

WHITE COUNTY BOARD OF COMMISSIONERS

MINUTES FROM REGULAR MEETING HELD

APRIL 3, 2007, AT 4:30 P.M.

The White County Board of Commissioners met in a regular session at 4:30 P.M. in the Grand Jury Room of the White County Courthouse, Cleveland, Georgia. Present were: Post 1 Commissioner (and Vice Chairman) Joe R. Campbell, Post 2 Commissioner Craig Bryant, County Manager Alton Brown, Chief Financial Officer Vickie Neikirk, and County Clerk Jean Welborn.

Vice Chairman Campbell called the meeting to order. After the pledge to the flag, Rev. Charles Black brought the invocation.

Upon motion made by Commissioner Bryant, seconded by Vice Chairman Campbell, the minutes from the Regular Meeting held March 6, 2007 and Called Meeting held March 26, 2007 were unanimously adopted.

The week beginning April 8, 2007 was proclaimed as "SPECIAL OLYMPICS COME BE INSPIRED WEEK."

The week beginning April 8, 2007 was proclaimed as "PUBLIC SAFETY TELECOMMUNICATIONS WEEK IN WHITE COUNTY."

Upon motion made by Commissioner Bryant, seconded by Vice Chairman Campbell, the following Consent Agenda items were unanimously adopted:

1. Granted a variance at Mountain Lakes as requested by Howard Miller of Marmari Corporation to allow access to a 1.17-acre lot with Cabin "C" from Cathey Creek Drive.
2. Adopted the following Resolution:

"WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-15

A RESOLUTION TO AMEND THE OFFICIAL CODE OF WHITE COUNTY, GEORGIA, CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, ARTICLE III, DIVISION 4, TRAVEL TRAILER/RECREATIONAL VEHICLE PARKS, SECTION 14-133(d) LOT SIZE AND FRONTAGE REQUIREMENTS

WHEREAS, the White County Board of Commissioners wishes to revise the Travel Trailer/Recreational Vehicle Parks Regulations as hereinafter set out;

NOW THEREFORE, BE IT RESOLVED by the County Commissioners of White County, and it is hereby resolved by authority of the same, that the Travel Trailer/Recreational Vehicle Parks regulations be revised as follows:

**CHAPTER 14, ARTICLE III, DIVISION 4, TRAVEL TRAILER/
RECREATIONAL VEHICLE PARKS, SECTION 14-133 (d)**

is hereby deleted in its entirety and the following substituted in lieu thereof:

“(d) Lot size and frontage requirements.

- (1) Except as to Seasonal Worker lots as set out in subsection (2) below, each recreational park trailer/recreational vehicle lot designed for rental use shall have a minimum width of 80 feet and shall directly abut an interior street. Each rental lot shall have a minimum area of at least 10,000 square feet. Lots designated as lots for sale where urban scale public water is provided shall have a minimum lot area of at least one-acre minimum, or greater, sufficient for installation of an appropriate septic/drain field and alternate drain field site. Lots proposed for sale where no public water is available shall be on a central system and shall be a minimum lot width of 150 feet, and shall directly abut an interior street. Said lots shall contain at least one acre of area minimum or greater sufficient for installation of an appropriate septic/drain field and alternate drain field site.*
- (2) Up to eight (8) lots for seasonal workers shall be allowed. Seasonal worker lots shall be specifically located together in a single location and shall abut an interior street. Seasonal worker lots shall have a width no less than 30 feet and a length no less than 100 feet. Said sites shall be for temporary seasonal use for park workers and not to be rented for customer use. The area for seasonal worker lots shall contain an area sufficient for installation of an appropriate septic/drain field and alternate drain field site approved by the White County Health Department.”*

ADOPTED, this 3rd day of April, 2007.

WHITE COUNTY BOARD OF COMMISSIONERS

Chris R. Nonnemaker, Chairman

s/Joe R. Campbell
Joe R. Campbell, Post 1

s/Craig Bryant
Craig Bryant, Post 2

ATTEST:

s/Jean Welborn
Jean Welborn, County Clerk”

Minutes from Regular Meeting Held April 3, 2007, Continued

Upon motion made by Commissioner Bryant, seconded by Vice Chairman Campbell, a variance was unanimously granted to provide eight (8) spaces (30' x 100' each) fronting on Mountain Shadows Drive for seasonal worker RV sites at Mountain Lakes as requested by June Bailey, Manager of Mountain Lakes, Conditioned Upon:

- 1) The lots being used strictly for seasonal workers, and not for nightly rental nor for individual sale;
- 2) The septic systems for the seasonal worker lots being approved by the Health Department;
- 3) The demolition and debris removal of the burned building lot at Mountain Lakes prior to providing temporary living sites for seasonal workers (Note: the building does not have to be rebuilt prior to the site being approved for seasonal workers; however, all demolition and debris removal down to the foundation has to be completed prior thereto);
- 4) No more additions to Mountain Shadows Resorts will be approved by the Board of Commissioners until the sewer issues are addressed by the State.

Upon motion made Commissioner Bryant, seconded by Vice Chairman Campbell, the following Resolutions concerning variances were unanimous adopted:

“WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-16

A RESOLUTION TO AMEND THE OFFICIAL CODE OF WHITE COUNTY, GEORGIA, CHAPTER 2, ARTICLE IV, BOARDS, COMMISSIONS, AUTHORITIES, DIVISION 2 (PLANNING COMMISSION), SECTION 2-177 (STAFF) AND SECTION 2-179 (DUTIES AND RESPONSIBILITIES)

WHEREAS, White County has heretofore adopted policies concerning the operation of the Planning Commission;

AND WHEREAS, the White County Board of Commissioners hereby revises the Code as follows:

CHAPTER 2, ARTICLE IV, BOARDS, COMMISSIONS, AUTHORITIES, DIVISION 2 (PLANNING COMMISSION), SECTION 2-177 (STAFF) is hereby deleted in its entirety and the following substituted in lieu thereof:

“Sec. 2-177. Staff

The county manager shall appoint the staff of the community and economic development department.”

