

January 24, 2012

**REGULAR MEETING  
FLOYD COUNTY BOARD OF COMMISSIONERS  
January 24, 2012                      6:00 P.M.**

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

**OTHERS**

**PRESENT:**                      County Manager Blaine Williams, County Attorney Tommy Manning, and County Clerk Kathy Arp.

**CALL TO**

**ORDER:**                      Chairman Bagwell called the meeting to order.

**INVOCATION:**              Webelos Pack 1 from Cub Scout Pack 113 led the Invocation.

**PLEDGE OF**

**ALLEGIANCE:**              The Pledge of Allegiance was led by Webelos Pack 1 from Cub Scout Pack 113.

**ADOPTION OF**

**MINUTES:**

Chairman Bagwell 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 January 10, 2012, and Called Meeting of January 17, 2012. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
"              Lumsden  
"              Mayes  
"              Whitefield  
Chairman Bagwell

Motion Carried

**RESOLUTIONS:**

**1. ADOPT RESOLUTION APPROVING AND  
AUTHORIZING 2012 QUALIFYING FEES:**

Chairman Bagwell stated the county governing authority is required to set and publish qualifying fees for the county offices no later than February 1, 2012, and called for a motion to adopt the Resolution. Commissioner Lumsden made a MOTION to Adopt the Resolution Approving and Authorizing the 2012 Qualifying Fees. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

## **PUBLIC HEARINGS:**

### **1. PUBLIC HEARING TO RECEIVE COMMENTS ON THE FY2012 PROPOSED BUDGET:**

Chairman Bagwell asked County Manager Blaine Williams to review information regarding the FY2012 budget. County Manager Williams stated they have before them a recommended budget. He stated the proposed budget is a product of several months of deliberation and multiple budget hearings. He stated from a revenue perspective, they are projecting the tax digest to decrease by two percent. He stated that this is around \$600,000.00 in revenue that they are projecting the county will lose this coming year. He stated charges for services and fines and forfeitures are down, as they have been for the last few years from the high that it reached in 2007 and 2008. They are hoping that local option sales tax revenues will improve slightly this year, which is a steady one percent. He stated they plan to use some fund balances from the water fund, solid waste fund, and general funds to help make up some of the difference there. He believes they have done a good job at controlling costs on the expenditure side, but some costs increase such as utilities, gas, and health insurance.

County Manager Williams stated they are appropriating more funds this year for paving to match Department of Transportation (DOT) funds that are available, but set to expire soon. The county will lose those funds if we do not take advantage of them. He stated 2012 will be an active election year. An additional \$175,000.00 has been budgeted to cover the costs of the poll workers, and other election costs, so that we can continue to have well run elections. He stated five jail positions have been unfrozen at the Sheriff's Office due to safety and relief conditions. They froze a number of positions over the last year or two to try to make ends meet, but that is beginning to come under strain. He stated a one percent cut was made across the board for many of

the county agencies. They have been doing that consistently year after year. He stated that may not sound like much, but it is starting to add up and make a difference. Additionally, there have been significant cuts made on services that are not mandated services for the county to provide. He stated there are a number of services that the county has to provide by law, such as the court system, the sheriff's office, and things of that nature. It is not discretionary spending, so they do not have a choice in that. He stated after several years of cuts across the board, and taking savings where they can, they have had to focus on things that may make the community a better place to live, but are not legally required to be covered. Recreation was cut by \$450,000.00, the library was cut by \$250,000.00, and they have cut some social services that the county has traditionally supported by \$170,000.00. He stated they have totally cut county funding to Floyd Against Drugs, and the 211 Information and Referral Line. Though these were not easy decisions to make, the county has been struggling to get expenses down close to revenues.

County Manager Williams stated the final budget has very little capital funding coming out of the general fund. He stated initially the county was facing a \$2.2 million shortfall between expenditures and revenues, with another \$1.8 million expenditures added to that bringing it to \$4 million. They were able to bring that down to around \$900,000.00. He stated they have accomplished that with some sustainable cuts, but a few one-time savings, so they need to begin immediately developing strategies for 2013.

Chairman Bagwell declared the Public Hearing open and asked if there was anyone present to speak regarding the Proposed FY2012 Budget.

**Bill Burns, P.O. Box 336, Armuchee,** stated County Manager Williams mentioned cutting one percent across the board for several years, and asked how many years has that been. County Manager Williams stated he believes they started making across the board cuts in 2009. He stated 2008 was the year that they saw a big turnaround. Actually, in some cases they have cut more than that. He stated it has not always been one percent. They have gotten to a point now where it has put a lot of strain on some departments that simply do not have any more fat to cut. *Mr. Burns comments inaudible.* County Manager Williams stated they have instituted furloughs in the past. There have not been any salary increases since 2008, and that was only for public safety employees. He stated they had a pay study done in 2008 that showed that a third of the county employees were not even making a minimum of what they should be making. He stated he would guess it begins with the premise of whether he thinks the government employees are nationally overpaid, but they have gone without, reduced their workforce through frozen positions by five percent over 2007 levels, and ten percent over the authorized positions that are there. He stated they have looked under every rock, and will continue to do so. The balance that they walk is to try to continue to provide services at the level that citizens are accustomed to while saving money. *Mr. Burns comments inaudible.*

**David Smith, 6253 Cave Spring Road**, stated he would just like to reiterate on the comment that Mr. Burns made, and as Mr. Williams stated during these economic times they are all having to make do without in some respect. He would ask that the Commission consider cuts elsewhere besides the services that they are not legally required to provide such as the library, recreation, and so forth. He stated those things have become much more important to the citizens during these economic times.

