

MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF CHATHAM COUNTY, GEORGIA, HELD ON FEBRUARY 6, 1998, IN THE COMMISSION MEETING ROOM ON THE SECOND FLOOR OF THE CHATHAM COUNTY COURTHOUSE, LEGISLATIVE AND ADMINISTRATIVE BUILDING, 124 BULL STREET, SAVANNAH, GEORGIA.

I. CALL TO ORDER

Chairman Billy Hair called the meeting to order at 9:00 a.m., Friday, February 6, 1998.

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II. INVOCATION

Commissioner Joe Murray Rivers gave the invocation.

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III. PLEDGE OF ALLEGIANCE

All pledged allegiance to the flag of the United States of America.

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IV. ROLL CALL

The Clerk called the roll.

PRESENT:	Dr. Billy B. Hair, Chairman Dr. Priscilla D. Thomas, Vice Chairman, District Eight Frank G. Murray, Chairman Pro Tem, District Four David L. Saussy, District One Joe Murray Rivers, District Two Martin S. Jackel, District Three Harris Odell, Jr., District Five Ben Price, District Six Eddie W. DeLoach, District Seven
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IN ATTENDANCE:	Russ Abolt, County Manager R. Jonathan Hart, County Attorney Sybil E. Tillman, Clerk
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CHATHAM COUNTY YOUTH COMMISSIONERS

Chairman Hair introduced the following Youth Commissioners who were in attendance: Amanda Wells, Savannah Christian, Kandace Williams, Westside Academy, and Nichole Williams, Windsor Forest High School.

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V. CHAIRMAN'S ITEMS

1. REFERRAL TO MPC TO MODIFY ORDINANCE GOVERNING FLAGS AND BANNERS.

Chairman Hair said, the first item under my section is a referral to MPC. I would like to get unanimous consent from the Commission to refer back to the MPC an ordinance that I think needs some clarification and we've had some problems with this ordinance governing flags and banners for business. All I'm asking is that we just send it back to MPC for referral and let them look at it and see if we can modify and make it more user friendly.

Commissioner DeLoach said, I make a motion to that effect. Commissioner Thomas said, second. Chairman Hair said, we have a motion to do that and a second. Any discussion? All those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioners Saussy, Odell and Price were not present.] Chairman Hair said, the motion passes. Thank you.

ACTION OF THE BOARD:

Commissioner DeLoach moved to refer to MPC for clarification the ordinance dealing with flags and banners for business and ask that review it and determine if the ordinance can be modified to make it more user friendly. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioners Saussy, Odell and Price were not present.]

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2. TURNER'S COVE LAND USE ISSUE AND CLARIFICATION OF BOARD INTENT.

Chairman Hair said, the second item is under the Turner's Cove land use issue. If you remember correctly what happened, we approved this and then the site plan had to be approved by the MPC. There was some modification of a berm and it had to do with some plannings. Commissioner Murray and I have talked about this. This is in his district, and I think he is in agreement that it's not —, all we have to do is make a decision that it's not a significant difference. Otherwise, it has to go back through the zoning process. Commissioner Murray, would you like to talk on that?

Commissioner Murray said, just to clarify some of it. It is a change. The whole plan is changed, and I didn't realize that until a meeting they had last week on the Islands about it and the developer came to that meeting and went over it. I think most of the citizens down there support this plan. I think we can change it too without it having to go back to MPC and we can just approve the plan they have. The only area that I know of right now that is in question, and that is a sidewalk on the front footage where the ditch is. I think that if there's any say, once this project starts, so the developer can come back and look at that. Mr. —, is he here today or are you just representing them.

Mr. Phillip McCorkle said, he's not here today. I'm representing him. They had a good meeting and there was really unanimous consent that the plan was great. I don't think there's anybody here in opposition to it. There was some discussion about the sidewalk. The problem with putting in sidewalks is there are big oak trees and a ditch along there. If a sidewalk can be done, he will do. It will part of the site plan. Commissioner Murray said, well, that's what I want in the minutes now that if there is any possible way to do them without losing those trees —. Mr. McCorkle said, yes sir. Commissioner Murray said, we would like to see that put in. I don't know whether it [inaudible] close to the ditch, you know, how it happens, but if they can look at that, but I would like to say that I commend this particular development for the plan he came up with. I thought it was a very good plan. There's no comparison at all to the plan that was there originally,

Chairman Hair asked, do you want make a motion to approve? Commissioner Murray said, yes, I'll make a motion. I didn't know if anyone else wanted to speak in the audience, but I'll move that we go ahead and approve that. Commissioner DeLoach said, second. Chairman Hair said, motion and second. Any further discussion? All those in favor —. Commissioner Price said, you've got somebody with their hand up. Chairman Hair said, okay. Would you come forward please?

