

WHITE COUNTY BOARD OF COMMISSIONERS
MINUTES FROM REGULAR MEETING HELD
MONDAY, MAY 4, 2009 AT 4:30 P.M.

The White County Board of Commissioners met in a regular session at 4:30 P.M. in the Main Court Room of the White County Courthouse, Cleveland, Georgia. Present were: Chairman Travis C. Turner, Post 1 Commissioner Joe R. Campbell, Post 2 Commissioner Craig Bryant, County Attorney David Syfan, County Manager Alton Brown, Chief Financial Officer Vickie Neikirk, and County Clerk Shanda Smallwood.

Chairman Turner called the meeting to order. After the pledge to the flag Dr. Robert Massey of the First Baptist Church of Cleveland brought the invocation.

Upon motion made by Commissioner Campbell, seconded by Commissioner Bryant, the minutes from the Regular Meeting held on April 6, 2009 were unanimously adopted.

The Board of Commissioners declared the month of May “Cleveland Better Home Town Tribute to Volunteer Service Month”.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant the consent agenda was approved, containing the following items:

- Authorizing a two year renewal (for FY 10 & FY 11) on the Emergency Medical Services Contract with Northeast Georgia Physician’s Group, Inc. at the current FY 09 rate of \$712,419.00.
- Authorizing an amendment to the lease with Northeast Georgia Physician’s Group, Inc. for the Neighborhood Healthcare Facility Cleveland, GA. The amendment will cover July 1, 2009 to June 30, 2011 and will allow the rent on this facility to remain at \$2,000.00 per month (\$24,000 annually).
- Authorizing the renewal of the DFACS Local Statement of Service and Maintenance Costs in Lieu of Rent in Public Buildings for FY 2010 in the amount of \$2,449.25 per month (\$29,390.97 annually).
- Authorizing the White County Fire Department to purchase a six (6) man rubber rescue raft for \$1,250.00 from Boats-To-Go.
- Authorizing the extension of the inmate work detail agreement for FY 10 in the amount of \$39,500.00 annually – which is the same cost as the FY 09 contract.

The first reading for the adoption of an Ordinance Governing the Location of Facilities Engaging in the Land Application of Human Waste was held. Copies of the proposed ordinance were made available and distributed to the public. Chairman Turner asked Alton Brown, County Manager to provide a summary of the proposed ordinance.

Alton Brown began by informing that the EPD would be having a public hearing on the proposed Motes Land Application Site during early June. He noted that he had been informed that the EPD stated there had been a sufficient level of public comment to warrant a public hearing on the proposed application on behalf of Chris Motes to the EPD.

In summarizing the ordinance document, Mr. Brown reviewed the application procedure, acreage requirements, restricted districts, set backs, buffers, road frontage requirements, entrance requirements, traffic impact requirements, requirements for loading, unloading, and transfer, pre testing / testing requirements, manifest requirements, restrictions for days and hours of operation, fees required, etc. Mr. Brown explained that current facilities engaging in the land application of human waste, and septage, or commercial waste, or both would be required to comply with provisions addressing pretesting, the requirement regarding the providing of copies of manifests,

providing copies of all reports and documents provided to EPD, and the requirement regarding the financial responsibility mechanism – however the facilities currently in operation would be exempt from land site provisions as to location and necessary infrastructure.

Following the summary provided by Mr. Brown, Chairman Turner opened the floor for public comment. The following comments were taken:

Judy Stewart (Paradise Valley Campground Resident) -Ms. Stewart expressed concern regarding the vehicles hauling the waste into these facilities not being regulated and this waste being spilled onto roadways leading into the facilities.

County Attorney David Syfan, suggested White County may need to draft a separate ordinance to address Ms. Stewart's concern, as this would be regulating the transporters of the waste as opposed to the actual treatment facilities. Mr. Syfan explained that EPD and DNR regulations would allow White County to require a condition of receiving a transporter's permit be that the haulers have no reports of spillage.

Name Unclear (Gold Ditch Farms Road Resident) – This citizen asked if the Motes facility would not qualify under this ordinance since Mr. Motes did not have at least one hundred (100) acres as required by the ordinance.

Chairman Turner noted that it is the Board of Commissioners understanding that Chris Mote's application to the EPD for the Land Application of Human Waste has not been approved at this time and it is the Board of Commissioners desire to have this ordinance in place by May 28, 2009. Chairman Turner further explained that the EPD would be in White County for a public hearing on the Motes Application in early June.

Name Unclear (Camp Fire Drive Resident) – This citizen questioned how the County would know if the reports provided by the facilities, as required by the ordinance, were authentic.

Attorney Syfan noted the manifests will list the originator, the transporter, and the disposal site. He explained that the operation permits issued by EPD allow the facilities to treat a limited amount of waste per day and the manifests will provide the county a mechanism to verify the amount of waste being treatment at the facility. If the County feels there is a discrepancy with the documents there would be an investigation to determine if there had been a violation of the ordinance. If there is a violation of the ordinance, the facility could be shut down.

Sam Liscar (780 Eden Circle) – Mr. Liscar questioned the testing requirements of the ordinance, asking specifically who would oversee the taking of the samples and where the samples would be taken for testing.

Alton Brown explained the concept would be to have a third party independent lab with no connections to the County or the facility who would make periodic visits to the facility to take the samples and oversee the testing of the samples through a chain of custody. He noted this was not included in the ordinance, however the main focus was to restrict the Motes facility location and the testing and monitoring of these types of facilities would be addressed in the near future.

Talluah Liscar (780 Eden Circle) – Ms. Liscar asked what could be done if there was already dumping taking place in the Paradise Valley area.

Chairman Turner noted there had not been an EPD permit approved; therefore no dumping should be taking place and asked Ms. Liscar if she had proof this dumping was taking place. Ms. Liscar stated that she did not have proof; however she was going to further investigate this due to problems with flies and odors they were experiencing in the area. Chairman Turner asked her to forward any information she gathers to County Manager, Alton Brown.

Chris Allen (431 Paradise Valley Road) – Ms. Allen expressed her concern regarding the Mote disposal site accepting waste from other haulers other than his own septic pumping business on his 6.6 acre site and asked how the County would regulate the various other haulers.

Chairman Turner explained if the ordinance passes the Motes operation on 6.6 acres would be a mute point and unable to meet the established criteria. He further noted the Board of Commissioners had examined the possibility of restricting the accepted disposal to septage generated in White County only. Chairman Turner asked Attorney Syfan to explain this issue.

Attorney Syfan noted there is a significant amount of case law on out of county limitations of solid waste and that although solid waste is different from sewage that the legal reasoning behind the solid waste case law would be applicable to sewage. He summarized the case law to set forth that the county can not limit waste brought in from outside the county.