Chairman Bagwell asked if there is anyone else wishing to speak regarding the budget. Seeing none, he declared the Public Hearing closed. He stated they will take action on the FY2012 budget later in the meeting.

**REZONING AND SPECIAL USE PERMITS**  
**(FIRST READINGS HELD**  
**JANUARY 10, 2012)**

Chairman Bagwell reviewed the procedures for Public Hearings.

**2. FILE #01-2012Z. REQUESTS REZONING FROM MULTI-FAMILY RESIDENTIAL (M-R) TO SUBURBAN RESIDENTIAL (S-R) FOR SINGLE-FAMILY DWELLING ON PROPERTY LOCATED ON MIDWAY RECREATION ROAD. ZONING MAP K17 PARCEL 456A. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 6-1]):**

Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated the subject property is accessed via Midway Park Road, which is a local street. She stated the property was zoned multi-family residential back in 2003 when it was undeveloped. Sometime later two lots were carved out that allowed these two single-family dwellings to be built in the corner. She stated after that there were a number of rezoning requests on the property to make zoning match the uses and match the lot lines, but the two single-family dwellings were still there. The applicant in this case is not the same person who built the single-family dwellings there. She stated they are asking to have the zoning changed so that the zoning and the use match, which will help in real estate transactions and so on.

Chairman Bagwell declared the public hearing open.

**Support: Thomas Reese, 747 Floyd Springs Road, Armuchee** stated he owns the property at 73 Midway Recreation Road in Silver Creek. He stated he feels that the property has been zoned incorrectly.

There being no one else to speak in support or opposition of the request, Chairman Bagwell declared the public hearing closed and called for a motion.

Chairman Bagwell stated County Attorney Manning has recommended that they readopt the Unified Land Development Code (ULDC) before moving forward with the requested zoning change before the Commission. County Attorney Manning suggested readopting the Unified Land Development Code (ULDC) first, then come back to take action on File #01-2012Z. He recommended a motion to go out of order to take action on the readoption of the Unified Land Development Code and Zoning Maps. He stated if the motion to go out of order passes, they would have a public hearing to readopt the Unified Land Development Code (ULDC) and Zoning Maps, take action on same and then come back to take action on File #01-2012Z.

Chairman Bagwell called for a motion to change the order of the agenda. Commissioner Mayes made a MOTION to change the order of the agenda. SECOND by Commissioner Whitefield. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**3. ADOPT UNIFIED LAND DEVELOPMENT CODE (ULDC) FOR THE CITY OF ROME AND FLOYD COUNTY REGARDING THE ESTABLISHMENT OF ZONING DISTRICTS AND DEVELOPMENT REGULATIONS, AND ADOPT THE OFFICIAL ZONING MAPS AND CONDITIONS FOR THE CITY OF ROME AND FLOYD COUNTY. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 6-0]):**

Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated that every year a number of changes are made to the Unified Land Development Code (ULDC) and the zoning maps that accompany it. She stated as the attorneys have advised them, it is important that once a year they readopt those sets of material with all of those changes incorporated into it.

Chairman Bagwell declared the public hearing open, and asked if there is anyone to speak in favor or opposition. Seeing none, he declared the public hearing closed, and called for a motion. Commissioner Whitefield made a MOTION to Adopt an Ordinance Adopting and Approving the Unified Land Development Code (ULDC) and the Official Zoning Maps and Conditions for the City of Rome and Floyd County

regarding the establishment of zoning districts and development regulations. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**FILE #01-2012Z VOTE:**

Commissioner Whitefield made a MOTION to Approve the request for Rezoning from Multi-Family Residential (M-R) to Suburban Residential (S-R) for single-family dwelling with respect to File #01-2012Z on property located on Midway Recreation Road. SECOND by Commissioner Lumsden. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

- 4. FILE #04-2012Z. REQUESTS REZONING FROM LIGHT INDUSTRIAL (L-I) TO HEAVY INDUSTRIAL (H-I) FOR MARKETING OF PROPERTY LOCATED ON NEW CALHOUN HIGHWAY AND HIGHWAY 140. ZONING MAP M10W PARCELS, 039, 044, 045, 049. (PLANNING COMMISSION RECOMMENDATION: APPROVE WITH THE CONDITION THAT THE TWO TRIANGLES ON THE SOUTH SIDE OF HIGHWAY 53 BE EXCLUDED. [VOTE: 7-0]):**

Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated the subject property is on two sides of Highway 53, and consists of a four lots. She stated the property is developed with a manufacturing plant that made clay tiles in the past. It is currently undeveloped. She stated the property is zoned light industrial, but the use of manufacturing clay tiles was

really a heavy industrial use, so it was a legal non-conforming use. In heavy industrial zoning, it is required to have 100' of setback from front property lines, and 200' from side and rear property lines. She stated this particular property actually has enough space to do that. It is very well suited for a heavy industrial use in this area. She stated utilities and services are available, with the exception of sewer. It not only has road frontage, but also contact with a railroad line. She stated this comes to the Board with a recommendation from the Planning Commission to approve the rezoning request to heavy industrial with the condition that the two triangles that are on the southern side of Highway 53 be excluded. The applicant indicated that they would be willing to do that, that it would not interfere with their plans for the property, and they would carry out re-platting to have those separated from the other lots.

Chairman Bagwell declared the public hearing open and asked if there was anyone to speak in favor of the request.

**Support: Jimmy Byars, 22 Sherwood Road,** stated he is marketing the property and representing the owners. He stated this is a 171-acre parcel, containing a 554,000 square foot building formerly known as Florida Tile. This was in existence prior to the county adopting the Unified Land Development Code. He stated it would be a normal heavy industrial property if it were operating today, as Ms. Hiller pointed out. It was always operated as a tile company, and that is the way it is being marketed. He stated they would like the zoning to conform to the way it is being marketed, and the way it has been used for the last twenty years. He stated that it does have a split zoning. On the other side of the road, there are two triangles that were split from the property when Highway 53 came through. The owners are willing to have those triangles surveyed, and submit a plat to Ms. Hiller, to get separate tax parcels in order to remain as light industrial zoning.

There being no one else to speak in support or opposition of the request, Chairman Bagwell declared the public hearing closed and called for a motion. Commissioner Mayes made a MOTION to Approve the request for Rezoning from Light Industrial (L-I) to Heavy Industrial (H-I) for marketing of property located on New Calhoun Highway and Highway 140 with the condition that the two triangles on the south side of Highway 53 be excluded. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**5. FILE #03-2012Z. REQUESTS SPECIAL USE PERMIT FOR MANUFACTURED HOME ON PROPERTY LOCATED ON ALLEN STREET IN SUBURBAN RESIDENTIAL ZONING DISTRICT. ZONING MAP F13Z PARCELS 003,004. (PLANNING COMMISSION RECOMMENDATION: POSTPONE [VOTE: 6-1]):**

County Attorney Manning stated, he would suggest holding a public hearing with respect to File #03-2012Z, then the Board can vote to refer it back to the Planning Commission, if that is their desire. Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated a special use permit is required for a manufactured home in a subdivision in suburban residential zoning. She stated in this case, there were three lots involved under the same ownership. Two of the lots already had manufactured homes on them, and the applicant was proposing a third. She stated it was uncertain whether water and sewer could be provided. That is a concern in this particular area, because it speaks to whether there is adequate fire protection for expanding the residential use there. She stated the Planning Commission asked the applicant to get assurance that they could provide water and sewer for the third manufactured home, and postpone making a decision on the request until the February meeting.

Chairman Bagwell declared the public hearing open, and asked if there is anyone to speak in support or opposition. Seeing none, he declared the public hearing closed, and called for a motion. Commissioner Lumsden made a MOTION to refer File #03-2012Z back to the Planning Commission. SECOND by Commissioner Fricks. VOTING:

YES	NO
-----	----

Commissioner Fricks	
" Lumsden	
" Mayes	
" Whitefield	
Chairman Bagwell	

Motion Carried

**ULDC TEXT AMENDMENTS**

**6. REVISE OR DELETE ARTICLE 3 AND ARTICLE 8 DEFINITIONS REGARDING COMMUNITY GARDENS. (PLANNING COMMISSION RECOMMENDATION: TABLE 3.1 – APPROVE [VOTE: 6-0]; TABLE 3.2 – APPROVE [VOTE: 6-0]; ARTICLE 8 DEFINITIONS – APPROVE**

**[VOTE: 6-0]):**

Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated they have had people approach them to ask if they can do community gardens. She stated that these are gardens where people come together and find a plot of land that the owner will allow them to use, not individual gardens that people have as an accessory use to their house. She stated the garden is then a primary use on the property. They are proposing to add this to the table as a use by right, and add a definition of community garden. She stated the amendment would be to ensure that this is allowed in residential districts, institutional districts where churches may have an interest, and commercial districts where someone may have a vacant lot that they would allow use for that purpose. She stated that people in the community come together and do these gardens either for their own use, or to donate the food to people needing help providing food for their families. She stated it is used for plants, vegetables, and flowers. It does not allow any animals to be kept on the plot.

