

October 22, 2013

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
October 22, 2013 6:00 P.M.**

PRESENT: Chairman Irwin Bagwell, Vice-Chairman Larry Maxey, Commissioners Garry Fricks John Mayes, and Rhonda Wallace.

OTHERS

PRESENT: County Manager Jamie McCord, County Attorney Tommy Manning, and County Clerk Kathy Arp.

ABSENT: Assistant County Manager Noah Simon.

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

INVOCATION: Commissioner Maxey led the Invocation.

PLEDGE OF ALLEGIANCE: Commissioner Fricks led the Pledge of Allegiance.

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 Caucus and Regular Meeting of October 08, 2013. SECOND by Commissioner Maxey. VOTING:

YES NO

Commissioner Wallace
" Fricks
" Maxey
" Mayes
Chairman Bagwell

Motion Carried

PROCLAMATIONS

RETIRED EDUCATORS DAY:

Commissioner Wallace presented Frances and Phil Herron with a Proclamation recognizing November 03, 2013 as Retired Educators Day.

(Proclamation/Resolution Book, Page 36)

RESOLUTIONS

ADOPT RESOLUTION TO ADOPT AMENDED AND RESTATED ACCG 457(b) DEFINED COMPENSATION PLAN AND AUTHORIZE EXECUTION OF DOCUMENTS BY CHAIRMAN:

Chairman Bagwell called for a motion. Commissioner Fricks made a MOTION to Adopt a Resolution to Adopt the Amended and Restated ACCG 457(b) Defined Compensation Plan and Authorize Execution of Documents by Chairman. SECOND by Commissioner Wallace. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

CHAIRMAN'S REPORT:

1. Citizen Appointments:

a. Rome-Floyd County Planning Commission.

Chairman Bagwell made a MOTION to Appoint Tom Bennett to succeed Terry Jones on the Rome-Floyd County Planning Commission for a 5-year term to expire September 11, 2018. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

COMMISSIONER'S REPORT:

1. Administrative/Finance Committee – Commissioner Fricks, Chairman

- a. Consider a Letter of Opposition to the Adoption of Proposed Rule 560-11-14-17 being considered by Department of Revenue related to Title Ad Valorem Tax.**

Commissioner Fricks asked County Manager McCord to review the Administrative/Finance Committee item. County Manager McCord stated the county received information from ACCG regarding Proposed Rule 560-11-14-17. He stated some other communities have written letters in opposition to the proposed rule currently being considered by the Department of Revenue. He stated that the rule change, if adopted, would reduce the new Title Ad Valorem Tax (TAVT) that went into effect in March 2013 on 'buy here pay here' auto dealers. He stated they are proposing a 2.5% decrease, from 6.5% to 4%, and this concerns him. He stated they are still not comfortable with the new TAVT, and are unsure of how it is going to affect the county through the end of the year. He stated he thinks the argument of the dealers is that they sometimes sell those vehicles multiple times in a year. He recommended endorsing the letter that was reviewed in Caucus to oppose any reductions to the TAVT. If they had more history with the tax, they might consider a more open stance. He stated as of now they believe it should stay the way it was intended at 6.5% with no exceptions to the rules.

Commissioner Fricks made a MOTION to Approve sending a Letter of Opposition to the Adoption of Proposed Rule 560-11-14-17 being considered by the Department of Revenue related to Title Ad Valorem Tax. SECOND by Commissioner Wallace. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

2. Public Safety Committee – Commissioner Mayes, Chairman

No Report.

3. Public Works Committee – Chairman Bagwell, Chairman

No Report.

4. Water Committee – Commissioner Maxey, Chairman

No Report.

5. Judicial Services Committee (CJIS) – Commissioner Wallace

6. Special Committee Reports

a. Fire Overview Committee – Commissioners Fricks and Mayes

b. Joint Services Committee – Chairman Bagwell and Commissioner Fricks

c. Joint Development Oversight Committee – Chairman Bagwell and Commissioner Fricks

d. Joint Solid Waste Oversight Committee – Chairman Bagwell and Commissioner Fricks

e. SPLOST Committee – Commissioner Wallace

Commissioner Wallace stated early voting has started, and November 5, 2013 is the final date to vote on SPLOST. She stated the Citizens SPLOST Committee is working very hard to educate the community about the proposed projects. She stated she would like to thank them for all of their hard work in getting the information out to the citizens.

CLERK’S REPORT:

Consent Agenda

4/5 Vote Required to Add Item to Agenda:

County Clerk Kathy Arp requested that item #4 be added to the Agenda, and that item #2 be removed.