Commissioner Campbell stated that the county is working diligently to get the ordinance in place that will restrict the location of these types of disposal facilities and establish guidelines for the operation of the facilities. Once the ordinance is established the County will begin working on regulations for the facilities.

County Manager, Alton Brown addressed the concern regarding the amount of treated septic waste that could be applied to the 6.6 acre site by explaining the perk test method and how this is used to establish the amount of treated waste that can be applied to a designated area. The County would assure this limitation is being followed by examining the manifests and through inspections.

Name & Address Unclear – Expressed his appreciation to the White County Board of Commissioners for their work on the ordinance. He also asked if there is anything more that the citizens could be doing to help stop the Motes disposal facility.

Chairman Turner stated it is his hope, by the strength of the document that the proposed facility would not be able to operate since it does not meet the one -hundred (100) acre requirement. When questioned what the plan would be if EPD ignored the county regulations, Chairman Turner noted this would have to be pursued in court.

Teresa Stansel (Adair Mill Road) – Ms. Stansel referenced the Petition of Abatement which was presented to the Board of Commissioners at the April 27, 2009 work session and asked if Attorney Syfan had provided the substantive issues and material facts contained in the document to the Board of Commissioners. Chairman Turner noted that Attorney Syfan had not given the Board of Commissioners his opinion of the document. Commissioner Campbell stated that the Board of Commissioners had given Attorney Syfan the instructions to do everything within the law to help White County develop an ordinance to stop the Motes disposal site.

Chairman Turner noted that Attorney Syfan is representing the best interests of White County and his firm has no affiliations with John Hulsey, owner of LHR Farms. Attorney Syfan noted his firm had sued one of John Hulsey's corporate entities in representation of another client.

Ms. Stansel asked who was responsible for the portion of the letter addressed to EPD on behalf of the White County Board of Commissioners – which stated Chris Motes Pumping was not registered with the Secretary of States Office. Attorney Syfan stated that he had wrote the subject letter and felt that since the corporation name was misstated, that this was a defective notice given by the EPD and the process of notification should start over from the beginning.

Sid Bringum (38 Hidden Valley Road) – Mr. Bringum stated his appreciation to the Board and further stated that since the current battle was not with LHR Farms, he considers the questions regarding Attorney's Syfan relationship with John Hulsey a dead issue.

(Name Not Stated) – This citizen asked if there had been any communication with EPD as to whether this ordinance would be recognized by the EPD Officials and whether this would stop the Motes disposal facility.

Chairman Turner deferred the question to County Manager Alton Brown and his communications with the EPD. Mr. Brown stated the ordinance had not been discussed with EPD. He felt that we should have the ordinance in place before it is addressed with EPD.

Chairman Turner closed the public comment portion of the meeting.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant the following first reading of the Ordinance Governing the Location of Facilities Engaging in the Land Application of Human Waste was unanimously approved.

FIRST READING: May 4, 2009

ADVERTISED: _____

PUBLIC HEARING: _____

SECOND READING/PASSED: _____

WHITE COUNTY BOARD OF COMMISSIONERS

ARTICLE 2: ORDINANCE GOVERNING THE LOCATION OF FACILITIES

ENGAGING IN THE LAND APPLICATION OF HUMAN WASTE

WHEREAS, the Board of Commissioners of White County is authorized to adopt ordinances or regulations for the governing and policing of the County and for the purpose of protecting and preserving the health, safety, welfare and morals of the citizens of the County; and

WHEREAS, the Board of Commissioners has determined that facilities that engage in the land application of human waste and septage or commercial waste, or both, such that land application systems treating human waste, septage, and commercial waste present issues which are best addressed by separate and distinct regulations governing the placement of such facilities and such regulations as are necessary in order to prevent a public nuisance by the operation of said facilities, and such regulations as will promote the health of the County and prevent the spread of disease as granted by law and are not inconsistent with State law; and

WHEREAS, the Board of Commissioners seeks to protect the health and safety of White County residents by determining appropriate locations for facilities engaged in the land application of human waste and septic, or commercial waste, or both, and establish location requirements to prevent said facilities from becoming a public nuisance, and require regulations in order to protect the health of White County residents and prevent the spread of disease; and

WHEREAS, House Bill 529 (2009) [O. C. G. A. § 2-1-6(b), as amended] recognizes and acknowledges that a local government, such as White County, has the legal authority and existing power to adopt or enforce any zoning ordinance or to make any other zoning decision regarding the land application of human waste and septage, or commercial waste, or both; and

WHEREAS, House Bill 529 (2009) [O. C. G. A. § 2-1-6(c), as amended] recognizes and acknowledges that a local government, such as White County, has the legal authority and the existing power to adopt or enforce any ordinance, rule, regulation, or resolution regulating land application of human waste and septage, or commercial waste, or both, that is not inconsistent with State law; and

WHEREAS, the Local Act creating the Board of Commissioners of White County and providing for said Board's duties [Ga.L. 1970, p. 2993] pursuant to Section 8 of said Act [Ga.L. 1970, p. 2997 and as amended by HB 1418 (2008)] provides that the Board of Commissioners of White County shall have jurisdiction and control over the promotion of health as granted by law that is not inconsistent with State law, and that the County may enact such ordinances and regulations as to promote the public health and to prevent the spread of disease; and

WHEREAS, Art. IX, § II, ¶ IV of the Georgia Constitution (1983) provides that the governing authority of each County, including White County, may exercise the power of zoning, which would include regulation concerning the placement of facilities engaged in the land application of human waste

and septage, or commercial waste, or both, including but not limited to setback requirements, parcel size requirements, road requirements, and other regulations necessary to protect and preserve the health and safety of White County residents; and

WHEREAS, Art. IX, § II, ¶ III of the Georgia Constitution (1983) provides that Georgia counties, including White County, may exercise powers including but not limited to police powers to protect the health and safety of White County residents, health services to prevent the spread of disease, and air quality control requirements as allowed by law; and

WHEREAS, the failure of facilities engaged in the land application of human waste and septage, or commercial waste, or both, to strictly comply with the requirements of its land application system (LAS) permit issued by the Environmental Protection Division of the State of Georgia can result in conditions which are dangerous and injurious to the health and safety of White County residents constituting a public nuisance, and O. C. G. A. § 41-2-1, et seq. authorizes White County to adopt ordinances providing for the abatement of such public nuisances; and

WHEREAS, there is currently operating within White County, Georgia, a facility engaging in the land application of human waste and septage, or commercial grease, or both, and which has generated numerous concerns and complaints of neighboring White County residents including but not limited to offensive odors, operations by the facility at night which disrupt the peace and quiet of community; possible pollution to wells used for drinking water purposes by said residents, as well as possible pollution into the rivers, creeks, and streams running through and adjoining the property where the facility is located, and other concerns; and