CHAPTER 2, ARTICLE IV, BOARDS, COMMISSIONS, AUTHORITIES, DIVISION 2 (PLANNING COMMISSION), SECTION 2-179 (Duties and responsibilities) is hereby deleted in its entirety and the following substituted in lieu thereof:

Sec. 2-179. Duties and responsibilities

(a) It shall be the function and duty of the planning commission to:

- 1. make comprehensive surveys and studies of existing conditions and probable future developments; and***
- 2. prepare plans for physical, social and economic growth that will promote the public health, safety, convenience, prosperity and welfare in the development of the unincorporated areas of the county; and***
- 3. recommend the adoption of desirable or necessary plans, resolutions and regulations to the board of commissioners; and***
- 4. review existing codes and recommend the adoption of desirable or necessary amendments by the board of commissioners; and***
- 5. Included within the existing codes are the following:***
 - a. Chapter 2, Administration; Article IV, Boards, Commissions, Authorities; Division 2, Planning Commission***
 - b. Chapter 14, Building and Building Regulations***
 - i. Article III, Construction Codes and Enforcement including: Division 3, Manufactured/Mobile Home Parks and Division 4, Recreational Park Trailer/Recreational Vehicle Parks***
 - ii. Article VI, Telecommunications Antenna and Towers;***
 - iii. Article VII, Vacation Rental/Tourist Cabins;***
 - iv. Article VIII, Variances.;***
 - c. Chapter 30, Environment***
 - i. Article III, Watershed Protection;***
 - ii. Article IV, Flood Damage Prevention;***
 - iii. Article V, River Corridor Protection;***
 - iv. Article VI, Groundwater Recharge Area Protection;***
 - v. Article VII, Wetlands Protection;***
 - vi. Article VIII, Standards and Regulations for the Protection of Mountains and Hillsides.***
 - d. Appendix A - Subdivisions; and***
 - e. And other regulations as directed by the Board of Commissioners.***

6. *The planning commission shall undertake such other duties as the board of commissioners may assign to it from time to time.*

ADOPTED, this 3rd day of April, 2007.

Chris R. Nonnemaker, Chairman

s/Joe R. Campbell
Joe R. Campbell, Post 1 Commissioner

s/Craig Bryant
Craig Bryant, Post 2 Commissioner

ATTEST:
s/Jean Welborn
Jean Welborn
County Clerk

WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-17

A RESOLUTION TO AMEND THE OFFICIAL CODE OF WHITE COUNTY

WHEREAS, the White County Board of Commissioners wishes to revise the White County Code as hereinafter set out;

NOW THEREFORE, BE IT RESOLVED by the County Commissioners of White County, and it is hereby resolved by authority of the same, that the White County Code be revised as follows:

- **Chapter 14 (Buildings and Building Regulations), Article III (Construction Codes and Enforcement), Division 3 (Manufactured/Mobile Home Parks), Sections 14-120 (Variances), 14-121 (Inspection), 14-122 (Enforcement), 14-123 (Miscellaneous provisions)** are hereby deleted in their entirety and the following added in lieu thereof:

“Section 14-120. Variances, Inspection, Enforcement, and Miscellaneous

See Chapter 14, Article VIII, Sections 14-301, 14-302, 14-303 and 14-304 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 14 (Buildings and Building Regulations), Article III (Construction Codes and Enforcement), Division 4 (Recreational Park Trailer/Recreational Vehicle Parks), Sections 14-135 (Variances), 14-136 (Inspection), 14-137 (Enforcement), 14-138 (Miscellaneous provisions)** are hereby deleted in their entirety and the following added in lieu thereof:

“Section 14-135. Variances, Inspection, Enforcement, and Miscellaneous

See Chapter 14, Article VIII, Sections 14-301, 14-302, 14-303 and 14-304 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 14 (Buildings and Building Regulations), Article VI (Telecommunications Antennae and Towers, Section 14-219 (Variances and Appeals)** is hereby deleted in their entirety and the following added in lieu thereof:

“Section 14-219. Variances, Inspections, Enforcement, and Miscellaneous provisions

See Chapter 14, Article VIII, Sections 14-301, 14-302, 14-303 and 14-304 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 14 (Buildings and Building Regulations), Article VII (Vacation Rental/Tourist Cabins), Sections 14-260 (Variances), 14-261 (Inspection), 14-262 (Enforcement), 14-263 (Miscellaneous provisions)** are hereby deleted in their entirety and the following added in lieu thereof:

“Section 14-260. Variances, Inspection, Enforcement, and Miscellaneous

See Chapter 14, Article VIII, Sections 14-301, 14-302, 14-303 and 14-304 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 14 (Buildings and Building Regulations), Article VIII (Variances, Inspection, Enforcement, and Miscellaneous provisions), Sections 14-301 (Variances), 14-302 (Enforcement), 14-303 (Inspection), and 14-304 (Miscellaneous provisions)** are hereby added as follows:

“Section 14-301. Variances

(a) Administration by the community and economic development department - The community and economic development department has the responsibility for administration of this Section.

