

August 24, 2010

**REGULAR MEETING  
FLOYD COUNTY BOARD OF COMMISSIONERS  
August 24, 2010                      6:00 P.M.**

**PRESENT:** Chairman Eddie Lumsden, Commissioners 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.

**ABSENT:** Commissioner Irwin Bagwell.

**CALL TO ORDER:**

Chairman Lumsden called the meeting to order.

**INVOCATION:** Commissioner Mayes led the Invocation.

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Commissioner Whitefield.

**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 August 10, 2010. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
"        Mayes  
"        Whitefield  
Chairman Lumsden

Motion Carried

**PROCLAMATIONS:**

**SUICIDE PREVENTION MONTH:**

Commissioner Mayes presented Carol Willis, Rome-Floyd Commission on Children & Youth Executive Director, with a Proclamation recognizing September as Suicide Prevention Month.

Ms. Willis thanked the Board for their support. She stated they want to face the issue that they have in Floyd County to decrease the number of tragic events like this. She stated a Suicide Prevention Coalition is being formed, with several events being planned for September. She stated she hopes everyone will support the upcoming events in September, and thanked the Board again for their support and recognition.

(Proclamation/Resolution Book, Page 168)

**PUBLIC HEARINGS:  
(FIRST READINGS HELD  
ON AUGUST 10, 2010)**

- 1. FILE #81-2010Z, REQUESTS REZONING FROM COMMUNITY COMMERCIAL (C-C) TO HEAVY COMMERCIAL (H-C) TO CONSTRUCT A FLEA MARKET ON PROPERTY LOCATED ON SHORTER AVENUE. ZONING MAP H13X-PARCELS 174, 175. (PLANNING COMMISSION RECOMMENDATION: APPROVE WITH CONDITIONS THAT THE PROPERTIES BE RECORDED AS A SINGLE PLOT AND ADHERE TO THE SITE PLAN SUBMITTED. [VOTE: 9-0]):**

Chairman Lumsden reviewed the Public Hearing procedures, and declared the Public Hearing open. He asked Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property consists of two separate lots of record. The total area is approximately sixty acres in size. She stated to the east and west is property zoned commercial. She stated that to the east, the property is used commercially, but to the west, the community commercial zoning is used for residential uses. She stated to the north is property zoned Light Industrial (L-I), which is used for mini-warehouses. To the south, across the highway, is some more community commercial property. She stated this property is shown on the future land use map as commercial use. It is located within the urban growth character area where services and utilities are generally available to support development. In this particular area, the City of Rome provides both water and sewer, and Public Safety services are provided by Floyd County. She stated the property appears to be large enough to accommodate the proposed use and to comply with the development standards, setbacks, buffers, and so on, that might accompany future development. She stated that flea market use generally introduces a fairly large amount of traffic, activity, and noise. However, provision of setbacks and landscaping would mitigate some of those impacts. The site plan submitted by the applicant indicates development only on the front parcel (Parcel 175). She stated the applicant indicated that only the front lot or part of the property will be developed for the flea market

use. For that reason, she believes one of the conditions placed on approval by the Planning Commission was that the development be confined to what they see in this site plan. She stated the second condition that was put on the recommendation for approval by the Planning Commission is that the two lots be combined.

**Support: Larry Martin, 201 Broad Street,** stated this is a garden center that had been used for inside and outside sales in the past. He stated there are a lot of flea markets that are already operating in the county in commercial zoning. This is commercially zoned, but they found out when they wanted to do the outside sales that it had to be rezoned and that is the reason they are here.

**Opposition: Tom Astin, 140 Lynwood Drive,** stated he and his wife, and Ms. Jordan, own all of the property that join the west line of that property. He stated they have been there thirty-eight years, and Ms. Jordan has been there over sixty years. There are fourteen residential houses on the property on the west side. He stated they object to the heavy commercial zoning. It will affect the rental houses there that they have to market and rent. He stated one house is only thirty feet from this proposed flea market. Ms. Jordan has a million dollar house sitting about two hundred feet from that property line. He stated they object because of all the traffic that will occur, and they have a big investment there. They are asking that the Board deny the request. He stated also, on the east line of that property there is a tremendous amount of water that dumps right there from Shorter Avenue. He stated they have installed a culvert in the ditch right there, which is a Georgia waterway. They have installed an illegal pipe without a permit, and it is not a pipe big enough to carry the water. He stated this water goes to the back of that property and comes across his property. He has a six-foot pipe just to carry the water. He stated the reason they did that was so that they could park on the other part, which is not part of this plat. There are many reasons they do not want this, but that is their position on the situation.