Chairman Bagwell declared the public hearing open, and asked if there is anyone to speak in favor or opposition. Seeing none, he declared the public hearing closed, and called for a motion. Commissioner Whitefield made a MOTION to Revise Article 3, Table 3.1 and Table 3.2 and Article 8 Definitions, regarding community gardens as recommended and defined by the Planning Commission. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**7. REVISE OR DELETE ARTICLE 3 REGARDING CHURCHES. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 6-0]):**

Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated the Unified Land Development Code (ULDC) currently allows a church in almost any zoning district, except light industrial and heavy industrial districts. She stated they have had a rezoning case where a church has requested to go into a light industrial development. She stated the Planning Commission felt that it was not appropriate to rezone property away from that light industrial use, but they did consider allowing a church in a light industrial use with a special use permit. She stated that with a special use permit, they could define specifics about how they have to have buffers, landscaping, parking, the kinds of uses that they

can have, and so on, but it does have the potential for some impact on those light industrial areas.

Chairman Bagwell declared the public hearing open, and asked if there is anyone to speak in favor or opposition. Seeing none, he closed the public hearing, and called for a motion. County Attorney Manning stated they may desire to either table the request for consideration at the next scheduled meeting, or refer it back to the Planning Commission for further consideration and to flush out some of the issues that were raised earlier.

Commissioner Mayes made a MOTION to Table the amendment request on Article 3 regarding churches. SECOND by Commissioner Fricks.

Chairman Bagwell asked if there is any consideration to send the request back to the Planning Commission for reconsideration. County Attorney Manning stated if they do that, Commissioner Mayes may want to withdraw that motion. Commissioner Mayes asked if the motion could include both. County Attorney Manning stated it should be an either/or vote on the matter. He stated if they table it, it would come back at the next meeting. Commissioner Whitefield stated he does not believe Commissioner Mayes was in the room during the discussion that there are some potential legal implications involving churches and zoning. He stated the Planning Commission was not aware of that, so we are thinking that the Board may want to send this back to the Planning Commission with all of the details that they did not previously have in order for them to reevaluate. Commissioner Mayes stated he would like to change the motion. County Attorney Manning stated that Commissioner Mayes may desire to withdraw his motion, and in lieu of that, make a motion to refer the application back to the Planning Commission for further consideration.

Commissioner Mayes Withdrew his motion to Table the request, and made a MOTION to refer the request back to the Planning Commission for further consideration. SECOND by Commissioner Whitefield. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**8. AMENDMENT TO THE ULDC ALLOWING SMALL NUMBERS OF HENS AS AN ACCESSORY USE IN RESIDENTIAL AREAS. (PLANNING COMMISSION RECOMMENDATION: DENY [VOTE: 5-1]):**

Chairman Bagwell asked Ms. Sue Hiller, Planning Department Director to review the request. Ms. Hiller stated this is the second time that this has been considered. She stated it was taken up some months ago with the Planning Commission, with the city and the county voting not to make this change to the code. Since that time, the Planning Department has talked to a lot of people, and she is guessing that the city commission has probably spoken with some people as well, who are either keeping chickens or who would like to keep some chickens. She stated it was requested that the Planning Commission reconsider it, because it does seem to be important to some members of the Rome and Floyd County communities. She stated that the Planning Department obtained a broad collection of ordinances that various communities are following in relation to this. She stated based on the request to reconsider, and the information gathered, they drafted a few conditions. The conditions were to allow only six chickens, keeping them cooped, not having roosters, and not allowing butchering on the property. She stated even after drafting the conditions, the Planning Commission recommended to deny the request.

Chairman Bagwell declared the public hearing open, and asked if there is anyone to speak in favor or opposition. Mr. (*did not provide name*) stated he would like to ask Ms. Hiller a question. Chairman Bagwell stated he would allow it. The gentleman asked Ms. Hiller if this is saying that this body is going to allow this, or disallow this. Ms. Hiller stated the code does not say that they can or cannot keep chickens in these zoning districts. She stated that what it does say is that there is a list of permitted uses for every zoning district in the city and the county. She stated the only zoning district that allows chickens is agriculture residential, which is mostly in the county. In the suburban residential zoning district that is all across the city and the county, if they are an established agricultural operation on a property they can continue to be that, and that would include having chickens, which are livestock according to the code. She stated what this would do is allow people, as an accessory use to their residential use, to keep four hens, no roosters, controlled by an enclosure, with no selling of chickens or eggs on the property. They could not butcher chickens on the property, but they would be able to keep a limited number of hens in almost any residential zoning district as an accessory use. She stated she hopes that helped give better clarification.

Chairman Bagwell asked if there was anyone wishing to speak in support of the request.

**Support: Linda Evans, P.O. Box 400, Armuchee**, stated it is still very confusing to her. She stated she does not feel that there should be any restrictions in regards to chickens. She could understand a noise nuisance related to roosters, but she does see a problem other than that. She stated if a person wants to butcher a chicken, or sell eggs on their property, she does not understand the problem with that.