(b) Purpose - The purpose of a variance is to provide relief when the strict application of the statutes, codes or policies imposes unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the:

- 1. Size, shape or dimensions of the site; or*
- 2. Locations of existing structures; or*
- 3. Geographic, topographic or other conditions on the site or in the immediate vicinity.*

(c) Criteria for granting a variance:

- 1. Based on the application, evidence submitted by the applicant, investigations by the director of community and economic development or planning commission or board of commissioners, all four (4) of the following findings shall exist in order to grant a variance:*

- a. A strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty or unnecessary hardship; and*
- b. There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use of the property which do not apply generally; and*
- c. The granting of the variance will not be detrimental to the public health, safety or welfare; and*
- d. The granting of the variance would support general objectives contained within this chapter.*

2. Variances shall not be granted:

- a. If the special circumstances on which the applicant relies are a result of the actions of the applicant, owner or previous owners; or*
- b. To allow the use of property in a manner or for a purpose not authorized by the statutes, codes or policies.*

(d) Application requirements - The owner or duly authorized agent shall file an Application for Variances with the community and economic development department on the prescribed form. A complete application shall consist of:

- 1. Variance Request Form*
- 2. Copy of code section from which the variance is being requested*
- 3. Correspondence clearly stating the basis for the variance request*
- 4. Supporting documentation necessary to give the director of community and economic development a clear understanding of the request*

(e) Submission to the Planning Commission

- 1. The Request for Variance is reviewable by the planning commission if the director of community and economic development determines that the request for variance meets the criteria.*
- 2. The planning commission shall review the request for variance upon receipt of the following within ten (10) days of the determination of the director of community and economic development:*
 - a. Correspondence clearly stating the basis for the request for planning commission review;*
 - b. Director of community and economic development recommendation;*
 - c. Supporting documentation necessary to give the planning commission a clear understanding of the request for review; and*
 - d. A review fee of \$100.00.*

3. The planning commission shall review the application and staff investigation report and determine whether the evidence supports a finding that the required criteria has been met and approve with or without conditions or deny the application. However, the determination of the director of community and economic development shall remain in full force and effect pending such review.

(f) Appeal to the Board of Commissioners

Decisions or actions of the planning commission are subject to an appeal to the board of commissioners. However, the planning commission's action or decision shall remain in full force and effect pending such appeal.

(g) If an applicant desires to appeal a decision or action of the planning commission, the applicant shall notify the board of commissioners in writing within ten (10) days of the action or decision of the planning commission. Upon receipt of this notice, the board of commissioners shall establish a date and time to hear the appeal. The request shall include:

- 1. Correspondence stating the basis for the appeal of the planning commission action or decision;*
- 2. Applicable planning commission minutes;*
- 3. Supporting documentation necessary to give the board of commissioners a clear understanding of the appeal request; and*
- 4. Appeal fee of \$50.00.*

(h) Conditions

- 1. Reasonable conditions may be imposed in connection with the granting of a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this chapter.*
- 2. Guarantees and evidence shall be required that such conditions are and will continue to be in compliance.*

(i) Compliance with conditions approval - Adherence to the approved plans and compliance with conditions imposed in the variance are required. Any departure from conditions of approval constitutes a violation of this chapter.

(j) Vested interest in approved variances - A valid variance supersedes conflicting provisions or amendments unless specifically provided by the provisions of this chapter or the conditions.

(k) Investigations and reports - The director of community and economic development shall make an investigation to provide necessary information to insure that the action on each application is consistent with the variance criteria. Any report of such investigation shall be included in the application file.

(l) Revocation - Variances shall become invalid if not exercised within one year of the date of approval or if there is a change in ownership not otherwise noted and approved at the time of the granting of the variance.

(m) Limitations on reapplication - The planning commission shall not hear denied applications for the same or substantially similar variance application until a period of six (6) months has elapsed.

Section 14-302. Inspection.

- (a) *The staff, representatives or agents of the building inspection, code enforcement, community development, fire, public works, as well as the emergency management agency, shall have the power to conduct such investigation as they may reasonably deem necessary to carry out the duties and responsibilities as prescribed in this Chapter. After providing proper credentials, these agents, officials and representatives may enter any property, public or private, for the purpose of investigating and inspecting the premises*
- (b) *No person or entity shall refuse entry or access to the staff, representatives or agents of the building inspection, code enforcement, community development, fire, public works departments as well as the emergency management agency who request entry for purposes of inspection. Similarly, no person or entity shall obstruct, hamper or interfere with any such staff, representative, or agent while in the process of carrying out his official duties.*

Section 14-303. Enforcement.

- (a) **Stop work orders.**
 - 1. *Any person failing to comply with any provision of this Chapter shall be subject to a stop work order. Such notice shall be in writing and shall state the conditions under which work may continue. Where an emergency exists, no written notice shall be required.*
 - 2. *The County staff member shall present the stop work order to the owner of the property, an authorized agent or the person or persons in charge of activity on the property. Upon receipt of notice of the stop work order, activities in violation of this Chapter shall cease immediately.*
- (b) **Revocation of Occupation license or other authorization.** *Any person failing to comply with any provision of this Chapter shall be subject to revocation of the occupation license, work permit, building permit or other authorization for the conduct of business and associated work activities within the unincorporated areas of this county.*
- (c) **Enforcement in magistrate court.** *Any person who shall do anything prohibited by this Chapter or who shall fail to do anything required by this Chapter shall be guilty of a misdemeanor, amenable to the process of the magistrate court of the county. Upon conviction, the court shall assess the person(s) or entity with a penalty, which may include fine, confinement, or both, in an amount permitted for the violation of county resolutions. The court may deem each day the violations exist as a separate offense.*
- (d) **Civil penalties.** *Any person violating any provision of this Chapter shall be liable for a civil penalty of not less than \$100.00 per day or not to exceed \$500.00 per day. Each day the violation continues shall constitute a separate violation.*
- (e) **Enforcement by injunction or mandamus.** *The board of commissioners, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to stop the violation.*

Section 14-304. Miscellaneous provisions.