**Discussion:** Commissioner Whitefield asked Ms. Hiller what was the Planning Commission's reasoning behind wanting that entire plot to go Heavy Commercial when there is a nice buffer there. Ms. Hiller stated the site plan that they received only shows development on that parcel. She stated at the Planning Commission meeting when the question was asked about whether that would be all of the development, the applicant said that it would. She believes it is because they did not have a site plan that showed what would be on the back, and how the parking would be laid out on the rest of the parcel, so they confined it to the part that was already developed and is shown on the site plan.

Commissioner Whitefield asked Mr. Martin is it his understanding that they are only going to operate in the existing area. Mr. Martin stated they have had some people in there to bush hog and clean up the other side of the lot. He stated it is already zoned commercial, and those residential houses to the west are also zoned commercial. They put in a pipe to get across that property to clean it up, but it is zoned commercial anyway.

There being no one else to speak in support or opposition, Chairman Lumsden declared the Public Hearing closed and called for a motion. Commissioner Mayes

made a MOTION to approve the rezoning request with the conditions as recommended by the Planning Commission. SECOND by Commissioner Fricks.

**Further discussion:** Commissioner Whitefield stated he needs a point of clarification. He asked Ms. Hiller if the Planning Commission's motion was for both parcels to be recorded as one and both be zoned Heavy Commercial (H-C). Ms. Hiller stated the Planning Commission's recommendation was to zone both parcels H-C conditioned on combining them into one lot, but development and use to be confined to what they see on the site plan submitted. Commissioner Fricks asked does that include any future development as well. He stated he has never seen them do that before. He asked what is the purpose of that. Ms. Hiller stated that is the site plan that was brought in that shows that development. She stated in order to rezone for specific uses, they are supposed to get a site plan that shows that development, and the only site plan that was submitted was this one. Ms. Hiller stated that that does not mean that Mr. Martin can never develop that other property. It just means that he would have to come back to the Planning Commission and ask for that condition to be removed. She stated her assumption would be at that point they would expect to see a site plan for the rest of the property. Commissioner Fricks asked so anything that would fall under heavy commercial he could not do unless he came back before the Planning Commission. Ms. Hiller stated that would be the case if they follow the condition of the Planning Commission.

County Attorney Manning stated the Planning Commission's recommendation limited any use of that to that site plan, but it did not limit it to a flea market. He asked is that correct. Ms. Hiller stated no, it did not limit to a flea market. Commissioner Fricks asked what was the purpose of the recommendation. He asked what was it intended to do. Ms. Hiller stated she thinks the purpose of the recommendation was to confine development to a site plan that they had a chance to review. Commissioner Fricks asked if they had rezoned them individually would it not have been the same principal. Ms. Hiller stated yes, if they only rezone that small piece it would essentially have the same affect, except the other piece would still be zoned C-C (Community Commercial) and they could do something with it because it would not be part of the rezoning of this one. Commissioner Fricks asked so what that does is gives some control of the second tract. Ms. Hiller stated the reason that they were addressing both is because that is what the application said that they had before them. They applied for both of them to be rezoned.

Commissioner Whitefield stated his suggestion is to approve with the condition that it just be the front parcel that is rezoned H-C (Heavy Commercial), as well as putting a restriction that it is used as a flea market. He stated if they put heavy commercial zoning there, and the flea market leaves in a year, then other heavy commercial uses could go there. Ms. Hiller stated she thinks there is some concern about rezoning it and then confining the use to one single use. She stated her suggestion would be that they perhaps confine it to any of the uses allowed in the current C-C (Community Commercial) zoning district and a flea market as permitted in the H-C (Heavy Commercial) zoning district if they wanted to limit the heavy commercial uses that would be able to go there.