**Eric Lindberg, 597 Fred Kelly Road**, stated he is here as a citizen, not as an employee of the city or county. He stated however, as an environmental professional, he can assure them that there are no issues with keeping chickens either

health wise, or water quality wise, that are not addressed in other ways. He is aware that things can become a nuisance. He stated there are plenty of ordinances on the book to deal with nuisance animals, and he would suggest that they rely on those ordinances for issues like this. He stated that he feels that this ordinance is a little heavy-handed, saying that they can only have four in a small area. He stated he does not have a problem with sales on site. He is in favor of allowing people to do this. He stated it is very easy to do and keep them clean. He would like to see the folks of Floyd County be allowed to do this. It feels like they are taking away a benefit when there is no real reason to do so. He stated he does not see that they have a large problem with livestock. Other communities, including large urban communities, are doing this easily. He stated he feels that they are trying to take things away without any real benefit.

**David Smith, 6253 Cave Spring Road,** stated he agrees with Ms. Evans and Mr. Lindberg's comments. He stated all rights derive from property rights. He believes when they set limits on how someone is able to use their property that those rights are being violated. He stated by drawing these narrow conclusions as to how they can utilize their properties, he feels, is offensive. As Mr. Lindberg stated, if this proposal is the only alternative, then he is all for it, but he would beg the Commission to reconsider setting any specific stipulations on how someone uses their property. He stated he also agrees with the statement that there are many ordinances that address nuisances, noise, and so on, that are sufficient to deal with livestock. He stated that there was an article on House Bill 2 in the Rome News Tribune that he feels sums up how they should approach the issue here in Floyd County.

**Serpentfoot, 324 Forsyth Street,** stated there are some animals that kill children and adults. She stated chickens are not those animals, dogs are. If they are going to ban anything from the county, they should ban the dogs. She stated there are too many cats too. There are way too many dogs and cats in this county. She stated she loves chickens, and anyone that loves prayer has to love chickens because they used to worship the sun. She thinks this is where they got the idea of prayer, praying to the sun every morning, and praying to the moon every night. She stated there is no better mother in this world than a mother hen. The rooster is the one that taught people to pray. She stated the Egyptians used to worship the sun, and they learned it from the rooster. The Republican Party says that the national government is getting too big, but it is not just the national government. She stated local government is getting too big, if they are going to try to tell the citizens what they can and cannot have and do on their own property. Chickens are the most peaceful creatures around, unless it is fighting game. She stated that is the only thing they need to ban as far as chickens. They do not kill the kids, or the elderly. She stated dogs howling make a lot more noise than chickens do, and dogs are meaner. She thanked the Board.

**Bill Burns, P.O. Box 336, Armuchee,** stated he has been thinking about this whole situation. He stated in many cases, if a person lives in a distinct neighborhood and have lived there for twenty years, they expected there would be no chickens there. He is a chicken supporter, but he feels that the young lady he has been speaking with has a point regarding housing the chickens, and the effects on the

property values. He stated obviously chickens are a very good thing. As they are seeing, most of the people who have come here have two reasons. He stated one reason is that they like the chickens and the benefit of having the good food from those chickens. He would assume that they would take good care of them considering the benefits they would receive. He stated in that same regard, as many of them have ridden through Rome, they have seen many chickens and apparently, it is against the law to have them. He stated he thinks what has happened is that people are smart enough to know that if they had them in an enclosure then they would be a target for law enforcement. He stated if they had good planning allowing people to have chickens, they could take care of them the way they should. His conclusion on this is that he would ask the Commission to go ahead and sanction making the changes necessary to allow people to have chickens under these circumstances. He stated he would also ask that the Commission request that an additional study be conducted prior to making any issuance of permanent regulations, which would allow for a more perfect solution.

**Opposition: Martin W. Duke, 7018 Alabama Highway**, stated his family has served Floyd County for more than a hundred years. He stated they have been here before Rome was even a town, and this is the very first time he has had the honor of speaking before this commission. He congratulated County Manager Williams on his new appointment. He stated they have great confidence in his abilities, and he has been very impressed with his speaking this evening. He stated that he has been a corporate pilot for thirty years. He stated he flies all over the world, could live anywhere in the world, but he chooses to live in Floyd County. He loves this place and he appreciates what they are doing for the citizens. He stated once upon a time, a great comedian speaking at the White House told a story, which was something along the lines of “Commissioner Lumsden, what if everyone in your precinct got up at three o’clock in the morning and ate watermelon? That would be pretty crazy would it not? Commissioner Fricks, what if everyone in your district thought that everyone in Commissioner Lumsden’s district was crazy, and came to you saying they have to have an ordinance that says they cannot get up at three o’clock in the morning to eat watermelon?” He asked would he fall on his sword to represent an ordinance for his constituents, or would he say he has to quit because he cannot represent his group. He stated no, they would not do that. They are in a tough position, and headed down a slippery slope. He stated their ordinance proposal has not defined what butchering is. He stated that he has before them a skinned, whole chicken. He stated the head has been cut off, the feet have been cut off, and the feathers removed. He asked has it been butchered. He answered no, it has not. He stated it is not butchered until they take a knife to it and cut the parts. By their ordinance, anyone that goes to the grocery store and purchases a whole chicken gets a ticket from someone. He asked how are they going to enforce this crazy ordinance.