- (a) ***Severability*** - *If any paragraph, sub-paragraph, sentence, clause or phrase shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this chapter shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this chapter not held to be invalid. The intent of the board of commissioners is to provide for separable and divisible parts and the board of commissioners hereby adopts all parts held valid.*
- (b) ***Liability*** – *Under the provisions of this chapter, the approval of a plan shall not relieve any person from the responsibility for damage to any person or property nor impose any liability upon the county for damage to any person or property.*
- (c) ***Repeal*** – *The adoption of this chapter repeals all codes or parts of codes conflicting with the terms of this chapter. It is hereby provided that any code which may be applicable hereto and aid in carrying out or making effective the intent, purpose and provision hereof shall be literally construed to be in favor of the county and is hereby adopted as a part hereof.*
- (d) ***Conflict with other laws*** - *Whenever the provisions of this chapter impose more restrictive standards than are required under any other statute, the requirements of this chapter shall govern.*
- (e) ***Effective date*** – *The effective date of this chapter shall be upon the date of its adoption, the public welfare demanding it.”*

The effective date of this amendment shall be April 3, 2007.

RESOLVED, this 3rd day of April, 2007.

Chris R. Nonnemaker, Chairman

s/Joe R. Campbell
Joe R. Campbell, Post 1

s/Craig Bryant
Craig Bryant, Post 2

WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-18

A RESOLUTION TO AMEND THE OFFICIAL CODE OF WHITE COUNTY

WHEREAS, the White County Board of Commissioners wishes to revise the White County Code as hereinafter set out;

NOW THEREFORE, BE IT RESOLVED by the County Commissioners of White County, and it is hereby resolved by authority of the same, that the White County Code be revised as follows:

- **Chapter 30 (Environment), Article III (Watershed Protection), Sections 30-107 (Variances), 30-108 (Inspection), 30-109 (Enforcement), 30-110 (Penalties and incentives), and 30-111 (Liability)** are hereby deleted in their entirety and the following added in lieu thereof:

“Section 30-107. Variances, Inspection, Enforcement, and Miscellaneous provisions.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspection, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article IV (Flood Damage Prevention), Section 30-125 (Variance Procedures)** is hereby deleted in its entirety and the following added in lieu thereof:

“Section 30-125. Variance Procedures.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article V (River Corridor Protection), Sections 30-147 (Variances) 30-148 (Appeals procedures)** are hereby deleted in their entirety and the following added in lieu thereof:

“Section 30-147. Variances, Inspections, Enforcement, and Miscellaneous provisions

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article VI (Groundwater Recharge Area Protection), Section 30-166 (Judicial review)** is hereby deleted in its entirety and the following added in lieu thereof:

“Section 30-166. Variances, Inspection, Enforcement, and Miscellaneous

See Chapter 30, Article VI, Sections 30-343, 30-344, 30-345, and 30-346 for regulations on Variances, Inspections, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article VII (Wetlands Protection), Sections 30-184 (Enforcement), 30-185 (Judicial Review)** are hereby deleted in their entirety and the following added in lieu thereof:

“Section 30-184. Variances, Inspection, Enforcement, and Miscellaneous provisions.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspection, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article VIII (Standards and Regulations for the Protection of Mountains and Hillside), Division 9 (Variances) Sections 30-301 (Purpose), 30-302 (Conditions), 30-303 (Criteria for granting variances); 30-304 (Variances to road and street requirements), 30-305 (Variance Procedures), 30-306 (Compliance with conditions approval), 30-307 (Vested interest in approved variances), 30-308 (Investigations and reports), 30-309 (Revocation), and 30-310 (Limitations on reapplication)** are hereby deleted in their entirety and the following added in lieu thereof:

Minutes from Regular Meeting Held April 3, 2007, Continued

“Division 9. Variances, Section 30-301. Variances, Inspection, Enforcement, and Miscellaneous provisions.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspection, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article VIII (Standards and Regulations for the Protection of Mountains and Hillsides), Division 10 (Inspection) Section 30-321 (Inspection)** is hereby deleted in its entirety and the following added in lieu thereof:

“Division 10. Inspection, Section 30-321. Variances, Inspection, Enforcement, and Miscellaneous provisions.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspection, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article VIII (Standards and Regulations for the Protection of Mountains and Hillsides), Division 11 (Enforcement) Sections 30-331 (Enforcement Generally), 30-332 (Revocation of business license or other authorization), 30-333 (Stop work orders), 30-334 (Civil Penalties), 30-335 (Enforcement in Magistrate Court), 30-336 (Enforcement by injunction or mandamus)** are hereby deleted in their entirety and the following added in lieu thereof:

“Division 11. Enforcement, Section 30-331. Variances, Inspection, Enforcement, and Miscellaneous provisions.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspection, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article VIII (Standards and Regulations for the Protection of Mountains and Hillsides), Division 12 (Miscellaneous Provisions) Sections 30-341 (Administration by community development department) and 30-342 (Liability)** are hereby deleted in their entirety and the following added in lieu thereof:

“Division 12. Miscellaneous Provisions, Section 30-341. Variances, Inspection, Enforcement, and Miscellaneous provisions.