Ms. Valentine said, good morning. I think I'm awake. I'm Jean Valentine. I live on Wilmington Island. I'm with the Islands Group. I wanted to reiterate that practically every person who was at the meeting thought the plan was terrific. We're going to have something there that's the best in the whole world; however, we are all terribly concerned about the sidewalk. Children are going to school, there's a library up there. Everybody is asking for some changes on the island so that there's more footpaths, bicycle paths and I really can't stress enough, I've had about five phone calls from people who are not even members of our group saying please, there must be a way. It doesn't have to be cement and, you know, if there's places there, let's put little foot bridges. Let's make it attractive. They have been very cooperative, but please, please think of this. Thank you.

Chairman Hair said, thank you very much. I think it is in the minutes now that they've agreed to do that. Thank you very much for your comments.

ACTION OF THE BOARD:

Commissioner Murray moved to approve the change to the difference from that site originally approved. Commissioner DeLoach seconded the motion and it carried unanimously. [NOTE: Commissioners Saussy and Odell were not present.]

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VI. COMMISSIONERS' ITEMS

1. CITIZENS' FINANCIAL REVIEW OF COUNTY'S OPERATING BUDGET (COMMISSIONER PRICE).

Commissioner Price said, Mr. Chairman, the County Manager has done some good leg work here. Not that that's anything different than what he does on a normal basis, but in your packages you have a memo here that talks about how we might be able to go through the process of doing this and to bring it back to the Commission really as something that staff has decided to get itself involved in, has decided to become a part of the process. Russ [Abolt] has had some reservations in the past about this process and he —, I'd be glad to let him explain what those reservations are, but I think with the County Manager intricately being involved in this process, I think there is great assurance that it will succeed. And, Russ [Abolt], if you have any comments that you want to add to that —.

Mr. Abolt said, thank you, Commissioner Price, I do appreciate the opportunity to comment. As Commissioner Price has said, if it is your choice to proceed, we'll make it work. There's no question about that. I do feel a responsibility, as Commissioner Price said, to at least allow you to have benefit of about 18 years of experience I've had elsewhere with a citizens' budget committee, and this is not to say history might repeat itself, but unfortunately those years of experience have brought the conclusion to me at least in the past I've seen citizen's budget committees completely out of control. The Board, this Board, any elected body, can never delegate the ultimate budget decision responsibility. The Board are the only ones empowered by your election to office to make those budget decisions. You're the closest to and the most accountable to the citizens. Making decisions by committee is always a challenge. I appreciate the dilemma of your last budget decision a few weeks ago. Commissioner Jackel told me and said it very well when he said there are no solutions, just choices. Trying to relive that challenge by doubling from 9 to 18 the people that have to be a part of the community and news media could easily get confused about who speaks for the County on difficult budget choices. That's why Commissioner Price has allowed me and in crafting the way in which you would proceed, if you would proceed, at least you would have an obligation no more than a year, and at that time it would sunset and would require an affirmative vote to bring it back. But that's not to say that my experience will again reoccur here, but again I have seen situations where a citizen's budget committee have gotten completely out of hand.

Commissioner Price said, the citizens of Chatham County are quite different from possibly the places that you've work previously. Mr. Abolt said, of course, and that's why I'm here, sir, because I love it. Commissioner Price said, I do think it can be a win/win situation. I don't want it to become more cumbersome or costly or confusing when we go to the budget process. The only reason for this committee is to not make it more confusing, but to make it easier and to make it something that we have, maybe some more tangibles to look at, some more things that we ourselves can benefit from. So I open it up for any discussion, and I'd like to hear from you before I even make a motion. If it's something that the majority of this Board doesn't support, then I will respect that.

Chairman Hair said, I would like to make a comment about it. I think it's one of those things that sounds like Mom and apple pie and the flag. It sounds like it's just a no-brainer and it's a great idea, but I think it's fraught with problems. I think it's going to generate a lot of confusion, as the Manager said, who really speaks for us and we have a lot of public input to the budget process now. We have public hearings, and any one has any right to come before us at any time and make any comments about the budget, submit anything to us, and they do that all the time. I just think that it's probably not going to add a lot to the debate and I think it's something that could become a political football and would be rather a dangerous thing to do. That's my comment.

Commissioner DeLoach said, I agree with Billy [Hair] on it. I think that we were elected by the people to make this decision and it's something we just need to go ahead and take responsibility for. Budgets can be crafted any way. Any number of us up here can set up a budget and it could be right. It might not be exactly the way I would vote for it, which the last budget wasn't, but the point is, it was a process that we went through and these elected officials decided this was the budget we were going to use, so I think we need to leave it with the elected officials. I don't think we need to involve other people. There's no doubt that there's plenty of folks out there that's got a better handle on budgeting than I do, but it comes down to the fact that I was elected by my people to —, of Chatham County to decide what budget they live by. That's what we need to do and we don't need to involve everybody in the process. We just need to make the decision, and it always comes down to the last minute decision and nobody can craft a budget better than the Manager can, and yet when it gets down to it, it's the nine up here that really decide how the budget's formed, and I think it needs to stay at that point.