County Attorney Manning stated he thinks if they just zoned the front parcel, they would need the applicant's consent to that because he has made application to rezone both. Commissioner Whitefield asked Mr. Martin (the applicant) if he has any objection to changing the application request to just that front piece of the property (Tax Map H13X, Parcel 175). Mr. Martin stated he would be fine with that.

Commissioner Mayes withdrew his original motion. Chairman Lumsden stated the motion has been withdrawn and is no longer on the table.

Commissioner Whitefield made a MOTION to approve the rezoning request for Zoning Map H13X-Parcel 175 only, with the condition that the only permitted use shall be a flea market and any other permitted use allowed within the C-C zoning district. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
" Mayes  
" Whitefield  
Chairman Lumsden

Motion Carried

**2. FILE #82-2010Z, REQUEST REZONING FROM COMMUNITY COMMERCIAL (C-C) TO SUBURBAN RESIDENTIAL (S-R) FOR EXISTING SINGLE-FAMILY DWELLING ON PROPERTY LOCATED ON BELLS FERRY ROAD. ZONING MAP K12Z-PARCEL 036. (PLANNING COMMISSION RECOMMENDATION: APPROVE. [VOTE: 9-0]):**

Chairman Lumsden declared the Public Hearing open, and asked Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property is approximately one acre in size and developed with a single-family dwelling that, according to tax records, was built in 1955. She stated even though it is spatially within the corridor of Highway 53, Bells Ferry Road actually ends just past this lot. It never actually intersects with either Veterans Memorial Highway or Highway 53. She stated to the south, there is property zoned Community Commercial (C-C). Some of it is undeveloped and some of it developed with single-family dwellings. The ariel photo shows that the area uses are mainly rural residential even though this property and the land around it are zoned Community Commercial (C-C) and Light Industrial (L-I). She stated to the north there is a camp, or a lodge and retreat of some sort, close to Padgett Road. Bells Ferry Road does not intersect with the bypass, so commercial use of the property is probably unlikely for that reason. Bells Ferry Road is a local road. She stated the adjacent uses are generally not consistent with their zoning, being more rural residential in character, and granting the request would make the zoning compatible with the existing dwelling. She

stated the reason that this came up is that the owners of the dwelling would like to sell it and their mortgage company was not willing to do that since it is a non-conforming use in this zoning district.

**Support: Janie Newton, Bells Ferry Road**, stated her parents lived in this house and they passed away and left the house to them and they would like to sell it. They have a potential buyer, but the bank would not loan money to the person wanting to purchase the land because it was a residential house on commercial land. They are asking that the Board consider rezoning this from commercial to residential. It has always been a residential dwelling and they would like to see it stay that way.

There being no one to speak in opposition of the request, Chairman Lumsden declared the Public Hearing closed, and called for a motion. Commissioner Mayes made a MOTION to approve the rezoning request for Zoning Map K12Z-Parcel 036, from Community Commercial (C-C) to Single-family Residential (S-R). SECOND by Commissioner Whitefield. VOTING:

YES

NO

Commissioner 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 five items on the Clerk’s Consent Agenda that have been reviewed, and are submitted for approval. Commissioner Whitefield made a MOTION to approve the Clerk’s Consent Agenda as presented. SECOND by Commissioner Fricks. VOTING:

YES	NO
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Commissioner Fricks	
" Mayes	
" Whitefield	
Chairman Lumsden	

Motion Carried

1. Tax Refunds: There were no tax refunds submitted.
2. Authorize Release of Taxes from Tax Commissioner’s Roll in the amount of \$7,327.20.
3. Authorize execution of Community Wildfire Protection Plan as part of the Floyd County Pre-Hazard Mitigation Plan.
4. Authorize execution of Volunteer and Donation Plan as part of the Floyd County Disaster Recovery Plan.

**5. Authorize execution of documents related to the Systematic Alien Verification for Entitlements (SAVE) Program.**

**MANAGER'S REPORT:**

**1. AUTHORIZE EXECUTION OF LEASE AGREEMENT BETWEEN FLOYD COUNTY AND COTT SYSTEMS, INC., FOR FLOYD COUNTY SUPERIOR COURT REAL ESTATE MANAGEMENT SOFTWARE: (DEFERRED AUGUST 10, 2010)**

County Manager Poe stated they have before them a lease agreement between Floyd County and Cott Systems, Inc., for a Real Estate Management Software Program for Floyd County Superior Court. He recommended approving the agreement as submitted with one amendment, and that would be to the fee schedule. He stated the amended fee schedule would reflect that the price they pay would be \$2,500.00 a month for the next four months, \$3,000.00 a month for the next three years, and then the fourth year of the contract they would pay \$3,090.00.