See Chapter 30, Article IX, Sections 30-343, 30-344, 30-345 and 30-346 for regulations on Variances, Inspection, Enforcement, and Miscellaneous provisions.”

- **Chapter 30 (Environment), Article IX (Variances, Inspection, Enforcement, and Miscellaneous provisions), Sections 30-343 (Variances), 30-344 (Inspection), 30-345 (Enforcement), and 30-346 (Miscellaneous provisions)** are hereby added as follows:

“Article IX

Section 30-343. Variances

(a) Administration by the community and economic development department - The community and economic development department has the responsibility for administration of this Chapter.

(b) Purpose - The purpose of a variance is to provide relief when the strict application of the statutes, codes or policies imposes unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the:

- 1. Size, shape or dimensions of the site; or**
- 2. Locations of existing structures; or**
- 3. Geographic, topographic or other conditions on the site or in the immediate vicinity.**

(c) Criteria for granting a variance:

1. Based on the application, evidence submitted by the applicant, investigations by the director of community and economic development or planning commission or board of commissioners, all six (6) of the following findings shall exist in order to grant a variance:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography; and**
- b. The application of this chapter to this particular piece of property would create an unnecessary hardship; and**
- c. Relief, if granted, would not cause substantial detriment to the water quality of Turner Creek or the Chattahoochee River or impair the purposes and intent of this chapter; and**
- d. The special circumstances surrounding the request for a variance are not the result of acts by the applicant; and**
- e. The variance is not a request to permit a use of land, buildings or structures that are not permissible under other resolutions; and**
- f. The variance would not result in an increase of the impervious surface of the development beyond that prescribed in this chapter.**

2. Variances shall not be granted:

- a. If the special circumstances on which the applicant relies are a result of the actions of the applicant, owner or previous owners; or**
- b. To allow the use of property in a manner or for a purpose not authorized by the statutes, codes or policies.**

3. If the county discovers a violation of this chapter constitutes a violation of provisions of the Clean Water Act as amended, the county shall issue written notification of the violation to the U. S. Environmental Protection Agency, U. S. Army Corps of Engineers landowner.

4. The U. S. Army Corps of Engineers shall administer and review all variance requests to Article VII, Wetlands Protection.

5. Any variance to road and street requirements must follow the standards and procedures of the county land subdivision resolution.

(d) Application requirements - The owner or duly authorized agent shall file an Application for Variances with the community and economic development department on the prescribed form. A complete application shall consist of:

- 1. Variance Request Form;***
- 2. Copy of code section from which the variance is being requested;***
- 3. Correspondence clearly stating the basis for the variance request;***
- 4. Supporting documentation necessary to give the director of community and economic development a clear understanding of the request.***

(e) Submission to the Planning Commission

- 1. The Request for Variance is reviewable by the planning commission if the director of community and economic development determines that the request for variance meets the criteria.***
- 2. The planning commission shall review the request for variance upon receipt of the following within ten (10) days of the determination of the director of community and economic development:***
 - a. Correspondence clearly stating the basis for the request for planning commission review;***
 - b. Director of community and economic development recommendation;***
 - c. Supporting documentation necessary to give the planning commission a clear understanding of the request for review; and***
 - d. A review fee of \$100.00.***

3. The planning commission shall review the application and staff investigation report and determine whether the evidence supports a finding that the required criteria has been met and approve with or without conditions or deny the application. However, the determination of the director of community and economic development shall remain in full force and effect pending such review.

(f) Appeal to the Board of Commissioners

Decisions or actions of the planning commission are subject to an appeal to the board of commissioners. However, the planning commission's action or decision shall remain in full force and effect pending such appeal.

(g) If an applicant desires to appeal a decision or action of the planning commission, the applicant shall notify the board of commissioners in writing within ten (10) days of the action or decision of the planning commission. Upon receipt of this notice, the board of commissioners shall establish a date and time to hear the appeal. The request shall include:

1. *Correspondence stating the basis for the appeal of the planning commission action or decision;*
2. *Applicable planning commission minutes;*
3. *Supporting documentation necessary to give the board of commissioners a clear understanding of the appeal request; and*
4. *Appeal fee of \$50.00.*

(h) Conditions

1. *Reasonable conditions may be imposed in connection with the granting of a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this chapter.*
2. *Guarantees and evidence shall be required that such conditions are and will continue to be in compliance.*

(i) Compliance with conditions approval - Adherence to the approved plans and compliance with conditions imposed in the variance are required. Any departure from conditions of approval constitutes a violation of this chapter.

(j) Vested interest in approved variances - A valid variance supersedes conflicting provisions or amendments unless specifically provided by the provisions of this chapter or the conditions.

(k) Investigations and reports - The director of community and economic development shall make an investigation to provide necessary information to insure that the action on each application is consistent with the variance criteria. Any report of such investigation shall be included in the application file.

(l) Revocation - Variances shall become invalid if not exercised within one year of the date of approval or if there is a change in ownership not otherwise noted and approved at the time of the granting of the variance.

(m) Limitations on reapplication - The planning commission shall not hear denied applications for the same or substantially similar variance application until a period of six (6) months has elapsed.

Section 30-344. Inspection.