Mr. Duke stated what if he goes duck hunting, and brings the ducks home. He asked can he skin them in his yard. He stated ducks are on both sides of the fence because they are an agricultural product as well as wildlife. The same applies for rabbits, as they are both domestic and wild. He stated Georgia statute allows him to capture cotton-tailed rabbits, which are indigenous to the United States, and he can use

those rabbits for field trials to train beagles. He asked guess what happens during that field trial. He stated if that rabbit is shot, he would bring it home, butcher it and eat it. He stated the law provides that. He asked how about if he takes a feral hog out of their county. He stated he only lives on 5,000 square feet. He would hang that rascal over his daughter's swing set, and skin it in the front yard. He asked are they now going to tell him that he cannot do that. He stated goats are purely a domestic thing, but right on the other side of that is white - tailed deer, that everyone knows there are plenty of in this county. He stated that if he shoots one of those deer, he is going to bring it home and butcher it right in his front yard. The next group of people is going to come in complaining that people are butchering deer, ducks, rabbits, and goats. He asked where will they draw the line. He stated however, he would like to offer them some assistance. Hypothetically, if as a private citizen he took the FAA and Delta Airlines to court, sued them and won because of noise, but in the finding it did not limit the type and number of airplanes that Delta had, would that be practical. He stated that would be saying they can have as many as they would want, any kind that they want, but they just cannot disturb anyone with them when they fly them. In an attempt to prevent such incidences, there is a standardized airport departure noise abatement procedure. He stated if the pilot deviates from that procedure, he pays a fine and the airline pays a fine. He stated there was one of Rome's greatest veterinarians in with the Cub Scout group before them earlier. He stated what if he had a prize game rooster, he is so proud of the beautiful rascal, and he settles his hens. He does not need roosters to produces eggs, but he gets more eggs if he has a rooster. There are so many options to reach a solution on this. He thanked the Board for their time.

**Rhonda Copeland, Simpson Drive, Garden Lakes**, stated she has been there around fifteen years, and most of her neighbors have been there longer. She stated some people moved in, been there three months, and she heard a rooster crowing while sitting on her back porch. Right behind her home, there is a strip of woods at the railroad tracks on Simpson Drive. She stated she thought the rooster was just running loose because they see them everywhere, so she went to look for it. She noticed the neighbors building a shed, and then built something else that she first thought was a dog pen. She stated there is a whole yard of chickens there now. She stated that she did not buy her house to sit on her back porch and look at chickens. She stated she used to live in the country, she raised chickens, and she loves chickens. She is not against them, but she is in a subdivision. She stated the value has already gone down \$13,000.00 in two years. She asked what happens if she decides to sell her home and people see a yard full of chickens. She stated the neighbors got together to come up with options, and her first option was to go through the channels. That was a nightmare. She stated Animal Control told them they could have as many chickens as they wanted, which made them all very mad. She told Animal Control that she would just get a goat, and was told that she could not have a goat. She stated she did not intend to get a goat, but if she had a choice of livestock, she would get a goat. Finally, she spoke with someone else at Animal Control that advised her to call the building inspector. She stated someone needs to speak with Animal Control about diffusing the situation, not making it worse. Glenn Ruben, Rome-Floyd Building Inspection Department, was the only person that gave them any kind of help, and there should be more like him. She stated he saved

them from having to look at a yard full of chickens by determining that the area is not zoned agriculture residential.

**Support: Gina Early, 22 Robins Road**, stated she would like to support her rights to own chickens. She stated she understands that they do not need a large amount of chickens, and she is all for controlling the numbers, but she would like to defend her rights.

Chairman Bagwell asked if there is anyone else wishing to speak in support or opposition. Seeing none, he closed the public hearing. He asked if the Commissioners have any questions or discussion. County Manager Williams asked if they were going to allow for rebuttal. County Attorney Manning stated the entire allotted ten minutes was used. He stated they could allow rebuttal that if they choose. Chairman Bagwell called for a motion to allow rebuttal. Commissioner Fricks made a MOTION to allow rebuttal. SECOND by Commissioner Lumsden. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**Rebuttal: Phillip Fisher, 59 Ash Creek**, stated he thinks allowing this to go forward with only four chickens in a neighborhood would take care of Ms. Early's problem about having them in their yard because people would put them in a pen. He stated the ones that are wanting this ordinance passed are wanting the chickens for their eggs. They do not want them running around their yard loose. He stated they are going to want to put them in a place where they can feed, know what they are eating, and collect the eggs. He thanked the Board.

**Eric Lindberg** stated he recognizes that Ms. Early had some issues that were maybe not addressed as effectively as they could have been. He stated the fact remains that they do have ordinances that should have helped her with these issues, and they will be enforced the same way. If they do not allow chickens, people may still have them anyway, and they will still have to call the Building Inspection Department to deal with it. He stated it is hard to have an ordinance that they know they will not enforce, so his preference would be to allow chickens by right. He just asked that they do allow chickens to be kept in the suburban residential zones. He stated he is sure there are a whole lot more that they are not aware of that are not causing any problems. He stated when there are issues with nuisance, smell, and sound, or animals at large, those are all issues that are dealt with under the current code that do not need additional enforcement.

