEFINITION OF LOFT APARTMENTS. (PLANNING COMMISSION RECOMMENDATION: APPROVE. [VOTE: 8-0]):

Chairman Lumsden asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this item. Ms. Hiller stated, as it exists their definition of a loft dwelling does not specifically say, although it seems to imply that this is an existing building retrofitted with the upper stories for residential uses. She stated they have developers propose putting in new structures that would have commercial applications on the lower floors and residential upstairs, so they are proposing a change to the ULDC definition of loft apartments to make it clear that this could be new or old construction.

Chairman Lumsden declared the Public Hearing open, and asked if there was anyone wishing to speak in support or opposition of this item. Seeing none, he declared the Public Hearing closed and called for a motion.

Commissioner Whitefield made a MOTION to approve amending Article 8 of the ULDC regarding the definition of loft apartments as submitted. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Bagwell

" Fricks

" Mayes

" Whitefield

Chairman Lumsden

Motion Carried

**2. REVISE OR DELETE ARTICLE 2.10.2 b.(3),
REGARDING PROCEDURES FOR TEXT
AMENDMENTS. APPROVE. [VOTE: 8-0]:**

Chairman Lumsden asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this item. Ms. Hiller stated they recently amended the ULDC to make it perfectly clear that when they are doing a map amendment, or a zoning action, that the applicants, the proponents, and the opponents to a case should be given equal time to present their information and that the time should be no less than ten minutes. She stated at the time they did not extend that to the procedure for making text amendments. Those are changes to the actual text of the ULDC, like what they are doing now. She stated this would extend that same new language to the procedure before the Planning Commission for making text amendments.

Chairman Lumsden declared the Public Hearing open, and asked if there was anyone wishing to speak in support or opposition of this item. Seeing none, he declared the Public Hearing closed and called for a motion.

Commissioner Bagwell made a MOTION to approve the changes to Article 2.10.2 b.(3) as presented regarding procedures for text amendments. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

3. REVISE OR DELETE ARTICLE 2.10.2 c.(4), REGARDING PROCEDURES FOR TEXT AMENDMENTS. APPROVE. [VOTE: 8-0]:

Chairman Lumsden asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this item. Ms. Hiller stated this does the same thing as explained on the previous item, but this applies to the governing body's public hearing rather than the Planning Commission's public hearing. She stated it also puts ten minutes minimum on the opponents and proponents, and says that they must have equal time.

Chairman Lumsden declared the Public Hearing open, and asked if there was anyone wishing to speak in support or opposition of this item. Seeing none, he declared the Public Hearing closed and called for a motion.

Commissioner Mayes made a MOTION to approve the changes to Article 2.10.2. c.(4) regarding text amendments procedures as presented. SECOND by Commissioner Whitefield. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

**4. REVISE OR DELETE ARTICLE 2.2.3 e.(5),
REGARDING PROCEDURES FOR
ANNEXATIONS. APPROVE. [VOTE: 8-0]:**

Chairman Lumsden asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this item. Ms. Hiller stated at the time the ULDC was adopted it included provisions for the city and the county to resolve any conflict or disagreement over annexations that the city may choose to carry out. She stated after that was adopted the state passed a bill specifying how annexation disputes have to be resolved, putting time limits in a procedure for that. The state law was not the same as what they had in the ULDC, so on the advice of the city and county attorneys they are proposing changing the ULDC to refer to state law. She stated that would ensure that they would always be in conformance with state law.

Chairman Lumsden declared the Public Hearing open, and asked if there was anyone wishing to speak in support or opposition of this item. Seeing none, he declared the Public Hearing closed and called for a motion.

Commissioner Bagwell made a MOTION to approve the changes to Article 2.2.3. e.(5) regarding procedures for annexations as presented. SECOND by Commissioner Mayes. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

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

Defer.

6. PROPOSED CLOSURE OF A PORTION OF AN UNOPENED ROAD LOCATED OFF BERT ROAD:

County Manager Poe stated this is a formal procedure that they are going through to officially close a portion of an unopened road located off Bert Road.