- (a) *The staff, representatives or agents of the building inspection, code enforcement, community development, fire, public works, as well as the emergency management agency, shall have the power to conduct such investigation as they may reasonably deem necessary to carry out the duties and responsibilities as prescribed in this Chapter. After providing proper credentials, these agents, officials and representatives may enter any property, public or private, for the purpose of investigating and inspecting the premises;*

- (b) *No person or entity shall refuse entry or access to the staff, representatives or agents of the building inspection, code enforcement, community development, fire, public works departments as well as the emergency management agency who request entry for purposes of inspection. Similarly, no person or entity shall obstruct, hamper or interfere with any such staff, representative, or agent while in the process of carrying out his official duties.*

Section 30-345. Enforcement.

- (a) **Stop work orders.**
 - 1. *Any person failing to comply with any provision of this Chapter shall be subject to a stop work order. Such notice shall be in writing and shall state the conditions under which work may continue. Where an emergency exists, no written notice shall be required.*
 - 2. *The County staff member shall present the stop work order to the owner of the property, an authorized agent or the person or persons in charge of activity on the property. Upon receipt of notice of the stop work order, activities in violation of this Chapter shall cease immediately.*
- (b) **Revocation of Occupation license or other authorization.** *Any person failing to comply with any provision of this Chapter shall be subject to revocation of the occupation license, work permit, building permit or other authorization for the conduct of business and associated work activities within the unincorporated areas of this county.*
- (c) **Enforcement in magistrate court.** *Any person who shall do anything prohibited by this Chapter or who shall fail to do anything required by this Chapter shall be guilty of a misdemeanor, amenable to the process of the magistrate court of the county. Upon conviction, the court shall assess the person(s) or entity with a penalty, which may include fine, confinement, or both, in an amount permitted for the violation of county resolutions. The court may deem each day the violations exist as a separate offense.*
- (d) **Civil penalties.** *Any person violating any provision of this Chapter shall be liable for a civil penalty of not less than \$100.00 per day or not to exceed \$500.00 per day. Each day the violation continues shall constitute a separate violation.*
- (e) **Enforcement by injunction or mandamus.** *The board of commissioners, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to stop the violation.*
- (f) *If a person or entity fails to comply within the time specified, a violation shall have occurred and in addition to other penalties, any applicable performance or surety bond shall be subject to forfeiture.*

Section 14-346. Miscellaneous provisions.

- (a) **Severability** - *If any paragraph, sub-paragraph, sentence, clause or phrase shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this chapter shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this chapter not held to be invalid. The intent of the board of commissioners is to provide for separable and divisible parts and the board of commissioners hereby adopts all parts held valid.*

- (b) **Liability** – *Under the provisions of this chapter, the approval of a plan shall not relieve any person from the responsibility for damage to any person or property nor impose any liability upon the county for damage to any person or property.*
- (c) **Repeal** – *The adoption of this chapter repeals all codes or parts of codes conflicting with the terms of this chapter. It is hereby provided that any code which may be applicable hereto and aid in carrying out or making effective the intent, purpose and provision hereof shall be literally construed to be in favor of the county and is hereby adopted as a part hereof.*
- (d) **Conflict with other laws** - *Whenever the provisions of this chapter impose more restrictive standards than are required under any other statute, the requirements of this chapter shall govern.*
- (e) **Effective date** – *The effective date of this chapter shall be upon the date of its adoption, the public welfare demanding it.”*

The effective date of this amendment shall be April 3, 2007.

RESOLVED, this 3rd day of April, 2007.

Chris R. Nonnemaker, Chairman

s/Joe R. Campbell
Joe R. Campbell, Post 1

s/Craig Bryant
Craig Bryant, Post 2

WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-19

A RESOLUTION TO AMEND THE OFFICIAL CODE OF WHITE COUNTY

WHEREAS, the White County Board of Commissioners wishes to revise the White County Code as hereinafter set out;

NOW THEREFORE, BE IT RESOLVED by the County Commissioners of White County, and it is hereby resolved by authority of the same, that the White County Code be revised as follows:

- **Appendix A (Subdivisions), Article XIII (Variances), Sections 1301 (Purpose), 1302 (Conditions), 1303 (Criteria for granting variances); 1304 (Variances to road and street requirements); 1305 (Variance procedures), 1306 (Compliance with conditions approval), 1307 (Vested interest in approved variances), 1308 (Investigations and reports), 1309 (Revocation), 1310 (Limitations on reapplications), and 1311 (Variances for bona fide intra family transfers)** are hereby deleted in their entirety and the following substituted in lieu thereof:

“Section 1301. Variances

(a) Administration by the community and economic development department - The community and economic development department has the responsibility for administration of this chapter.

(b) Purpose - The purpose of a variance is to provide relief when the strict application of the statutes, codes or policies imposes unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the:

- 4. Size, shape or dimensions of the site; or***
- 5. Locations of existing structures; or***
- 6. Geographic, topographic or other conditions on the site or in the immediate vicinity.***

(c) Criteria for granting a variance:

1. Based on the application, evidence submitted by the applicant, investigations by the director of community and economic development or planning commission or board of commissioners, all six (6) of the following findings shall exist in order to grant a variance:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography; and***
- b. The application of this chapter to the particular piece of property would create an unnecessary hardship; and***
- c. Relief, if granted, would not cause substantial detriment to the water quality of Turner Creek or the Chattahoochee River or impair the purposes and intent of this chapter; and***
- d. The special circumstances surrounding the request for a variance are not the result of acts by the applicant; and***
- e. The variance is not a request to permit a use of land, buildings or structures that are not permissible under other resolutions; and***
- f. The variance will not result in an increase of the impervious surface of the development beyond that prescribed in this article.***