Commissioner Odell said, yes. Citizen input is always good. Anyone says that is not —, obviously, is not a public official. My biggest concern do, if you have a committee, the question would be: Is this committee speaking for the Commission and does it lock us in as to the kind of things that our designee would think that we would be obligated to support. Budgeting is not a science that's based upon making a decision, based upon as many factors as you can. I try to get input from those who live in the 5th District either through Town Hall meetings or going to Neighborhood Association meetings. I am just personally concerned that if we add an additional committee structure that ultimate goal or the ultimate result would not be the desired goal. I think the ultimate result would be increased confusion, increased complication, increased staff involvement. I do not support it.

Commissioner Murray said, you know, I think each of us still has that right to get citizens within our districts to sit down with us and go through the budget and give us recommendations. I do agree with the Chairman and the other Commissioners that we have final say-so on the budget. A majority of this commission votes to do a budget one way or the other, then that's the way it's going to be. I think a lot of us over the years have gotten input from citizens within our districts, so things that may or may not affect the areas the live in with what we're doing with the budget and I think we can continue to do that, and I think that's the way we should move forward with it. I don't think we need to form any committee County-wide from the Commission as a whole, but I think each one of us still has that right to get that input and set up a committee of ourselves with those people in our district to have that input [inaudible].

Commissioner Price said, I can eat humble pie with the best of us. I can certainly tell that this isn't going to float any further. The only attempt on my part was that a citizen did come to me and ask about doing this. I thought it was good idea. That citizen has watched us through to this whole process and has watched for several years with great interest, and in reality we make choices, we go out and we pick those people on that advisory board and all they're giving us is advice, but if you're saying that you feel like it's cumbersome enough where it is and satisfactory with you, then I will withdraw the recommendation and I understand that and I respect that. Let's go forth.

Chairman Hair said, I think —, I appreciate that. I think it's good that you brought this before us, Commissioner Price. I just think that maybe at budget time if we get a particular technical part of the budget that might need some outside input, we could, you know, do sort of an *ad hoc* thing at that moment just to look at certain things. You know, maybe experts in recreation or something if we were on that particular topic, but I appreciate your comments.

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2. OLD RYDC (COMMISSIONER SAUSSY).

Chairman Hair said, Commissioner Saussy had to —, had another engagement. He's going to be back in about an hour and he asked if we would allow me to put that on the agenda at about 10:30. Any objection to that? Okay, we'll move that.

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Commissioner Saussy said, It is my feeling that this County has a great opportunity at this time to enhance recreation in this area. Not only enhance recreation, but to create an economic benefit to the people of this area. What I would like to do is propose that the former State of Georgia Youth Detention Center, which is now owned by the County, be utilized in the financing of a dormitory complex in the Bacon Park recreation area. The reason we need a dormitory is this would enhance the tournaments that we could get here from not only the State of Georgia, but all around the Southeast and possibly even internationally. What we would want this dormitory to be placed on a piece of property right behind the Weightlifting Center, which there again when we designed the 1993 sales tax referendum, a lot of the new sports facilities have been completed. The last one which opened this week, was the swimming pool, which if you haven't seen it, please go by there and dip in it. It's a great, great facility and we —, there again, this just gives us another opportunity to bring people to Savannah to help create a sporting complex for this whole area. I don't know whether a lot of people really recognize what we have here in Savannah because of what the people voted for in the referendum. We have probably got in one area, the Bacon Park area, the greatest sporting facilities really in the East Coast if not the United States, and I don't say that lightly because it really is. They are all designed for the Olympic training and so forth, but they are for the people of Savannah and I hope that all of you will take notice of them and participate in some of those sports. They're not just for the young. They're for the middle age and the old age like me. Commissioner Odell asked, which one are you? Commissioner Saussy said, sometimes I'm old and sometimes I'm middle age. But, anyway, I would like to submit this. What we would need is this Detention Center to help finance the dormitories that we want to build. We would not do this with any really County money other than the profit itself to rent out and we have to have recreation offices in it.

Chairman Hair said, I just want to point out that Commissioner Saussy and Commissioner Murray and myself met on this last week and in theory I think its a great idea. We still have to work out some legal questions in terms of security clause and those kinds of things we have to work out. That sort of thing, and also look at the use to make sure that it meets the law, but conceptually, I think it's a good idea, but we still have —, I just want to stress we still have a couple of legal hurdles to jump before we can bring this to fruition.

Commissioner Murray asked, David [Saussy], did you make a motion to send it to staff to let them work out the details on it? You did not make a motion? Commissioner Saussy said, no, I did not make a motion, but I will make that motion. Commissioner Murray said, after looking at it and working on it for some time, I think it's a beneficial project for the community. As Commissioner Saussy said, it would not be any guarantees or anything of County money as some of these other things have been with bonding. The Athletic Authority —, Recreation Authority in Chatham County certainly can move this forward and do what needs to be done. The only problem they have right now is being able to use the old RDC facility on Eisenhower Drive, which at this point I would be in favor of transferring to the Authority if we can do that, but I think first of all we need to give the staff and the County Attorney a chance to look at it and make some recommendations back and work with the Recreation Authority on that to see what needs to be done with it, and I'd like to move that we do that. Commissioner DeLoach said, I'll second it. Chairman Hair said, we have a motion and a second. Commissioner Jackel has some comments.