WHEREAS, in a neighboring county, being Jackson County, a facility known as AgriCycle operated its land application system in violation of the LAS permit issued by EPD, with the result that a treatment pond ignited and burned for several days necessitating fire control by the Jackson County Fire Department, and indicating the need that said facilities should be accessible by adjoining a state highway or a major arterial roadway of White County in order to allow access by the emergency vehicles of White County including but not limited to fire trucks and pumper trucks; and

WHEREAS, the Environmental Protection Division of the Georgia Department of Natural Resources acknowledges and admits that a local governing authority, such as White County, may enact and enforce any local ordinance to regulate the removal, transport, and disposal of commercial waste, as long as such local ordinance is not in conflict with EPD rules and Georgia law [Georgia Administrative Code § 391-3-6-.24(14)(a)]; and

WHEREAS, improper operation of a land application system of human waste and septage, or commercial waste, or both, could result in the soil of said facility becoming toxic or creating a “brownfield”, or both, and possibly endanger the public health of White County residents and necessitate the expenditure of public funds of White County to prevent such disease and illness that could result from such a toxic site, and which necessitates that an operator of such a facility demonstrate the existence of an adequate financial responsibility mechanism to demonstrate that sufficient funds will be available to meet specific environmental protection needs of such land application system sites as a condition of receiving a special use permit and land compliance letter by White County; and

WHEREAS, O. C. G. A. § 12-5-30.3(d) allows a local governing authority in which a sludge land application site is located, to assess the generator of the sludge and owner of the sludge land application site reasonable fees for environmental monitoring of the site and may hire persons to monitor the site, and which would allow the pretesting of sludge as a part of the monitoring process; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WHITE COUNTY, GEORGIA AND IT IS HEREBY ORDAINED BY THE AUTHORITY THE SAME, that the recitals and Chapter 50, Article 2, Sections 50-2-1 to 50-2-4 of the Code of Ordinances of White County, Georgia are hereby adopted to provide as follows:

Section 50-2-1. LEGISLATIVE INTENT.

The foregoing recitals are hereby incorporated by reference into this ordinance, as, in part, the factual basis and the legal basis for the passage of this ordinance. The Board of Commissioners of White County, Georgia, as the governing authority of White County, Georgia, has the legislative intent that the rules and regulations that are required of the facilities that engage in the land application of human waste and septage, or commercial waste, or both, required by this ordinance do not fall within the area preempted by State law, and that the rules and regulations of this ordinance are not in conflict with State law, but are additional regulations imposing further conditions, restrictions and limitations regarding the placement of such facilities, regulations regarding public nuisances, regulations to prevent the spread of disease, and such police power regulations as are necessary to protect the public health and safety of White County residents and facilitate the provision of emergency services such as fire control, and other necessary measures to protect the public health. The Board of Commissioners of White County intend that a court of competent jurisdiction in the construction of the provisions of this ordinance, should consider the legislative intent of the Board of Commissions that said ordinance be construed not to be in conflict with State law, and be mere additional regulations that impose different requirements and additional requirements that exceed the minimum requirements of State law. It is the legislative intent of the Board of Commissioners of White County, Georgia, being the governing authority of White County, Georgia that any court of competent jurisdiction construe said ordinance to also be in accordance with those areas under State law that may be properly regulated by a local governing entity under State law.

Section 50-2-2. SEVERABILITY.

The sections, paragraphs, sentences, clauses, terms, regulations, and phrases of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase, regulation, or term of this ordinance shall be declared preempted, illegal, invalid, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such preemption, illegality, invalidity, or unconstitutionality, shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases, regulations, and terms of this ordinance. The Board of Commissioners intend that all remaining provisions of this ordinance shall remain effective notwithstanding the invalidation of one or more provisions contained herein. The Board of Commissioners intends that a court of competent jurisdiction in the construction of said ordinance should attempt to achieve the legislative intent of the Board of Commissioners and uphold and enforce all remaining provisions of this ordinance notwithstanding the invalidation of one or more provisions contained herein.

Section 50-2-3. DEFINITIONS.

As used in this Article, the phrases used herein shall be defined as follows:

“Active waste treatment area” shall mean any spray application area for waste water, sewage sludge, sludge, human waste and septage, or commercial waste, or both, solid human waste or commercial waste, or both separator, collection area for human waste or commercial waste, or both, including either solid waste or liquid waste, or both, area for the refinement of human waste, or commercial waste, or both, into solid waste or liquid waste, or both, or area for the application of chemicals to human waste or commercial waste, or both, and being either solid waste or liquid waste, or both. The term shall include the spray application area of any land application system required to be permitted by the Environmental Protection Division of the Georgia Department of Natural Resources.

“Cease operations order” means a written order from the director of planning, which requires that the spraying stop immediately.

“Direct land application discharge” means the discharge of any treated wastewater outside of the designated wetted area of the land application system by means of pipes, flumes or any other facility, including surface runoff not related to storm events.

“Director of Planning” means the individual responsible for planning, directing, managing and supervising County planning activities and landfill operations or a qualified designee approved by the County Manager. Director of Planning is also known as the Director of the Department of Planning and Development.

“Facility engaging in the land application of human waste” shall mean any structure and application area for the disposal of liquids or solids containing human excrement, septage, any type of waste water, fats, oils and grease, septic tank contents, industrial waste water, sewage sludge, sludge or commercial waste, or any combination thereof, other than a publicly owned landfill or a publicly owned sewage treatment facility. The term shall also include any facility which requires a land application system permit from the Environmental Protection Division of the Georgia Department of Natural Resources (a/k/a EPD).

“Financial responsibility mechanism” shall mean a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of sites containing facilities engaged in the land application of human waste, or commercial waste, or both. Available financial responsibility mechanisms include but are not limited to insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees.

“Land application” means the spraying of sewage sludge or other treated waste and waste water on the land surface and which requires a land application system permit from the Environmental Protection Division of the Georgia Department of Natural Resources.

“Land application system” means a system for wastewater treatment or disposal by spray irrigation and which requires a land application system permit from the Environmental Protection Division of the Georgia Department of Natural Resources. The term refers to the advanced treatment and disposal of wastewater by irrigation onto land to support vegetative growth.

“Non-public contact site” means a site the public uses infrequently such as agricultural land, forests and reclamation sites and that is adjacent to areas having a low population density.

“Property used for residential purposes” shall mean any White County tax parcel upon which one or more single family residences are constructed and have been occupied for more than fourteen days during the 365-day period immediately preceding an application for a White County Land Compliance (Verification) Letter for a facility engaging in the land application of human waste, septage, commercial waste, or any combination thereof.

“Public” means individuals or group of individuals not employed, associated or otherwise affiliated with the land application entity and/or operation.

“Public contact site” means land with a high potential for contact by the public. This includes, but is not limited to public parks, ball fields, cemeteries, plant nurseries, golf courses and other areas where members of the public customarily have ready access.