2. Variances shall not be granted:

- a. if the special circumstances on which the applicant relies are a result of the actions of the applicant, owner or previous owners; or***
- b. to allow the use of property in a manner or for a purpose not authorized by the statutes, codes or policies.***

(d) Application requirements - The owner or duly authorized agent shall file an Application for Variances with the community and economic development department on the prescribed form. A complete application shall consist of:

- 1. Variance Request Form*
- 2. Copy of code section from which the variance is being requested*
- 3. Correspondence clearly stating the basis for the variance request*
- 4. Supporting documentation necessary to give the director of community and economic development a clear understanding of the request.*

(e) Submission to the Planning Commission

- 1. The Request for Variance is reviewable by the planning commission if the director of community and economic development determines that the request for variance meets the criteria*
- 2. The planning commission shall review the request for variance upon receipt of the following within ten (10) days of the determination of the director of community and economic development.*
 - a. Correspondence clearly stating the basis for the request for planning commission review*
 - b. Director of community and economic development recommendation*
 - c. Supporting documentation necessary to give the planning commissioner a clear understanding of the appeal*
 - d. A review fee of \$100.00.*
- 3. The planning commission shall review the application and staff investigation report and determine whether the evidence supports a finding that the required criteria has been met and approve with or without conditions or deny the application. However, the determination of the director of community and economic development shall remain in full force and effect pending such review.*

(f) Appeal to the Board of Commissioners

Decisions or actions of the planning commission are subject to an appeal to the board of commissioners. However, the planning commission's action or decision shall remain in full force and effect pending such appeal.

(g) If an applicant desires to appeal a decision or action of the planning commission, the applicant shall notify the board of commissioners in writing within ten (10) days of the action or decision of the planning commission. Upon receipt of this notice, the board of commissioners shall establish a date and time to hear the appeal. The request shall include:

- 1. Correspondence stating the basis for the appeal of the planning commission action or decision*
- 2. Applicable planning commission minutes*

3. *Supporting documentation necessary to give the board of commissioners a clear understanding of the request*

4. *Appeal fee of \$50.00.*

(h) Conditions

1. *Reasonable conditions may be imposed in connection with the granting of a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this chapter*

2. *Guarantees and evidence shall be required that such conditions are and will continue to be in compliance.*

(i) Compliance with conditions approval - Adherence to the approved plans and compliance with conditions imposed in the variance are required. Any departure from conditions of approval constitutes a violation of this chapter.

(j) Vested interest in approved variances - A valid variance supersedes conflicting provisions or amendments unless specifically provided by the provisions of this chapter or the conditions.

(k) Investigations and reports - The director of community and economic development shall make an investigation to provide necessary information to insure that the action on each application is consistent with the variance criteria. Any report of such investigation shall be included in the application file.

(l) Revocation - Variances shall become invalid if not exercised within one year of the date of approval or if there is a change in ownership not otherwise noted and approved at the time of the granting of the variance.

(m) Limitations on reapplication - The planning commission shall not hear denied applications for the same or substantially similar variance application until a period of six (6) months has elapsed.

Sec. 1302. Inspection

(a) The staff, representatives or agents of the building inspection, code enforcement, community development, fire, public works as well as the emergency management agency shall have the power to conduct investigations necessary to carry out the duties and responsibilities required by this chapter. After providing proper credentials, these agencies and officials may enter any property, public or private, for the purpose of investigating and inspecting the premises.

(b) No person or entity shall refuse entry or access to the staff, representatives or agents of the building inspection, code enforcement, community development, fire and public works departments as well as the emergency management agency who request entry for purposes of inspection. Similarly, no person or entity shall obstruct, hamper or interfere with staff, representatives or agents who are in the process of performing official duties.

Sec. 1303. Enforcement

(a) Stop work orders

1. Any person failing to comply with the provisions of this chapter shall be subject to a stop work order. Such notice shall be in writing and state the conditions under which work may continue. Where an emergency exists, no written notice shall be required.

2. The county staff member shall present the stop work order to the owner of the property, an authorized agent or the person in charge of activity on the property. Upon receipt of the stop work order, activities performed in violation of this chapter shall cease immediately.

(b) Revocation of occupation license or other authorization - Any person or entity failing to comply with the provisions of this chapter shall be subject to revocation of the occupation license, work permit, building permit or other authorization for the conduct of business and associated work activities within the unincorporated areas of the county.

(c) Enforcement in magistrate court - Any person who does anything prohibited by this chapter or who fails to do anything required by this chapter shall be guilty of a misdemeanor amenable to the process of the magistrate court. Upon conviction, the court shall assess the person(s) or entity with a penalty, which may include fine, confinement or both in an amount permitted for the violation of county ordinances. The court may deem each day that the violations exist as a separate offense.

(d) Civil penalties - Any person violating any provision of this chapter shall be liable for a civil penalty of not less than \$100.00 per day or more than \$500.00 per day. Each day the violation continues shall constitute a separate violation.

(e) Enforcement by injunction or mandamus - The board of commissioners of the county, through its staff or county attorney shall in addition to other remedies, institute injunction, mandamus or other appropriate action to stop the violation.

(f) If a person or entity fails to comply within the time specified, a violation shall have occurred and in addition to other penalties, any applicable performance or surety bond shall be subject to forfeiture.

Sec. 1304. Miscellaneous provisions

(a) Severability - If any paragraph, sub-paragraph, sentence, clause or phrase shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this chapter shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this chapter not held to be invalid. The intent of the board of commissioners is to provide for separable and divisible parts and the board of commissioners hereby adopts all parts held valid.