Chairman Bagwell called for a motion to add Item #4 to the Agenda, and to Remove Item #2. Commissioner Maxey made a MOTION to add Item #4 and to Remove Item #2. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Wallace
" Fricks

" Maxey
" Mayes
Chairman Bagwell

Motion Carried

County Clerk Kathy Arp stated that Item #2 was removed and the remaining items on the Clerk's Consent Agenda were numbered consecutively (Items 1, 2 & 3), and the items having been reviewed are submitted for approval.

Chairman Bagwell called for a motion. Commissioner Wallace made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Maxey. VOTING:

YES NO

Commissioner Wallace
" Fricks
" Maxey
" Mayes
Chairman Bagwell

Motion Carried

1. Tax Refunds:

a. Tammy Lee Dempsey, 1687 Buttermilk Rd, \$123.83

2. Amendment 001 to contract between Georgia Department of Transportation (GDOT) and Floyd County for Plant Mix Resurfacing of Various County Roads. (GDOT Contract ID: C38897-12-000-0, Project No: S014247-PR) (FY2013 LARP-LMIG).

3. Adopt Resolution Approving and Authorizing Execution of Georgia Transportation Infrastructure bank (GTIB) Grant Application related to Ramps at US 411/SR 53 and Southwest Rome Bypass.

MANAGER'S REPORT:

County Manager McCord stated that the InterCity visit in Huntsville and Decatur, Alabama was a good trip, and he learned a lot.

OTHER BUSINESS:

**1. ADOPT RESOLUTION APPROVING
AND AUTHORIZING EXECUTION**

**OF AGREEMENT FOR PROFESSIONAL
SERVICES BETWEEN FLOYD COUNTY,
THE SHERIFF OF FLOYD COUNTY AND
ROBERDS CONSULTING ENGINEERS, LTD,
FOR PROFESSIONAL SERVICES REGARDING
THE DEVELOPMENT AND COMPLETION OF
AN ELECTRONIC SECURITY SYSTEMS
RETROFIT AT THE FLOYD COUNTY JAIL.**

Chairman Bagwell called for a motion. Commissioner Maxey made a MOTION to Adopt the Resolution Approving and Authorizing Execution of Agreement for Professional Services between Floyd County, the Sheriff of Floyd County and Roberds Consulting Engineers, LTD, for Security System Renovations at the Floyd County Jail. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

**2. ADOPT RESOLUTION DECLARING
INTENT TO REIMBURSE COSTS OF
JAIL IMPROVEMENTS.**

Chairman Bagwell stated this relates to repaying any funds spent on Jail improvements through SPLOST, if it were to pass.

Chairman Bagwell called for a motion. Commissioner Wallace made a MOTION to Adopt the Resolution Declaring Intent to Reimburse Costs of Jail Improvements. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

Chairman Bagwell recognized Leadership Rome participants in attendance.

**3. CONSIDER A VOTE TO ENTER INTO
EXECUTIVE SESSION FOR THE
PURPOSE OF CONSULTATION WITH
THE COUNTY ATTORNEY OR OTHER
LEGAL COUNSEL TO DISCUSS
PENDING OR POTENTIAL LITIGATION,
SETTLEMENT, CLAIMS, ADMINISTRATIVE
PROCEEDINGS, OR OTHER JUDICIAL
ACTIONS BROUGHT OR TO BE BROUGHT
BY OR AGAINST THE COUNTY OR ANY
OFFICER OR EMPLOYEE OR IN WHICH
THE COUNTY OR ANY OFFICER OR
EMPLOYEE MAY BE DIRECTLY INVOLVED
AS PROVIDED IN O.C.G.A. §50-14-2(1).**

Chairman Bagwell made a MOTION to enter into Executive Session for the purpose of Consultation with the county attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. §50-14-2(1). SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

The Board entered into Executive Session at 6:21 p.m.

Chairman Bagwell reconvened the meeting at 6:55 p.m.

Chairman Bagwell asked County Attorney Manning to report on the Executive Session matter. County Attorney Manning stated that the Board may wish to add to the agenda by 4/5 vote Authorization to settle the pending Inverse Condemnation Case of Lowery vs. Floyd County related to John Lowery's leasehold interest in property that is part of the Armuchee Connector.