“Sanitary nuisance” means the commission of any action by any person, or the keeping, maintaining, propagation, existence or permission of anything by any person, by which the health or life of an individual or the health or life of individuals, may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused.

“Sewage sludge” means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage, septage, industrial waste water, commercial waste, grease trap waste, fats, oils and grease or a combination of domestic sewage, septage, industrial waste water, commercial waste, grease trap waste, fats, oils and grease and industrial wastewater in a wastewater treatment facility. Sewage sludge includes, but is not limited to scum or solids removed in primary, secondary or advanced wastewater treatment processes.

“Sludge” means the solid or semisolid residue generated at a wastewater treatment or pretreatment facility. Such term specifically excludes treated effluent septage and sludge treated to reduce further pathogens by such processes as composting, heat drying or heat-treating.

“Water pollution” means the introduction in any surface or underground water or any organic or inorganic matter or deleterious substances in such quantities, proportions or accumulations which are injurious to human, plant, animal, fish and other aquatic life or property or which unreasonably interfere with the comfortable enjoyment of life, property or the conduct of business.

“White County” means the unincorporated areas of White County, Georgia.

“Written violation” means a notification of violation given or a consent order issued by the Environmental Protection Division or a citation issued by White County.

The following Section is added to Chapter __, Article __ of the Code of Ordinances of White County, Georgia:

Section 50-2-4. FACILITIES ENGAGING IN THE LAND APPLICATION OF HUMAN WASTE.

Facilities engaging in the land application of human waste and septage or commercial waste, or both, prior to beginning operations within the unincorporated area of White County, Georgia, must receive a special use permit and land application letter from White County, Georgia, and their application must meet the regulations provided by this ordinance. The Director of Planning and the Planning Department, after submission of an application, shall have one hundred twenty (120) days in which to review the application for compliance with the regulations of this ordinance, and after said review (which shall be no longer than the 120th day), schedule the necessary hearing and meetings regarding the special use permit and land compliance letter according to the schedule of regular meetings of the Board of Commissioners which follow the end of the review by the Planning Department. A proposed operator of a facility engaged in the land application of human waste and septage, or commercial waste, or both, shall make out an application for a special use permit and land compliance letter, on a form acceptable to White County, Georgia and the application must show that the facility can comply with the following regulations imposed by this ordinance:

1. Facilities engaging in the land application of human waste and septage or commercial waste, or both, shall be located on tracts of at least one hundred (100) acres. The acreage requirement is necessary to minimize any adverse impact arising from the operations of such facilities by having sufficient areas to provide for active waste treatment areas that meet the setback and buffer requirements of this ordinance. Due to the inherent nature of human waste and septage, or commercial waste, or both, such facilities need sufficient area to minimize the impact of offensive odors and provide sufficient area to serve as a setback to and buffer of adjoining property and the creeks, streams, and rivers of White County, Georgia.
2. (a) Facilities engaging in the land application of human waste and septage, or commercial waste, or both, shall not be located within any district designated by White County as a mountain protection district a river corridor protection district, a water supply watershed protection district, a groundwater recharge protection district, a wetlands protection district, a district containing habitats of endangered or threatened species, and districts containing historic or archeological areas and structures including but not limited to family cemeteries. The protection districts shall have those uses allowed by the White County Code, and federal and State law (except not allowing land application systems as provided herein), and with the applicable provisions of the White County Code concerning said protection districts attached hereto as “Appendix 3” and incorporated into this ordinance by reference thereto. Note that certain historical or archeological areas have been designated and recorded as such by the Georgia Department of Natural Resources, but have not been generally disclosed to the public in order to prevent looting and degradation of said sites. Applicant must verify with the White County Planning Department that the proposed site does not contain historic or archeological areas, or historic family cemeteries which do not appear upon the hereinafter referenced map, and that the active waste treatment areas are set back 1,000 feet away from said sites and have a 300 feet natural buffer to said sites. The Board of Commissioners of White County, Georgia, simultaneously with the passage of this ordinance, does hereby adopt a land use and zoning map for the unincorporated areas of White County, Georgia, and which designates the mountain protection districts, the river corridor protection districts, the water supply watershed protection districts, the ground water recharge protection districts, the wetlands protection districts, the protected habitat districts, and the historic protection districts (as well as designating the general use districts). The area within the national forest and state parks within the unincorporated area of White County, Georgia is not subject to this ordinance due to being controlled by federal or State law. The remaining unincorporated area, not contained within the above-referenced protection districts and national forest and state park area, shall be general use districts (said districts allowing any general use of property so long as said use does not violate the terms of this ordinance or any other provision of the White County Code, or general law, or any combination thereof) and available for facilities engaging in the land application of human waste and septage or

commercial waste, or both, so long as an applicant first receives a special use permit and land compliance letter from White County, Georgia, and the application of said applicant meets the requirements, rules and regulations of this ordinance. Said land use and zoning map is attached hereto as "Appendix 1" and incorporated into this ordinance by reference thereto.

(b) The map adopted simultaneously with this ordinance and labeled "Appendix 1", shall be signed by the Chairman of the Board of Commissioners and the County Clerk, dated as of the date of adoption, and the County seal shall be affixed thereto. In the discretion of the Board of Commissioners, the Board may create duplicate originals of the map, identified in the same way and maintained by the County Clerk. The map shall be maintained by the County Clerk, in the County Clerk's office and shall be a public record, accessible and available to the general public. The County Clerk shall be responsible for maintaining the map, as well as maintaining any revisions to the map, which may be made from time to time by the County Commissioners. The Board of Commissioners, in their discretion, from time to time, may adopt a new map, to correctly display revisions to the map, and which also shall be a public record maintained by the County Clerk. The County Clerk shall provide copies of the map to the general public in accordance with the Open Records Act policies of the County.

(c) The protection district regulations adopted simultaneously with this ordinance and labeled "Appendix 3", shall be signed by the Chairman of the Board of Commissioners and the County Clerk, dated as of the date of adoption, and the County seal shall be affixed thereto. The protect district regulations shall be maintained by the County Clerk, in the County Clerk's office and shall be a public record, accessible and available to the general public. The County Clerk shall be responsible for maintaining the protection district regulations, as well as maintaining any revisions to the protection district regulations, which may be made from time to time by the County Commissioners. The Board of Commissioners, in their discretion, from time to time, may adopt new protection district regulations, and which also shall be a public record maintained by the County Clerk. The County Clerk shall provide copies of the protection district regulations to the General public in accordance with the Open Records Act policies of the County.