(b) Liability - Under the provisions of this chapter, the approval of a plan shall not relieve any person from the responsibility for damage to any person or property nor impose any liability upon the county for damage to any person or property.

(c) Repeal - The adoption of this chapter repeals all codes or parts of codes conflicting with the terms of this chapter. It is hereby provided that any code which may be applicable hereto and aid in carrying out or making effective the intent, purpose and provision hereof shall be literally construed to be in favor of the county and is hereby adopted as a part hereof.

(d) Conflict with other laws - Whenever the provisions of this chapter impose more restrictive standards than are required under any other statute, the requirements of this chapter shall govern.

(e) Effective date - The effective date of this chapter shall be upon the date of its adoption, the public welfare demanding it.”

- Appendix A (Subdivisions), Article XIV (Inspection), Sections 1401(Power to enter property for purpose of investigation) and 1402 (Obstructing, hampering or interfering with authorized agent) are hereby deleted in their entirety.
- Appendix A (Subdivisions), Article XV (Enforcement), Sections 1501 (Revocation of business license or other authorization), 1502 (Stop work orders), 1503 (Civil penalties), 1504 (Enforcement in magistrate court), and 1505 (Enforcement by injunction or mandamus) are hereby deleted in their entirety.
- Appendix A (Subdivisions), Article XVI (Miscellaneous Provisions), Sections 1601 (Administration by planning commission, appeals), 1602 (Severability), 1603 (Liability), 1604 (Repeal), 1605 (Conflict with other laws), and 1605 (Effective Date) are hereby deleted in their entirety.
- Appendix A (Subdivisions), is hereby amended by adding the following:

“Article XIV. Intra-family land transfer.

Section 1401. Definitions

“Intra-family land transfer” means the division and conveyance of the ownership of land to a “family member” the purpose of which is not to sell or resell to persons not defined as a family member or to circumvent the provisions of this appendix and the applicant so states by sworn affidavit.

“Family member” means a child, grandchild, parent, grandparent, brother, sister, aunt, uncle, niece or nephew.

“Division” means the splitting up of property into five or less parcels, which does not involve the construction of a public street to serve the parcels created.

Section 1402. Ingress and egress

Ingress and egress shall be provided at the standards as required in Appendix A, Article X of this Code.

Section 1403. Approving Authority

The Director of Community and Economic Development has approving authority unless the application requires a variance from the requirements with regard to parcel size, parcel width and any improvement or other requirements of the Community and Economic Development Department. A request for a required variance shall be in accordance with Appendix A, Article XIII, Section 1301, Variances.

Section 1404. Exemptions

The division of property shall require the recording of a final plat approved by the Director of Community and Economic Development and recorded in the Office of the Clerk of Superior Court except Land divided and awarded to heirs through a judicial estate proceeding. However, such exemptions shall require the issuance of permits if the resulting parcel or parcels fail to meet any applicable requirements of this Appendix.

The effective date of this amendment shall be April 3, 2007.

RESOLVED, this 3rd day of April, 2007.

Chris R. Nonnemaker, Chairman

s/Joe R. Campbell
Joe R. Campbell, Post 1

s/Craig Bryant
Craig Bryant, Post 2”

Vickie L. Neikirk, White County Chief Financial Officer, presented the financial report (see copy attached).

Shanda Smallwood, White County Director of Human Resources, gave to the Board of Commissioners the recommendation of the Employee Benefits Committee for employee benefits broker services after having conducted a formal request for qualifications and after having conducted interviews with three agencies. The recommendation of the Committee was MSI (McBurnett and Szabolcsi, Inc). Upon motion made by Commissioner Bryant, seconded by Vice Chairman Campbell, it was unanimously voted to contract with MSI for Employee Benefit broker services.

Butch Nix of Henry Nix Road addressed the Board of Commissioners. Mr. Nix stated that he had heard that someone had supposedly spoke for him at a previous meeting, relating that Mr. Nix did not want Henry Nix Road paved. Mr. Nix stated that he did want Henry Nix Road paved and had been working toward that end for several years. Mr. Nix stated that he had a letter from Truett-McConnell College stating that they wanted the road paved and that he knew of others, including the Ellis brothers, who wanted the road paved. Mr. Nix encouraged the Board of Commissioners to pave the entire Henry Nix Road or to pave each end and leave the middle portion unpaved. The Board of Commissioners stated to Mr. Nix that they were going to proceed with the paving of the East end as agreed; however, as money became available for additional paving, they would keep the balance of the road in mind. The Board of Commissioners stated that this was not the only year in which they would be contracting for paving.

Vice Chairman Campbell announced the following:

- 1) Enotah Judicial Circuit Annual meeting for Tuesday, April 17, 2007 at 6:00 P.M. at West's Family Restaurant;
- 2) ACCG Annual Conference for Sunday, April 21 through Tuesday, April 24, 2007;
- 3) April work session for Monday, April 23, 2007 at 4:30 P.M. unless otherwise advertised;

Minutes from Regular Meeting Held April 3, 2007, Continued

- 4) Public Hearing on Proposed Comprehensive land Use Plan to be held by the White County Planning Commission in conjunction with its work session of April 30, 2007; and
- 5) Next regular meeting of Tuesday, May 1, 2007, at 4:30 P.M.

Upon motion made by Commissioner Bryant, the meeting was adjourned.

Joe R. Campbell, Vice Chairman

Craig Bryant, Post 2

Jean Welborn, County Clerk