Chairman Bagwell called for a motion to add Authorization to settle the pending Inverse Condemnation Case of Lowery vs. Floyd County related to John Lowery's leasehold

interest in property that is part of the Armuchee Connector to the agenda by 4/5 vote. Commissioner Wallace made a MOTION to add the item to the agenda. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

County Attorney Manning stated as was discussed in Execution Session regarding this pending litigation, the Lowery vs. Floyd County case is an Inverse Condemnation case, and it is the last piece of property that has yet to be resolved concerning the Armuchee Connector project. He stated the Lowery's leased property from the Berry's to farm just across the river close to the stadium. He stated that the Lowerys have filed an inverse condemnation case and have alleged that they had an annual lease that they had renewed each year for a considerable period of time in the past that would entitle them to damages in the amount of \$209,135.00. He stated in addition to that, since this is an inverse condemnation case the Lowery's have alleged attorney's fees of at least \$53,000.00. County Attorney Manning stated the county has an opportunity to settle that case for \$75,000.00. He stated the motion that the Board may want to consider would be to authorize the settlement of the Lowery case for \$75,000.00, and to authorize Ms. Harman or him to execute all documents concerning a settlement agreement or consent judgment to resolve the claim.

Chairman Bagwell called for a motion. Commissioner Mayes made a MOTION to Authorize Settlement of the Lowery vs. Floyd County Inverse Condemnation Case for \$75,000.00, and Authorize Legal Counsel to execute all documents concerning a settlement agreement or consent judgment to resolve the claim. SECOND by Commissioner Maxey. VOTING:

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

Discussion: Commissioner Fricks ask if the \$75,000.00 would include the attorney's fees. County Attorney Manning stated the \$75,000.00 would be the total amount that the county would be required to pay. He stated the Lowery's would be responsible for any payments to their attorney from that amount. Chairman Bagwell asked County Attorney Manning

if it is his understanding that the settlement amount of \$75,000.00 would be accepted. County Attorney Manning stated it is his understanding that if the Commission is agreeable to that amount, then it is agreeable to the other party. He stated that they reviewed the allegations of how they were damaged during Executive Session, but he would be glad to do that again. Commissioner Fricks stated on five acres their claims were over \$209,000.00. County Attorney Manning stated he believes that it was twenty-five acres at issue out there. He stated their allegation was that they were damaged in their yield of crops in that area that was taken for the road, and for damage to adjacent property caused by the road. He stated that Lowery had an expert that used a multiplier of five. He stated that would be contested if this matter were tried, but the \$209,000.00 is the dollar figure that they would put up. If tried, the county would not agree with that and would contest the amount and try to limit any actual damages to a twelve month period only. He stated in addition to that, in an inverse condemnation case, they would have this claim for \$53,000.00 in attorney fees. He stated that this is an opportunity to resolve the case in a matter where a jury would likely find some amount of damage, even though this was an annual lease, and in a situation where attorneys fees would likely be added since the matter is an inverse condemnation case. He stated the settlement before the Commission would limit the county's exposure to \$75,000.00, which combining the two amounts mentioned would be close to what they would probably get at a minimum, and would prevent any excess on the high side from some kind of runaway verdict. Commissioner Fricks stated the attorney's fees are \$53,000.00 now, so if they litigated it further the county would have additional attorney's fees to cover. County Attorney Manning stated if there is a recovery in an inverse condemnation case that is his understanding, that they would be entitled to recover their attorney's fees as long as they could show the court that the time they spent on the case was reasonable and at a reasonable rate. Commissioner Wallace stated and the county would have their own attorney's fees that they would be responsible for to add to that amount as well. Chairman Bagwell stated so the bulk of the settlement is going to attorney's fees. County Attorney Manning stated they do not know how they are going to divide a settlement amount between the Lowerys and their attorney, but the bulk of settlement would correspond to the attorney's fees that they would present.

ADJOURNMENT:

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

YES

NO

Commissioner Wallace

" Fricks

" Maxey

" Mayes

Chairman Bagwell

Motion Carried

**FLOYD COUNTY BOARD OF
COMMISSIONERS**

IRWIN BAGWELL, CHAIRMAN

**FLOYD COUNTY BOARD OF COMMISSIONERS
CAUCUS**

October 22, 2013 5:00 PM

Present: Chairman Irwin Bagwell, Vice-Chairman Larry Maxey, Commissioners Garry Fricks, John Mayes and Rhonda Wallace, County Manager Jamie McCord, County Clerk Kathy Arp, County Attorney Tommy Manning, and Comptroller/Finance Director Gary Burkhalter.

Mr. Gerald Roberds, Roberds Consulting Engineers, Ltd. presented information to the Board regarding the work related to the security systems renovations project at the Jail.

Commissioners and staff reviewed items on the agenda for the meeting of October 22, 2013.

**FLOYD COUNTY BOARD OF
COMMISSIONERS**

IRWIN BAGWELL, CHAIRMAN