3. (a) Facilities engaging in the land application of human waste and septage or commercial waste, or both, shall have a minimum of 200 feet of frontage upon a State highway or County road classified as a major arterial roadway according to the Comprehensive Plan of the County (and have sufficient frontage to accommodate the deceleration lane required herein). As a condition of receipt of a special use permit and land compliance letter from White County regarding a facility engaged in the land application of human waste and septage, or commercial waste, or both, said site shall have a commercial driveway that meets the standards for commercial driveways promulgated by the Georgia Department of Transportation (GDOT) at the time of the application for the special use permit and land compliance letter, or shall post a performance bond and payment bond payable to White County in an amount sufficient to construct said commercial driveway, and which commercial driveway shall be from the access point of the State highway or County road classified as a major arterial roadway and which shall proceed to any active waste treatment area upon the property in order to allow emergency vehicles of White County access to the active waste treatment areas. The current GDOT regulations for "Driveway and Encroachment Control" are attached hereto as "Appendix 2" and incorporated into this ordinance by reference hereof, as the minimum standards that must be met regarding the commercial driveway.

(b) The GDOT regulations adopted simultaneously with this ordinance and labeled "Appendix 2", shall be signed by the Chairman of the Board of Commissioners and the County Clerk, dated as of the date of adoption, and the County seal shall be affixed thereto. The GDOT regulations shall be maintained by the County Clerk, in the County Clerk's office and shall be a public record, accessible and available to the general public. The County Clerk shall be responsible for maintaining the GDOT regulations, as well as maintaining any revisions to the GDOT regulations, which may be made from time to time by the County Commissioners. The Board of Commissioners, in their discretion, from time to time, may adopt new GDOT regulations, and which also shall be a public record maintained by the County Clerk. The

County Clerk shall provide copies of the GDOT regulations to the general public in accordance with the Open Records Act policies of the County.

4. Facilities engaged in the land application of human waste and septage, or commercial waste, or both, have significant truck traffic to transport the human waste and septage, or commercial waste, or both to the active waste treatment area(s) of the facility. In order to prevent the volume of truck traffic from creating a traffic safety hazard as a part of any application for a special use permit and land compliance letter from White County, the applicant shall submit and provide a traffic impact study by a professional engineer to White County and which designates the estimated amount of truck traffic, a determination of ingress and egress routes for the trucks, and any necessary road improvements that will be needed due to the increased truck volume caused by the operations of the facility. The Director of Planning shall have the right to have the traffic impact study independently evaluated by a qualified expert, and require any road improvements recommended by the independent expert. The applicant shall be responsible for constructing any road improvements determined to be needed by the traffic impact study at no cost to White County or post a performance bond and payment bond as provided hereinafter, prior to the issuance of a special use permit and land compliance letter by White County. Due to the truck traffic necessitated by the operation of such a facility, the owners of the land, or the operator of the facility, or both, shall construct a left turn lane at the facility's entrance and a deceleration lane at such entrance which would meet the standards for such lanes imposed by the Georgia Department of Transportation (GDOT) for commercial driveways promulgated at the time of the application for the special use permit and land compliance letter, at no cost to the County. The current GDOT regulations for "Driveway and Encroachment Control" are attached hereto as "Appendix 2" and incorporated into this ordinance by reference hereof, as the minimum standards that must be met regarding the deceleration lane (and also includes the minimum standards for the commercial driveway). Said improvements shall be constructed prior to the issuance of a special use permit and land compliance letter by White County or upon application for a special use permit and land compliance letter, applicant shall submit a payment bond and a performance bond payable to White County in a sufficient amount to allow construction of said improvements.
5. Facilities engaged in the land application of human waste and septage, or commercial waste, or both, shall meet the setback restrictions required by this ordinance. Any active waste treatment area of a facility engaged in the land application of human waste and septage, or commercial waste, or both, shall be one thousand (1,000) feet from any exterior property line of the parcel upon which the facility is located, and one thousand (1,000) feet from any stream, creek, or river lying upon the parcel upon which the facility is located or which adjoins the exterior property lines of the parcel upon which the facility is located, and shall be one thousand (1,000) feet from the geographical boundaries of any other governmental entity, and which shall be a condition of the special use permit and land compliance letter. Violation of this condition shall result in the facility no longer being in compliance with this ordinance, automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition is met. Applicant at the time of application, and with the application shall submit a survey or site plan by a registered land surveyor that demonstrates this condition can be met.
6. A minimum 300 foot natural, undisturbed buffer shall be provided between all active waste treatment areas and exterior property lines except for approved perpendicular access and utility crossings, and which shall be a condition of the special use permit and land compliance letter. Violation of this condition shall result in the facility no longer being in compliance with this ordinance, automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition is met.
7. The limits of 100 year floodplain or a stream buffer of 300 feet, whichever is greater, shall be preserved as a natural, undisturbed area between all active waste treatment areas and floodplains, creeks, streams and rivers of White County, except for approved perpendicular access and utility crossings, and which shall be a condition of the special use permit land compliance letter. Violation of this condition shall result in the facility no longer being in compliance with this ordinance, automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition

- is met.
8. All active waste treatment areas which shall include but not be limited to the spray fields, shall be fenced with a minimum six foot high chain link security fence, and which shall be a condition of the special use permit and land compliance letter. The fencing requirement, besides preventing vandalism, also prevents wild and domestic animals from entering into the treatment areas, and tracking waste to other areas within White County. Violation of this condition shall result in the facility no longer being in compliance with this ordinance, automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition is met. In lieu of the actual construction of the fences prior to the issuance of the special use permit and land compliance letter, a payment bond and a performance bond payable to White County, and in a sufficient amount to allow construction of said fences, may be posted with the application for a special use permit and land compliance letter.
 9. Offensive odors from the operations of a facility engaged in the land application of human waste and septage, or commercial waste, or both, is a regular cause of citizen complaint, and is disruptive and injurious to the peace of the community. In order to minimize the adverse impacts of offensive odors from such facilities, the active waste treatment areas, which shall not be inclusive of the spray fields under this condition of the special use permit and land compliance letter, shall be fully enclosed, in a building with reinforced concrete floors. All unloading, transfer, and loading related to the treatment of human waste and septage or commercial waste, or both, within the active waste treatment area shall incur indoors, and the structure shall be equipped with a ventilator system and odor neutralizer system, sufficient to neutralize the offensive odors of human waste and septage, or commercial waste, or both. The system design and components of the system shall be subject to review and approval of the White County Director of Planning and Development, prior to the issuance of a special use permit and land compliance letter by White County. In lieu of the actual construction of the system prior to the issuance of the special use permit and land compliance letter, a payment bond and a performance bond payable to White County, and in a sufficient amount to allow construction of said systems, may be posted with the application for a special use permit and land compliance letter.
 10. Improper operation of facilities engaged in the land application of human waste and septage or commercial waste, or both, can result in toxic areas or brownfields, and therefore prior to the issuance of a special use permit and land compliance letter by White County, an applicant for said letter must demonstrate the existence of an adequate financial responsibility mechanism to demonstrate that sufficient funds will be available to meet specific environmental protection needs of said land application system site. A special use permit and land compliance letter for the operation of a land application system for human waste and septage or commercial waste, or both, shall not be granted unless the existence of an adequate financial responsibility mechanism has been provided to the White County Director of Planning and Development. Such financial responsibility mechanism shall insure the satisfactory maintenance, closure, and post closure care of such system site and the financial ability to carry out any corrective action which is necessary to insure compliance with environmental standards after an accident, and which shall be a condition of the special use permit and land compliance letter. The Director of Planning shall evaluate the sufficiency of the amount of the financial responsibility mechanism by consultation with a professional engineering firm knowledgeable in the field of brownfield reclamation and considering the type of waste to be land applied to the site, the volume of waste, the size of the land application areas, the estimated cost to remove any toxic or hazardous materials, and such other factors deemed relevant by the consulting expert and the Director of Planning. Based upon these factors and the recommendation of the expert, the Director of Planning can recommend a higher amount for the financial responsibility mechanism and which may be imposed as a condition of the special use permit and land compliance letter by the Board of Commissioners. Violation of this condition shall result in the facility no longer being in compliance with this ordinance, automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition is met.
 11. As a condition for the issuance of a special use permit and land compliance letter by White County for a facility engaged in the land application of human waste and septage or commercial waste, or both, the applicant as a part of his application for