He also requested that the Board include in this action authorization for the lease of a new server to replace the outdated Cott server for the Clerk of Superior Court's Office and the Sustain server for the Court System. He recommended approval of a proposal of a five-year lease, submitted by Ontario Investments, Inc., at a cost of \$6,011.75 per year, which would be a total purchase price of a little over \$30,000.00 over five years.

Commissioner Whitefield made a MOTION to approve the Agreement with Cott Systems, Inc., with the amended fee schedule, as outlined by the County Manager, as well as his recommendation for the lease purchase of a new server not to exceed \$30,058.75, to and authorize the Chairman to sign all related documents. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks  
" Mayes  
" Whitefield  
Chairman Lumsden

Motion Carried

**2. AWARD OF BID FOR INMATE FOOD SERVICES FOR JAIL AND PRISON AND AUTHORIZE EXECUTION OF CONTRACT DOCUMENTS:**

County Manager Poe stated request for proposals had been received for food services for both the Jail and Prison. He stated a selection committee has reviewed those proposals co-chaired by the Chief Deputy and Warden, and that committee has recommended that the bid be awarded to Valley Services, Inc.

Commissioner Whitefield made a MOTION to Award the bid for food services at the Jail and Prison to Valley Services, Inc. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
" Mayes  
" Whitefield  
Chairman Lumsden

Motion Carried

**3. CONSIDER REQUEST FROM MICHAEL SKEEN, PUBLIC WORKS DIRECTOR, TO PURCHASE ONE (1) WASTE OIL HEATER FOR PUBLIC WORKS, AND TWO (2) WASTE OIL HEATERS FOR RECYCLING CENTER:**

County Manager Poe stated they have a request from Michael Skeen, Public Works Director, to amend his Capital Equipment Budget to allow him to purchase waste oil heaters for both Public Works and the Rome-Floyd County Recycling Center. He stated those waste oil heaters would replace current systems that use propane and natural gas. The total expense will not exceed \$20,000.00, and they have saved more than \$20,000.00 on their other equipment purchases this year. He stated by converting their heaters from propane and natural gas to using waste oil will generate about \$16,000.00 a year in savings, so that will give them just over a year pay back on this capital investment.

Commissioner Mayes made a MOTION to approve the purchase of the waste oil heaters for Public Works and the Rome-Floyd Recycling Center at a cost not to exceed \$20,000.00. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
" Mayes  
" Whitefield  
Chairman Lumsden

Motion Carried

**4. DECLARE LIST OF VEHICLES SURPLUS:**

County Manager Poe recommended declaring the list of vehicles submitted surplus. He stated their plan is to dispose of the vehicles through online auction at govdeals.com.

Commissioner Whitefield made a MOTION to approve the Manager's recommendation and declare the list of vehicles surplus. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks  
" Mayes  
" Whitefield  
Chairman Lumsden

Motion Carried

**5. DISCUSS RENEWAL OF HEALTH INSURANCE:**

No action.

**ATTORNEY'S REPORT:**

**1. EXECUTIVE SESSION TO DISCUSS FUTURE ACQUISITION OF REAL ESTATE:**

County Manager Poe requested an Executive Session to discuss future acquisition of real estate.

Commissioner Whitefield made a MOTION to enter into Executive Session for the purpose of discussing future acquisition of real estate. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks  
" Mayes  
" Whitefield  
Chairman Lumsden

Motion Carried

The Board entered into Executive Session at 6:40 p.m. The regular meeting reconvened at 6:55 p.m.

**ADJOURNMENT:**

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

YES

NO

Commissioner Fricks

" Mayes

" Whitefield

Chairman Lumsden

Motion Carried

**FLOYD COUNTY BOARD OF  
COMMISSIONERS**

**EDDIE LUMSDEN, CHAIRMAN**