Commissioner Jackel just so I understand what we're planning to do. We've got this former Juvenile Court facility on Eisenhower. We're going to refurbish it and then we're going to rent it out as office space. From the profits and equity in that, we're going to use that money to build this dormitory. Now my first problem with this is, one, I have real problems with us giving the Juvenile Court facility away. Philosophically and otherwise. Number two, if we're going to build office space, we're competing against the private sector. I have real philosophical problems with the County, or the Authority that we gave the building to, competing against private developers and private persons who have office or redevelop office space. Then we're going to take this money and [inaudible] inventory. The dormitory is going to have young people in there, no parents, coaches. I think we're creating a business that we don't know how to run, we don't know what liabilities are going to be there. We're going to charge \$40 a night, \$20 per kid. We're told that the average rate in Chatham County for a group in a motel is \$50 if you're going to place a group. We're saving them \$10 a night. They'll come and stay three nights, it's \$30. If they stay two nights, it's \$20, and we're doing all these things. So here we're are. We've got to refurbish an office building that we don't know how to do or what to do, we're going to build a dormitory and run it and, again, that's competing with the private sector, and we're going to run them a food service that I don't know that we ought to be doing. We're competing with the private sector on four or five basis. If we think a dormitory is what we need to do, let's put the word out and see if there's a businessman that wants to build a dormitory and run it on the site and take our profit [inaudible] out of it and run it under what regulations we want, and then we don't have to do all these things that have any risk at all. If that won't work then we can look at certain other alternatives, but we've got three or four different ways we're competing against the private sector and giving our land away. I think there are other ways to accomplish this without running into this. Now, I have —, there are seven people who I have a great deal of faith of [sic] who have helped me both personally in my profession and in my short political career. I have turned the facts and figures that we received over to them. They do not see these facts and figures working. I'm talking about one or two developers who I have a lot of faith in and a realtor who is a close personal friend of mine, and they're also in the mortgage banking business. I'd rather not name names at this time. But they think the figures are unrealistic of building a dormitory at \$15,000 a room, and it's my understanding that the Hampton Inn was built at \$74,000 a room. Maybe we could come in a third less than what they built it, but to build it for \$15,000 a room when it cost \$74,000 to build a Hampton Inn room, I wouldn't mind us, you know, I'm not against the concept of the dormitory, but I'm against the concept of us giving the facility away, creating office space to compete with the private sector, using those funds to build a dormitory to compete with the private sector. I'm just philosophically opposed and I don't think the figures work, and I think we'll be making a mistake when we go down this road that we'll be laughed at for a long time.

Commissioner Murray said, I'd first of all just like to address a few of Commissioner Jackel's concerns, one being those numbers that were given were very conservative numbers that were put out on that sheet. As far as us competing, we as a County government are not competing. The only think the County government is being asked to do is transfer that one piece of property over to the Recreation Authority. The Recreation Authority then would be responsible for doing the rest of

it. We as a County government would not be putting \$20,000 into the old RDC building to renovate to rent out. The Recreation Authority will be doing that. They already have the funds on hand to do that with. As far as competing with existing businesses in Chatham County right now, I don't think we would be competing with them. I don't know of anybody in Chatham County right now other than colleges that have dormitories, and those dormitories are already filled up and over capacity now. This would be enhancing a lot of the programs we've got with all of our recreation facilities that we've put in the Bacon Park area. This dormitory would be built in the Bacon Park area if everything is worked out. The only thing that we are asking for now is to give approval for staff to look at it and to work with the Recreation Authority to move forward on it and see if it is something that we can do. We have not come here saying we want to approve giving that facility today. We want the staffs of both sides to work this out and come back with a recommendation to us if there's something feasible for us to do or not, and I think if you have any other questions that need to be answered, we've got the Executive Director and the President of the Recreation Authority both here and I think they can answer any questions we might have at this time.

Commissioner Rivers said, Mr. Chairman, I would like to ask that if we do refer this back to staff for staff to look at, that at the same time, if it's feasible, when it comes back to us, that we have a reversionary clause in there to allow that property to be returned. Commissioner Murray said, that would be part of it.

Chairman Hair said, as I said at the outset, there's still some serious legal questions that we have to answer and all we're saying is let the staff look at it and see if it's feasible, see if we can overcome the legal hurdles. That's all we're asking. As Commissioner Murray said, we're not approving anything today other than referring this matter to the staff. I think, and I expressed this in the meetings that I had with Commissioner Saussy and Commissioner Murray, I have some legal questions that we have to have answered and at this point they have not been answered to my satisfaction. So we still have a long way to go, but conceptually all we're asking to do is staff to look at it and to bring it back to us.

Commissioner DeLoach said, call the question.

Commissioner Rivers asked, [inaudible] motion did we make? Commissioner DeLoach said, Frank [Murray] made it and I seconded it? Chairman Hair said, yes, we have a motion and a second on the floor.