the special use permit and land compliance letter, shall submit a pretesting plan, that shall provide for the testing of all waste accepted for treatment at the facility. As a condition of the special use permit and land application letter, applicant will covenant and warrant that all waste accepted for treatment shall be tested in order to determine that the waste is of material that applicant will be permitted by EPD to treat and does not contain any hazardous or toxic materials or elements that would disrupt the treatment process of the land application facility, or as to which the land application facility is not permitted to treat by the Environmental Protective Division of the Georgia Department of Natural Resources (EPD). Failure of the facility to test all waste coming into the facility shall result in the facility being no longer in compliance with this ordinance, automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require the pretesting or have the facility cease operations until all waste accepted for treatment is pretested. Applicant as a part of the special use permit and land compliance letter application, shall covenant and warrant to provide copies of all test results, to a designated agent of White County on a monthly basis for all waste accepted for treatment by the facility, on the first day of the following month. Failure to provide the monthly report shall be cause for White County to receive injunctive relief to require the facility to provide said reports, or cease operations until said reports are provided by the facility to White County.

12. As a condition of receipt of the special use permit and land compliance letter by White County, applicant agrees to provide White County with a copy of all reports and documents provided to EPD, including but not limited to all permit applications for a land application system, all renewals of said applications, all correspondence with EPD, all tests and reports provided to EPD, and any and all records provided to EPD. The timely providing of this documentation is a continuing condition of the special use permit and land application letter by White County, and the failure of the applicant to timely provide said documentation shall entitle White County to injunctive or other relief to require the provision of said documentation, or require that the facility cease operations until such documentation is provided to White County. All documentation required to be provided to White County by this subsection shall be provided to White County at the same time as said reports and documentation are provided to EPD.
13. The facility engaged in the land application of human waste and septage or commercial waste, or both, under the rules and regulations of EPD is required to have a manifest of the waste being transported to said facility. As a continuing condition of the special use permit and land compliance letter by White County, applicant shall provide a copy of said manifests on a monthly basis to White County, with said manifests indicating the origination of the human waste and septage, or commercial waste, or both, the transporter for said waste, the amount of waste received, what type of waste received, a cross index to the pretesting requirement of said waste, and shall be provided on a monthly basis to White County on the first day of the following month. The operator of the facility shall have a right to designate parts of the manifest that meet the definition of confidential proprietary information as such information, and White County shall redact said confidential information from any copies of the manifest made available to the general public as a public record. Failure of the applicant to provide a monthly copy of the manifests as required herein, shall entitle White County to injunctive and other relief to require the production of the manifest or require that the facility cease operations until such manifests are produced.
14. As a condition of the issuance of the special use permit and land compliance letter by White County, applicant with the application shall covenant and warrant that the facility engaged in the land application of human waste and septage or commercial waste, or both, shall only operate during the days of Monday through Friday, and shall only operate during daylight hours. Failure of the applicant to abide by these days and operational hours shall result in the automatic revocation of the special use permit and land compliance letter by White County, and entitle White County to injunctive and other relief to require said facility to operate during said days and hours or cease operations until the facility complies with these operational limitations.
15. (a) All special use permits and land compliance letter applications for facilities engaging in the land application of human waste and septage, or commercial waste, or both, shall be subject to a public hearing before the Board of Commissioners which shall be advertised by the applicant once each week for four consecutive weeks in the legal organ of the County, and such advertisement shall not be placed in the legal advertisement section of The White County News newspaper. The legal notice shall include the location of the property, the present

use of the property, and give notice that applicant proposes to use the property for a facility engaged in the land application of human waste and septage, or commercial waste, or both, the name of the applicant for the special use permit and land compliance letter, the proposed operator of the facility, and the date, time and place of the public hearing. A sign containing the same information shall be placed by the applicant in a conspicuous location on the property that can be seen by the general public from a public way, not less than 15 days prior to the date of the hearing.

(b) All public hearing regarding applications considered by the Board of Commissioners shall be held in accordance with any procedures adopted by said body, and, in addition, shall be governed by the following procedures:

(1) The Chair, or other presiding officer should another person be designated by the Board to act as the presiding officer, shall open the hearing by stating the specific application being considered at the public hearing. At this time, the presiding officer may summarize the public hearing procedures.

(2) The Director of Planning or other agent of the County may present a description of the proposed application, any applicable background material, his/her recommendation if any, regarding action on said application as appropriate, and the recommendations and reports of the Planning Department, if any, as appropriate.

(3) Persons who support the application will be asked to comment first. The applicant may, upon recognition and upon statement of name and address, present and explain his application. The applicant, or his designated agent, is expected to attend the public hearing unless written notice of hardship is received prior to such hearing/meeting. A time limitation may be imposed at the discretion of the presiding officer, but no less than ten (10) minutes shall be provided for all of those speaking in support of the special use permit and land compliance letter.

(4) Persons who oppose the application or who have questions about the subject application will be asked to comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application by standing before the Board of Commissioners and identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the presiding officer, but no less than ten (10) minutes shall be provided for all of those speaking against an application for a special use permit and land compliance letter.

(5) The applicant shall have an opportunity to answer any questions raised by the public, for summary remarks and rebuttal concerning the proposed application.

(6) Upon the completion of any comments from interested parties and the applicant, the public hearing shall be completed and adjourned.

(7) All public comments having been heard, the members of the Board of Commissioners considering the application may discuss the application among themselves. During this discussion period, the members of the Board of Commissioners may call on the applicant or other interested parties to clarify points made previously or to answer questions. Said applicant or interested parties may respond upon recognition. Additional questions from the general public may not be asked once the public hearing has been closed. Once the public hearing is closed, and a vote or other action is being considered, unrecognized responses from the applicant or other participants shall be ruled out of order by the presiding officer.