**David Smith** stated he would just like to remind the commission of this proposed bill, HB 2, which will supersede anything done today if it is passed. He stated he thinks people should be able to utilize their property as they see fit. He thanked the Board.

**Martin Duke** stated he is a fairly educated man, but he has learned more tonight than he has learned all week. He stated before he presented his position against the program. He owns forty acres and has no clue as to how it is zoned, but what he learned tonight is that he cannot keep chickens on his property, so he is for it. He stated he would like them to table it, or whatever they need to do to review and amend it because this one stinks. If they need his advice outside of this meeting, he would be glad to share it with them. He stated he would like to see this thing happen for the citizens. As it is currently written, and as he gave them the demonstration about the butchering, he thinks it needs some work. He thanked the Board.

Chairman Bagwell asked if there is anyone else wishing to speak during the rebuttal. Seeing none, he declared the public hearing closed, and asked if the Commission has any questions or discussion.

**Discussion:** Commissioner Fricks stated the Board sees their concerns, and they see what they are trying to fix, but it was a little surprising to him when this issue came up that it was coming through building inspection. He stated they are going to have a person that is trained in building safety determining whether this is a guinea fowl or a chicken, or whatever. **A chicken is a chicken, whether it is dead or butchered, and how do they define that. He stated Planning and Zoning is not where this should be. He stated that he understands the problems that they are facing and their concerns. There are places where it is very inappropriate, and not conducive to the neighbors. He stated he thinks they really need to take a broader look at this whole issue. Ms. Cooper's first response was to call Animal Control, which would be the natural reaction of anyone because this is an animal issue. He stated do they have the regulations and ordinances in place through that avenue to rectify the situation that they are concerned with instead of having to go somewhere that is not natural to define these rules. It is a confusing issue. He stated when they asked in support or against, no one really knew what they were, and he still does not know what he is. This is one of the most confusing issues they have been faced with. He stated he understands their situation, but he understands the rights as well. They cannot just think of the people living in the neighborhoods. He stated by doing that they may be affecting a person living in the county that that owns a hundred and fifty acres, that they have to arrest them because they have five chickens instead of four. That is how ridiculous this is. He stated he appreciates everyone's concerns and comments that have helped them understand the issue. He would make a recommendation to the Board that they do a lot more review to figure out if there is another avenue to address the problem instead of taking this broad stroke approach like they are trying to do right now.**

**Commissioner Mayes stated he tends to agree with Commissioner Fricks. He stated he appreciates the citizens giving these eloquent explanations of what they are about to get into. He agrees that they should look into this a bit further to try to figure it all out before they do anything.**

**Chairman Bagwell stated as it is presented to them from the Planning Commission, there are many problems with it that are going to create a nightmare for building inspection, and will get animal control involved in it too. He stated they need a further study and think about all of the ramifications before they rush into it.**

**Commissioner Lumsden stated prior to making a recommendation, he would just like to make all of them aware of some things that they may not be aware of concerning how this transpired. He stated, as he understands it, this proposal came about as a result of an initiative by the city in response to the fact that they had dealt with it several months before and this was a continuation of it. It is obvious that there are some differences between cities and counties, such as large tracts of land and smaller tracts of land, which they have to consider. He stated it is also obvious that this is an issue that is being discussed not only here, but also in other communities across the state and the nation. There has been much conversation today directed toward the fact that they are not real happy that they have a Unified Land Development Code (ULDC) that impacts or affects the way they use their personal property. He stated he understands that, but the fact is that they do have a code that helps govern issues that need to be dealt with in a public way. He is not in favor in any way of limiting their freedom to do whatever they want to do with their property. He stated since they do have this code, they do need to structure any changes, or amendments, in light of what is legal and what is the least limiting their ability to use their property. He stated that he would point out that in the county at least they already have in existence the ability to have the chickens in agriculture residential areas. He stated they also have the ability to have those in properties that are not zoned agriculture residential by use of special use permit. With all of that in mind, and all of the statements that have been made here concerning the fact that there is obvious confusion in the way that this particular revision is structured. He stated he thinks it is best from a legal technical standpoint to deny this particular recommendation due to the flaws and problems.**

**Commissioner Lumsden made a MOTION to Deny the Amendment to the ULDC allowing small numbers of hens as an accessory use in residential areas. SECOND by Commissioner Mayes. VOTING:**

**YES**

**NO**

**Commissioner Fricks**

**" Lumsden**

" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**CHAIRMAN'S REPORT:**

**1. Appointments:**

**a. Floyd County Board of Tax Assessors.**

Commissioner Fricks made a MOTION to reappoint Ladell Jacobs to the Floyd County Board of Tax Assessors, 3-year term to expire December 31, 2014. SECOND by Commissioner Whitefield. VOTING:

	YES	NO
Commissioner Fricks		
" Lumsden		
" Mayes		
" Whitefield		
Chairman Bagwell		

Motion Carried

**b. Appoint County Manager Blaine Williams to replace Kevin Poe on the Sara Hightower Regional Library Board and the Floyd County Library Board.**

Chairman Bagwell stated Kevin Poe has been their appointed member to the Sara Hightower Regional Library Board and the Floyd County Library Board. He stated that since Mr. Poe is gone, it would make sense to appoint County Manager Blaine Williams to replace Kevin Poe on the board.