Chairman Lumsden declared the Public Hearing open, and asked if there was anyone wishing to speak in support or opposition of this item. Seeing none, he declared the Public Hearing closed and called for a motion.

Commissioner Fricks made a MOTION to approve the proposed closure of the unopened road located off Bert Road. SECOND by Commissioner Bagwell. 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

No Report.

b. Joint Services Committee

No Report.

c. Joint Development Oversight Committee

No Report.

d. Joint Solid Waste Oversight Committee

- 1) Adopt Resolution to Approve Revised Solid Waste Management Plan (October 2008 – 2018).

County Manager Poe stated that the Revised Plan was adopted at the last meeting, but there were minor changes made. Therefore, it is being brought back to the Board for consideration.

Commissioner Mayes made a MOTION to Adopt the Resolution to Approve the Revised Solid Waste Management Plan (October 2008 – 2018). SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Bagwell
" Fricks
" Mayes

" Whitefield
Chairman Lumsden

Motion Carried

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. Commissioner Fricks made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Bagwell. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

1. Tax Refunds:

- a. Irwin Commercial Finance Equipment, 1 Maynard Drive, Suite 2104, Parkridge, NJ, \$113.97
- b. Preferred Travel Inc., 4 Westridge Place, \$69.81
2. **Malt Beverage Application, Gina Scoggin, Boondocks of Rome, Inc., 4512 Martha Berry Highway, Rome. Consumption on premises: Beer & Wine. New.**
3. **Malt Beverage Application, Charles E. Hufstetler, Brother Huff's Inc, dba Paul's Oyster Bar, 2901 Alabama Highway, Rome. Consumption on premises: Beer. New.**
4. **Authorize Execution of Statement of Work and Sales Agreement with IKON Office Solutions, Inc., for the FORTIS Implementation.**
5. **Resolution Approving and Authorizing Execution by the Chairman (or Vice-Chairman in his absence) of a Real Estate Sales Contract and any and all other Documents Related to the Purchase of one Acre of Property Adjacent to Property Owned by Floyd County where State Mutual Stadium is located.**

MANAGER'S REPORT:

**1. AWARD OF BID CONCRETE CURBING AT
NORTH FLOYD PARK COMMUNITY CENTER
(2006 SPLOST):**

County Manager Poe stated they received nine sealed bids, and the low bid was from Northwest Georgia Paving Company in the amount of \$23,156.00. He recommended awarding the bid to Northwest Georgia Paving Company.

Commissioner Whitefield made a MOTION to award the bid to Northwest Georgia Paving Company in the amount of \$23,156.00. SECOND by Commissioner Mayes. VOTING:

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield
Chairman Lumsden

Motion Carried

ATTORNEY'S REPORT:

No Report.

OTHER BUSINESS:

John Winn, 109 Hooper Avenue, Lindale, stated first of all he would like to express his gratitude to the Floyd County Chief of Police, Bill Shiflett. He stated his concern is the recently proposed ordinance for the wrecker services. He stated he does not have a problem with the ordinance in itself, but the fee schedule is a problem.

Chairman Lumsden stated the Board deferred action on that item, and there will be further work done to address some of the very issues that he is talking about. Commissioner Mayes asked Mr. Winn is he a wrecker operator. Mr. Winn stated he is an owner of a wrecker company. County Manager Poe stated Chief Shiflett has heard from Mr. Winn, and he has heard from others. He stated it seems that they do have a lot of different comments after review of the ordinance. They are going to go back through the review process. He stated there are some things that are in conflict, and they may have to have another meeting to try to straighten some things out because they are not in a unanimous consensus. Commissioner Mayes stated they have been very open in trying to work with the wrecker companies. Chairman Lumsden stated as he said before, the issue has been deferred.

ADJOURNMENT:

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

Commissioner Bagwell
" Fricks
" Mayes
" Whitefield

Chairman Lumsden

Motion Carried

**FLOYD COUNTY BOARD OF
COMMISSIONERS**

EDDIE LUMSDEN, CHAIRMAN