16. Following the public hearing concerning special use permit and a land compliance letter application for a facility engaging in the land application of human waste and septage, or commercial waste, or both, the Board of Commissioners shall grant or deny the application based upon whether the Board determining that the proposed facility is consistent with the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area, and consistent with the factors set out by this ordinance. The Board shall consider the potential adverse impacts on the surrounding area, especially with regard to traffic, noise, odors, storm drainage, land values and compatibility of land use activities including whether the area contains property primarily used for residential purposes. The Board shall also consider the following criteria concerning the grant or denial of a special use permit and land compliance letter application for a facility engaging in the land application of human waste and septage, or commercial waste, or both:

(1) The existing uses of nearby property and whether the proposed facility will adversely effect the existing use or usability of nearby property;

(2) The extent to which property values of the property upon which the facility is to be

sited would be diminished by the conditions imposed by the special use permit and land compliance letter;

(3) The extent to which the destruction of the property values of the property upon which the facility is to be sited would promote the health, safety, morals or general welfare of the public;

(4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;

(5) The physical suitability of the subject property for the facility, and other possible uses as to which the property is suited;

(6) The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the special use permit and land compliance

letter application request;

(7) The development history and land use history of the subject property;

(8) The extent to which the proposed facility would result or could cause excessive or burdensome use of existing streets, transportation, facilities, utilities, police protection, fire protection, public health facilities, emergency

medical services, or other public facilities;

(9) Whether the proposed facility is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adoptive plans;

(10) Whether the proposed facility is a use that is suitable in view of the use, development, and uses of adjacent and nearby property;

(11) Whether the proposed site for the facility has a reasonable economic use currently;

(12) Whether the proposed facility would create an isolated commercial use unrelated to the surrounding uses;

(13) Whether the proposed facility is out of scale with the needs of the County as a whole or the immediate neighborhood;

(14) Such other factors as are deemed relevant by the Board of Commissioners before taking action on a particular application. The Board of Commissioners is also authorized to adopt administrative policies regarding the conduct of the public hearing upon special use permit and land compliance letter applications but which do not conflict with the minimum requirements set by this ordinance.

In determining to grant a special use permit and land compliance letter application for a facility engaging in the land application of human waste and septage, or commercial waste, or both, the Board may impose such other conditions (besides those listed hereinabove) upon the facility as are necessary to protect the health, safety, and welfare of area residents and which are not inconsistent with state and federal regulations concerning such a facility. The Board of Commissioners shall make its decision to grant or deny the application immediately following the public hearing, unless the hearing reveals a need for additional information before a decision can be made, and at which event the application shall be tabled until the next regular meeting of the Board and decided in that meeting. In the event that the Board of Commissioners denies the application for a special use permit and land compliance letter, or should applicant withdraw the application prior to the vote, then the same property cannot be considered again for a special use permit and land compliance letter for a land application system of human waste and septage, or commercial waste, or both, until the expiration of at least twelve (12) months immediately following the action taken by the Board of Commissioners to deny the application, or from the date of withdrawal of the application by the applicant.

17. The Planning and Development Department shall not issue documentation regarding a final approval for a facility engaging in the land application of human waste and septage, or commercial waste, or both, and the Building Department shall not issue a certificate of occupancy or a certificate of final completion, unless all requirements and conditions of the special use permit and land compliance letter have been fulfilled by the owner of the facility.

18. Compliance with the conditions imposed by a special use permit and land compliance letter shall be continuing conditions throughout the operational life of the facility. The infrastructure improvements required to be constructed by the conditions of the special use permit and land compliance letter must be constructed within one year of the issuance of the special use permit and land compliance letter by the White County Board of Commissioners. Failure to complete the construction of the infrastructure within the one year period shall result in the special use permit and land compliance letter becoming void, and necessitating an applicant to restart the process to receive a new special use permit and land compliance letter. Upon written application of a holder of a special use permit and land compliance letter submitted at least two months prior to the end of the one

year construction period, and for good cause shown, the Board of Commissioners in their discretion, may grant an extension of time to complete the infrastructure improvements. Failure to construct the infrastructure improvements within the one year period of time, unless extended, shall automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief, including but not limited to the issuance of a stop work order regarding said facility. Failure to maintain or meet any of the conditions of the special use permit and land compliance letter including but not limited to the regulatory and monitoring fee during the operational life of the facility shall automatically revoke the special use permit and land compliance letter including but not limited to the regulatory and monitoring fee, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition is met.

19. Applicant for a special use permit and land compliance letter, at the time of submission of the application, shall also submit an application fee for said permit and land compliance letter in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars. Said fee is in part an application fee and a regulatory fee. In the event that the Board of Commissioners denies the application, then \$2,500.00 of said fee shall be refunded to the applicant. Should the Board of Commissioners grant the application, then the entire fee shall be retained by the Board in order to offset the County's regulatory cost of insuring compliance with this ordinance by the applicant. Applicant at the time of application shall also make any disclosures required by the Conflict of Interest In Zoning Actions Act, being O. C. G. A. § 36-67A-1, et seq. All local government officials required to make disclosures under said Act, shall do so upon becoming aware of the application and the conflict of interest. On the annual anniversary date of the grant of the special use permit and land compliance letter and each annual anniversary thereafter, the holder of the permit shall pay a regulatory and monitoring fee of \$2,500.00 to White County as a continuing condition of the validity of the special use permit. Failure to maintain or meet any of the conditions of the special use permit and land compliance letter including but not limited to the payment of the regulatory and monitoring fee during the operational life of the facility shall automatically revoke the special use permit and land compliance letter, and entitle White County to injunctive and other relief to require compliance with the condition or have the facility cease operation of the facility until the condition is met.
20. Besides the injunctive and other equitable relief allowed by this ordinance to White County, any person violating any provision of this ordinance, as such exists from time to time, shall be guilty of violating a duly adopted ordinance of White County, and upon conviction of such violation shall be punishable as a misdemeanor, pursuant to O. C. G. A. § 15-10-60, subject to a fine not to exceed \$1,000.00 and subject to imprisonment for no more than 60 days or both, except as otherwise provided by general law, or by subsequent amendment of O. C. G. A. § 15-10-60. O. C. G. A. § 15-10-60, et seq. shall govern the trial of any violation of this ordinance, and any violation of this ordinance may be tried upon citation as contemplated by O. C. G. A. § 15-10-63. Each day during which the violation or failure or refusal to comply continues (including failure or refusal to comply with permit conditions) shall constitute a separate violation.
21. (a) Facilities already engaging in the land application of human waste and septage, or commercial waste, or both, within the unincorporated limits of White County at the date of passage of this ordinance, are exempt from the land site provisions as to location and necessary infrastructure and being subsections 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 16, 17, 18 and 19 of this section of this ordinance as a non-conforming use, but shall be subject effective one hundred fifty (150) days after the passage of this ordinance to those provisions requiring pretesting, the requirement regarding the providing of copies of manifests, providing copies of all reports and documents provided to EPD, and the requirement regarding the financial responsibility mechanism requirement and being subsections 10, 11, 12, 13, 14 and 20 of this section of the ordinance. (b) Facilities already engaged in the land application of human waste and septage, or commercial waste, or both, during the one hundred fifty (150) days following passage of this ordinance, shall apply to White County for a non-conforming use permit, and upon the one hundred fifty-first (151st) day after passage of this ordinance, comply with subsections 10, 11, 12, 13 and 14 of this section of this ordinance, and the failure to comply shall entitle White County to injunctive or other equitable relief and also allow White County to cite the facility in accordance with subsection 20 of this section of this ordinance. Upon application for non-conforming use permit, the facility shall pay a regulatory and monitoring fee in the amount of \$2,500.00 to offset White County's costs in determining a reasonable financial mechanism amount and other costs of