Commissioner Saussy said, I would like to say one thing though to Martin's [Jackel] comments. We do have experience in running a dormitory and a food service right now. Commissioner Jackel said, well, we don't have any experience in remodeling office buildings and —. Commissioner Saussy said, well, I think the County's had that experience, but, I mean, no —.

Chairman Hair said, we've had a call for question. All those in favor vote yes, opposed vote no. Chairman Hair and Commissioners Saussy, Rivers, Murray, Harris, Price and DeLoach voted in favor of the motion. Commissioner Jackel voted in opposition. The motion carried by a vote of seven to one. [NOTE: Commissioner Thomas was not present.]

ACTION OF THE BOARD:

Commissioner Murray moved to direct staff to look at the possibility of using the old RYDC as a dormitory for the sporting complex in the Bacon Park area and bring it back to the Commissioners with a recommendation. Commissioner DeLoach seconded the motion. Chairman Hair and Commissioners Saussy, Rivers, Murray, Harris, Price and DeLoach voted in favor of the motion. Commissioner Jackel voted in opposition. The motion carried by a vote of seven to one. [NOTE: Commissioner Thomas was not present.]

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3. BURNING IN UNINCORPORATED AREA (COMMISSIONER MURRAY).

Commissioner Murray said, Mr. Chairman, I'd like to address, before we address that, I had a request that some of the people on the second readings on Item #2 have to leave early, and I was wondering if we could move that up? An unidentified gentlemen in the audience said, we will be happy to wait. Commissioner Murray said, okay. I'll withdraw that.

Commissioner Murray said, on the burning in unincorporated area, I've talked with Russ [Abolt] about it in the past. We have had some problems. I do know both sides of this that we've got to reduce what goes in the landfills and that's one reason for allowing the burning in the unincorporated area, but as we continue to grow and we have more residents moving in the unincorporated area, especially in the Islands area, the burning with the wind blowing blows right through your homes and everything else, and I'm now getting a lot of complaints and, quite frankly, have some of my own where it happens in my neighborhood, and I burn too from time to time so I know what it means to be able to do that. But I think there's got to be something that we can work out that will either limit the amount of burning or the times the burning can take place and those type things, and I'd like to see the staff try to work on something that we can compromise together and I understand that we've got to reduce the landfills, and that's the main purpose of some of this, but we also need protective assistance too.

Chairman Hair said, staff you want to —. Mr. Abolt said, yes. Chairman Hair said, and bring it back. Mr. Abolt said, Jon [Hart] and I will do that. Yes sir. Chairman Hair said, okay. Very good.

Commissioner Jackel said, I don't know how many votes I have up here on this issue. This is the first time it's come up. I'd like to see us stop all burning in the County. So let's put that in as an alternative. Chairman Hair said, y'all can consider that as an option. Commissioner Jackel said, and I would also like us to consider not taking any leaves or grass clippings or whatever to any landfill. I know they have that in some areas. Maybe it's right for us, maybe it's not, but that is being done in some areas and we ought to consider that.

Commissioner Murray said, I've just got one question on that. If we don't allow the leaves and grass to go to the landfill and we don't allow burning, what are we going to do? Commissioner Jackel said, there are mulching machines and there are other things that are being done in other places, but we need to do it. This is --. Commissioner Price said, Martin, that one's going to float about as well as my citizen's budget committee. Commissioner Jackel said, you know, I don't mind being out in front on this. There are other areas that of the country that are doing this. It's a big conservation area. We're filling up

our landfill with leaves and grass clippings that would, these new mulching mowers —, don't have to be bagged up and an be left in place. We do not need to pollute the air with the burning of these leaves. There are things we can do. I'm not sure it will pass, but we need to put it out there and we need to discuss it and we need to make the public aware of it.

Chairman Hair said, well, I think they will consider that as an option. I think you brought that up. Commissioner Murray said, it's something that we can look at. Chairman Hair said, staff will consider that as part —, as one of their options.

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VII. PROCLAMATIONS AND SPECIAL PRESENTATIONS

1. MYSTERY CUSTOMER AWARD.

Mr. Van Johnson said, as part of our continuing effort to provide quality customer service, we present to you this morning two employees that had occasion to meet with our mystery customer. The mystery customer was pleased with the service that he or she received and we celebrate the accomplishments of these two employees this morning. These employees are Joette Moore from Mosquito Control. Joette [Moore] is accompanied by the Mosquito Control Director, Dr. Henry Lewandowski.

Dr. Lewandowski said, Dr. Hair and Commissioners, I want to thank you for recognizing Ms. Joette Moore. She assists most of the callers and visitors to Mosquito Control and this consistently in a very professional and courteous manner. Thank you very, very much.

Mr. Johnson said, she inquired as to who the mystery customer was and I told her that's a mystery. Our second employee is Tonya Robinson from Public Works, who is accompanied by Michael Kaigler, the Public Works Director. Chairman Hair said, the check goes to her, Michael [Kaigler].