Chairman Bagwell called for a motion. Commissioner Mayes made a MOTION to Appoint County Manager Blaine Williams to the Sara Hightower Regional Library Board and the Floyd County Library Board. SECOND by Commissioner Lumsden. VOTING:

	YES	NO
Commissioner Fricks		
" Lumsden		
" Mayes		
" Whitefield		
Chairman Bagwell		

Motion Carried

**COMMISSIONER'S REPORT:**

**1. Administrative/Finance Committee – Commissioner Fricks, 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) – Commissioner Lumsden**

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 two items on the Clerk's Consent Agenda, which have been reviewed, and are submitted for approval. Commissioner Lumsden made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**1. Tax Refunds:**

- a. John M. Kay & Howard M. Kay, 1947 Old River Road SW, \$942.93
- b. Barbara Frances Dixon, 111 Sagewood Drive NW, \$12.83

**2. Authorize Execution of Application for Hazard Mitigation Grant DR1973.**

**MANAGER'S REPORT:**

**1. ADOPT RESOLUTION APPROVING AND AUTHORIZING ADOPTION OF THE FLOYD COUNTY FY2012 BUDGET:**

County Manager Blaine Williams stated they have before them a resolution approving and authorizing adoption of the FY2012 budget. He recommended approval of the budget as presented.

Chairman Bagwell called for a motion. Commissioner Fricks made a MOTION to Adopt the Resolution Approving and Authorizing Adoption of the Floyd County FY2012 Budget. SECOND by Commissioner Lumsden. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**2. AWARD OF BID FOR HVAC UPGRADE AT STATE MUTUAL STADIUM:**

County Manager Williams stated it is hard to believe that the Rome Braves Stadium is ten years old. He stated there are some issues with the HVAC, partially due to

their age and partially due to some previous design. He stated this proposes to replace the existing rooftop HVAC equipment for the Clubhouse, and install a separate split-system for the radio and audiovisual suites. He stated those two suites are open to weather a good deal, which has caused their chiller to work continuously just to meet the thermostat temperature. The bid is to furnish all equipment, labor, supplies, and material for a turnkey job. He stated the most responsive bid was \$102,245.00 from North Georgia Equipment Company. He stated this would be paid out of the Stadium Maintenance Fund, which has the fund balance necessary to support that. He recommended awarding the bid to North Georgia Equipment Company in the amount of \$102.245.00, to complete the work of HVAC replacement at State Mutual Stadium.

**Discussion:** Commissioner Fricks stated he would like to mention for the benefit of the public, because sometimes they forget, that this is a self-generating fund that is produced by stadium revenues. He stated when they initially got the support of the public for SPLOST to build this facility, they promised to maintain it through self-generating funds. They are very fortunate that they have been able to do that. He stated this is coming out of that fund with a good amount of funds remaining.

Chairman Bagwell called for a motion. Commissioner Fricks made a MOTION to Award the bid to North Georgia Equipment Company in the amount of \$102.245.00 for HVAC upgrade at State Mutual Stadium. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**3. ADOPT RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF CONTRACT DOCUMENTS BETWEEN FLOYD COUNTY, MERCY SENIOR CARE AND HOGAN CONSTRUCTION COMPANY FOR THE MERCY SENIOR CARE GRANT PROJECT: (CDBG GRANT #10p-y-057-1-5229)**

County Manager Williams stated Mercy Senior Care has been a long time provider of elderly care services here in the community. He stated the county, in partnership with Mercy Senior Care, was able to get a Community Development Block Grant (CDBG) in the amount of \$500,000.00 to help them find a new home. He stated that

Mercy did purchase the old Riverside School in Celanese. He stated they have had architectural plans drawn up, and that bid was put out on December 1, 2011. At the last Commission meeting, they awarded that bid to the lowest bidder, Hogan Construction for \$692,700.00. He stated this evening they have before them a Resolution to authorize the chairman to sign the contract documents with Hogan Construction to begin that work. He would like to note that the contract has both the county and Mercy Senior Care as the owner, so to speak, as it is a partnership. He stated they have taken care of everything through the Grant Administration Agreement and the agreement with Mercy Senior Care about how that contract would be played out to get to the end result that they both desire. He recommended authorizing the chairman to sign the contract documents.

Chairman Bagwell called for a motion. Commissioner Lumsden made a MOTION to Adopt the Resolution Approving and Authorizing Execution of Contract documents between Floyd County, Mercy Senior Care, and Hogan Construction Company for the Mercy Senior Care Grant Project. (CDBG Grant #10p-y-057-1-5229). SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**ATTORNEY'S REPORT:**

No Report.

**ADJOURNMENT:**

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Bagwell

Motion Carried

**FLOYD COUNTY BOARD OF  
COMMISSIONERS**

**IRWIN BAGWELL, CHAIRMAN**