regulation and monitoring of said facility.
(c) Any facility operating under a non-conforming use permit that is destroyed or ceases operation for a month or more, shall lose the right to continue operations as a non-conforming use and said facility must go through the special use permit and land compliance letter procedure and meet all conditions required by this ordinance in order to begin operations again. On the annual anniversary date of the grant of the non-conforming use permit, and each annual anniversary date thereafter, the holder of the permit shall pay a regulatory and monitoring fee of \$2,500.00 to White County as a continuing condition of the validity of the non-conforming use permit. Failure to maintain or meet any of the conditions of the non-conforming use permit during the operational life of the facility shall automatically revoke the non-conforming use permit and entitle White County to injunctive and other relief to require compliance with the Condition or have the facility cease operation of the facility until the Condition is met.

The Director of the Department of Planning and Development, or his designee, is hereby authorized to inspect the facility engaging in the land application of human waste for compliance with the provisions of this Section so long as said facility is operating.

- End of First Reading -

The first reading of the ordinance to amend the code levying an excise tax of eight percent (8%) upon rooms, lodging, and accommodations was tabled due to the Governor not yet signing the legislative bill.

Brad Parks, GBI Agent assigned to the Appalachian Drug Task Force, stated that he had not yet received the paperwork for the CJCC Grant for FY 10 due to extenuating circumstances – however he wanted to notify the Board of Commissioner that White County’s contribution to the Appalachian Drug Task Force (along with the other three participating counties) would be \$32,291.17 (approximately \$11,930 less than it was for FY 09 due to federal stimulus funds received by the program at the CJCC level). Commander Parks will be forwarding the grant information to the Commissioner’s Office for authorization once he has received this.

Upon a motion made by Commissioner Bryant, second by Commissioner Campbell the execution of the Intergovernmental Agreement for the use of the Habersham County Animal Shelter by White County Animal Control was unanimously approved.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant the execution of The Local Share Commitment Letter with Legacy Link, Inc. for FY 2010, in the amount of \$8,450.00 (same amount as FY 2009) was unanimously approved.

Vickie Neikirk, Chief Financial Officer presented the monthly financial report for the month of March 2009 (see attached).

Chairman Turner expressed appreciation to County Department Heads for their vigilance in watching expenses during FY 2009 and asked that they continue to do so in the upcoming months.

Stan Gunter, Enotah Judicial Circuit District Attorney, expressed his appreciation to the White County Board of Commissioners for the recent allocation of courthouse space for his staff in response to the Grand Jury’s examination of the District Attorney’s Office. This space will allow Mr. Gunter to move one full-time employee from Lumpkin County to White County and this will provide office space for the investigator who serves White and Lumpkin, as well as the Victims Advocate.

Chairman Turner opened the citizen participation portion of the meeting.

Teresa Stansel asked the Board of Commissioners and Attorney Syfan if they had reviewed the Petition for Abatement which she submitted at the April 27, 2009 work session. Chairman Turner stated several documents had been sent to David Syfan for his review. Attorney Syfan indicated he had reviewed the Petition for Abatement submitted by Ms. Stansel.

Sheriff Neal Walden stated he was proud to see the article on White County in the May 2009 issue of the Georgia Trend Magazine.

(Name / Address Not Stated) – This citizen asked if there had been an increase in businesses wanting to open in White County since the Beer and Wine Ordinance was passed. Chairman Turner and Commissioner Campbell deferred the question to Tom O’Bryant, Director of Community and Economic Development. Mr. O’Bryant stated the expected trend would be to see existing businesses increase in revenue and for new business development to happen over time. This citizen also asked for clarification as to whether Wal-mart would be located in the county or city. Chairman Turner explained Wal-mart will be located in the City of Cleveland.

(Name / Address Not Stated) – This citizen asked the Board of Commissioners their opinion on how heavily the EPD would actually consider the public comment in the permitting process and if the Board of Commissioners had a legal opinion on the validity of the Petition for Abatement submitted Teresa Stansel. Chairman Turner stated he felt it was a positive sign for our community that the EPD received enough public comment to warrant holding a public meeting on the proposed Motes Disposal Facility. Chairman Turner noted that a copy of the Petition for Abatement had been sent to the EPD and it would not hurt to have this on hand during the EPD public hearing.

Chairman Turner noted on May 28, 2009 at 4:30 pm there would be a public hearing on the proposed Ordinance Governing the Location of facilities Engaging in the Land Application of Human Waste, this would be followed by a called meeting to the purposed of considering the adoption of the proposed ordinance and the monthly work session.

The Board of Commissioners discussed the proposal of Thursday, June 4, 2009 at 5:00 p.m. for the EPD public hearing on the proposed Motes Disposal Site Application. This is contingent on the EPD approval and once the date is confirmed, the EPD will publish this notice.

Dean Dyer asked the Board of Commissioners if the agreement with Habersham County for use of their animal shelter would be a long term solution for White County to house the animals collected by animal control. Commissioner Campbell responded that this would be a temporary solution for as long as Habersham County could accommodate the animals brought in by White County and the County is looking at possibilities for a long term solution, which will be discussed in the near future once preliminary research is completed.

Upon a motion made by Commission Campbell, seconded by Commissioner Bryant a unanimous vote was made to adjourn the meeting.

Minutes of the May 4, 2009 Regular Meeting are hereby approved as stated this the 1st day of June 2009.

WHITE COUNTY BOARD OF COMMISSIONERS

s/ Travis C. Turner
Travis C. Turner, Chairman

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

s/ Craig Bryant
Craig Bryant, Post 2

s/ Shanda Smallwood
Shanda Smallwood, County Clerk