Mr. Kaigler said, oftentimes when folks call to the Public Works Department they are either calling for service or they're calling with a problem, and, as we all know, people who call in with problems, they often are not in the best of moods and they're sometimes difficult to deal with. Ms. Robinson has displayed a temperament and attitude that helps us [inaudible] out the anger and frustration and get out the root of the problem, and I'd like to take this opportunity to commend her for her efforts, and it's with her assistance that allows me and my staff to perform the services to the citizens of Chatham County. Chairman Hair said, thank you, Michael [Kaigler].

Ms. Robinson said, I'm not big on words, but good morning, and this is really a pleasant surprise for me. I was totally unaware that this was going on or that I would even be a recipient of this, but whoever the mystery person was, I thank you.

Chairman Hair said, Michael [Kaigler], if she's good with angry people, we probably could use her in the Commission's office. We might need to transfer her.

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CHATHAM AREA TRANSIT AUTHORITY

The Board recessed as County Commissioners and reconvened as the Chatham Area Transit Authority.

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The Board adjourned as the Chatham Area Transit Authority and reconvened as the Chatham County Commission.

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VIII. TABLED/POSTPONED ITEMS

Unless action is contemplated at today's meeting, staff report and file material has not been duplicated in your agenda packet. The files are available from the Clerk. Those on which staff is requesting action are indicated by asterisk (*)

- * 1. **REQUEST BOARD APPROVE GENERAL FUND M&O CONTINGENCY TRANSFER OF \$55,000 FOR BOARD OF EDUCATION TO PERFORM CERTIFICATION, OUTREACH AND TRAINING FOR MINORITY, FEMALE AND LOCAL SMALL BUSINESS ENTERPRISES; REQUEST BOARD TO ENTER INTO AN INTER-GOVERNMENTAL AGREEMENT WITH THE BOARD OF EDUCATION TO PROVIDE CERTIFICATION, OUTREACH AND TRAINING SERVICES TO MINORITY, FEMALE AND LOCAL SMALL BUSINESS ENTERPRISES ON BEHALF OF CHATHAM COUNTY. (NOTE: At the time of agenda preparation a meeting of Dr. Thomas' committee is pending.) Tabled at**

meeting of January 24, 1997. Further note: Committee has been unable to meet in intervening period. Tabled at the meeting of February 21, 1997.

See attached new staff report that requests Board approval of the Chatham County Minority/Women Business Enterprise procurement policy and goals and award of a contract to the Board of Education (Office of Minority/Women Business Development) to provide minority/women enterprise program services at an amount not to exceed \$55,000 per year.

Chairman Hair said, the first item on the tabled section we are ready to take off of the table now. This is an item that Dr. Thomas has worked very hard on and it deals with us approving our joining with the Board of Education, and I believe the City is involved in this too. Are they, Dr. Thomas? Commissioner Thomas said, uh, huh. Chairman Hair said, in setting up a program for outreach and training of female and minority owned business, and I will also stress this is for all small businesses, if we try to encourage more business in Chatham County. So, the Chair will entertain a motion to take it off the table. Commissioner Thomas said, so moved. Chairman Hair said, I have a motion. Is there a second? Commissioner Rivers said, second. Chairman Hair said, motion and a second. All those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioners Murray and Price were not present.] Chairman Hair said, the motion passes. I'll recognize Dr. Thomas.

Commissioner Thomas said, thank you, Mr. Chairman. I think you have explained it very explicitly in terms of the nature of the program. The committee has met and we have had an opportunity to discuss this pro and con and with all of the persons on the committee being satisfied with the information that we have been able to come up with, we are now ready to present it to the full Board and hope that we will be able to have this considered. I don't know if anybody has any question at this time that they would like for me to answer and, if so, we do have some committee members here and George Lynch and myself.

Commissioner DeLoach said, what I would like to do is for the people that are here and the ones that are on TV to get an understanding of what this really is, an explanation of the process that this thing is going to take so that the people out there that might be interested in this would be able to follow up on it. As it stands now it just says that we're going to have a, you know, an education. If we can get, Mr. George [Lynch] —. Commissioner Thomas said, he'll give you some specifics. Commissioner DeLoach said, give us a good eloquent speech on it, it should —. Chairman Hair said, a brief eloquent speech.

Mr. Lynch said, very brief, Mr. Chairman. Chairman Hair said, a very brief eloquent speech on this, Mr. Lynch. Mr. Lynch said, Commissioner DeLoach, fundamentally what this does is to establish with the Commission's approval minority and women business enterprise goals, and I express and underline the word goals. These are not quotas. These we believe are reasonable, though very definitely challenging, to be able to reach. What it also does is to explicitly state, if you would, the mechanics of making sure that when a project is bid or an RFP is issued that we ask those who come in to give us detailed information on their plans for the utilization of local and WBE businesses as subconsultants or as subcontractors.

Commissioner DeLoach said, it's going to be a bit longer. Is it alright, I've got to ask some questions? Chairman Hair said, sure. Commissioner DeLoach said, that explanation there sounds good. What did it really say? Mr. Lynch said, what it really says, sir, is that Chatham County really in concert with both the Board of Education and with the City of Savannah and for a price of \$55,000 a year, backed up and assisted by the Board of Education's Office of Minority and Women's Business Development, is trying to increase the participation in contracts by the women and minority businesses that are in this local area. Now, perhaps I've been too brief, but —.

Commissioner Thomas said, I think you need to expound on the training part of it because those are the areas that I think that we talked about. Mr. Lynch said, yes. Commissioner Thomas said, and I think you need to be more specific about those. Mr. Lynch said, okay. Commissioner Thomas said, you need to be specific to the fact that the Board of Education and City of Savannah are already doing this, and we're just trying to get the County in compliance with this as far as the voluntary action and training for local government work, providing information to them and also helping them to prepare themselves for the bonding and financial availability. These are the kinds of things that they were not privy to before, and this is one of the big proponents of this particular project that we're trying to make sure that people understand and are prepared, you know, to participate on a voluntary basis.

Commissioner DeLoach said, okay. That is —, she explained what my concern is. Mr. Lynch said, thank you, Dr. Thomas. Commissioner DeLoach said, I understand that this is basically for minority and for the women, and that's okay, but there are small businesses in Chatham County, regardless of who represents them and what color they are, who have a very difficult time dealing with the government. I, for one, started out in business trying to bid on projects that they were either the City government, Chatham County, Board of Education. When you went into these meetings and you sit down with these people, they had a complete knowledge of what was going on. I had absolutely none, and when it was all said and done, I as sort of lost, roaming around. Now after a few times of this you realize you're either knocking on the wrong door or you're going in the wrong and different direction. You eventually get right and get straightened up and you're heading in the right direction and you bid on a contract and you're amazed that you're able to do that with all the paperwork that goes into this and involved in it, and once you get past all the paperwork, they ask you about a bond. Well, I don't know —, it doesn't matter what color you are or what sex you are, to get approved for a bond you've got to be worth more than what the bond's worth before you can get approved. That's where I always got hung up on being able to bid on governmental contracts. It wasn't so much the paperwork because after a while, you know, you can [inaudible] and eventually get there, but I never had enough money to qualify for the bonds on a lot of the jobs, and I think that's one of the reasons we're breaking these down into smaller increments so that we can get in there. And I just want to —, I don't want to —, it's not directed at the fact that it should be a minority or whether it should be a white or whatever. It needs to be everybody who's a small business person who needs to be able to sit down and go, if they want to —, if they don't want to, they need to go down the road, but if they're interested in understanding these —, the approach to bidding on these contracts, we need to be able to work with anybody and say this is how you do this because it's very difficult to deal with government in bidding. Once you're in there, once you're in the cycle, you're okay, but to get past that first two or three hurdles is very, very difficult, and regardless of what color you are you need to be able to have these people come to these programs, sit down and to understand these concepts, and that's my biggest —, that's what this needs to be, and it can be anything you want to call it, but this needs to be something for the local businessman regardless of who he is or she is, to be able to sit down and understand the concept of bidding on government contracts because they're so —, it's another world.

Commissioner Thomas said, Commissioner DeLoach, you're so right, but what we were emphasizing, if you recall the disparity study that was done and that is the reason why we mentioned this part of it because these were the entities that were left out before so they're going to make sure that they are not left out again, but to do exactly what you're saying about the small business person, it is never the intent of this committee to leave out the small business person because we know that small business is usually the one that's left out, you know, of the cut. So, that is never the —, never was the intent of this. The intent is to do that, but to make sure that the disparity that has been, you know, will be no longer, that these people will have an opportunity to participate as well as bring them into the fold of the small business.

Chairman Hair said, okay. Any further discussion of this item? The Chair will entertain a motion. Commissioner Rivers said, I move approval. Commissioner Price said, second. Chairman Hair said, we have a motion for approval and a second. All those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes. Commissioner Thomas said, thank you very much. Chairman Hair said, thank you. I'd like to commend Dr. Thomas for the work she put in. She did an awful lot of work and did a really good job.

ACTION OF THE BOARD:

- 1. Commissioner Thomas moved to remove this item from the table and place it before the Commissioners for consideration. Commissioner Rivers seconded the motion and it carried unanimously. [NOTE: Commissioners Murray and Price were not present.]
- 2. Commissioner Rivers moved to approve the request General Fund M & O Contingency transfer of \$55,000 for Board of Education to perform certification, outreach and training for minority, female and local small business enterprises; request Board approval to enter into an inter-governmental agreement with the Board of Education to provide certification, outreach and training services to minority, female and local small business enterprises on behalf of Chatham County. Commissioner Price seconded the motion and it carried unanimously.

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- 2. **BOARD CONSIDERATION OF ACTION REGARDING ADVISORY BOARDS AND COMMITTEES. Tabled at meeting of April 25, 1997. Further note: Assigned to committee at meeting of May 9, 1997.**

ACTION OF THE BOARD:

This item was not placed before the Commissioners for consideration.

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- 3. **BOARD CONSIDERATION ON CHANGING THE COUNTY'S FISCAL YEAR. Tabled at meeting of May 9, 1997.**

ACTION OF THE BOARD:

This item was not placed before the Commissioners for consideration.

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- 4. **BOARD CONSIDERATION OF MODIFICATION TO EMPLOYEE ASSISTANCE PROGRAM REGARDING NOTIFICATION AS TO PARTICIPATING EMPLOYEES. Tabled at meeting of May 9, 1997.**

ACTION OF THE BOARD:

This item was not placed before the Commissioners for consideration.

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- 5. **BOARD CONSIDERATION OF A REQUEST FROM THE CLERK OF SUPERIOR COURT FOR ADDITIONAL RESOURCES FOR FINE COLLECTION. Tabled at meeting of June 13, 1997. Please see memo from Clerk of Superior Court asking that item remain on the table.**

ACTION OF THE BOARD:

This item was not placed before the Commissioners for consideration.

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IX. ITEMS FOR INDIVIDUAL ACTION

(Unless the Board directs otherwise, adoption of an Action Item will mean approval of the respective County staff report and its recommended action.)

1. **REQUEST BOARD APPROVE THE FOLLOWING: GENERAL FUND M&O INTERDEPARTMENTAL TRANSFER OF \$64,770 FROM THE JAIL BUDGET TO SHERIFF'S BUDGET FOR SALARIES AND BENEFITS FOR TRANSFER OF TWO POSITIONS APPROVED AT THE OCTOBER 28, 1997, BOARD MEETING SUBSEQUENT TO PREPARATION OF THE 1998 PROPOSED BUDGET; A ONE PERCENT SALES TAX EXTENSION FUND (1993-1998) BUDGET AMENDMENT TO RECOGNIZE \$88,000 FROM THE CITY OF SAVANNAH FOR THE PENNSYLVANIA AVENUE COMMUNITY CENTER PROJECT.**

Chairman Hair said, the Chair will entertain a motion. Commissioner DeLoach said, so moved. Commissioner Price said, second. Chairman Hair said, we've got a second. Any discussion? All those in favor vote yes, opposed vote no. [NOTE: Commissioner Thomas was not present.] Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner DeLoach moved to approve the request to approve the following: General Fund M&O interdepartmental transfer of \$64,770 from the Jail budget to Sheriff's budget for salaries and benefits for transfer of two positions approved at the October 28, 1997, Board meeting subsequent to preparation of the 1998 proposed budget; a One Percent Sales Tax Extension Fund (1993-1998) budget amendment to recognize \$88,000 from the City of Savannah for the Pennsylvania Avenue Community Center Project. Commissioner Price seconded the motion and it carried unanimously. [NOTE: Commissioner Thomas was not present.]

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2. **REQUEST APPROVAL FOR THE EXEMPTION OF ALL LIBRARY POSITIONS FROM CHATHAM COUNTY'S 90-DAY HIRING FREEZE.**

Mr. Abolt said, Mr. Chairman and members of the Board, as you recall, at your last meeting in December somewhat emergent action had to be taken to protect the County from losing State support for the Library system because in the past year because of the freeze imposed on all employees, and in particular the Library, they were underspending what they should to maintain what they refer to as Maintenance of Effort and Eligibility with the State. To avoid that from occurring again in the future, we are asking that from the standpoint of the 90-day freeze that any Library position would be exempted from that and that would eliminate the problem.

Chairman Hair said, okay. Any questions from the Manager? The Chair will entertain a motion. Commissioner Price said, so moved. Chairman Hair said, I have a motion. Do I have a second? Commissioner DeLoach said, second. All those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioners Saussy, Rivers and Thomas were not present.] Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner Price moved to approve the request for exemption of all Library positions from Chatham County's 90-day hiring freeze. Commissioner DeLoach seconded the motion. Chairman Hair and Commissioner Murray, Odell, Price and DeLoach voted in favor of the motion. Commissioner Jackel voted in opposition. The motion carried by a vote of five to one. [NOTE: Commissioner Saussy, Rivers and Thomas were not present.]

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3. **REQUEST APPROVAL FOR TWO NEW POSITION CLASSIFICATIONS FOR THE CEL REGIONAL LIBRARY.**

Chairman Hair said, Mr. Manager. Mr. Abolt said, unless you have a specific question, I'll refer to Mr. Dickerson, who's in the audience, but essentially you have control over the creation of classification and job descriptions. In this situation, the Library Director and staff have come forward and asked for the creation of two positions referred to: one as Library Communications Coordinator and the other as Library Budget Matters —, Manager, excuse me. There are some vacant positions that he would not fill and the intent would be to gain a particular expertise, particularly in light of the move that will be made to the expanded facility on Bull Street.

Chairman Hair asked, any questions? Okay, Commissioner Odell and Commissioner DeLoach.

Commissioner Odell asked, is this just a reevaluation of all positions? Mr. Abolt said, no sir, this is not a reclassification. You have in addition to your budget authority that deals with line item control, you also have the ability to set job specifications. So in this case, given all the jobs that are aligned within the Library, whether they're filled or not, Mr. Dickerson is saying that he does not have the capacity in his table of organization to do this type of work. So you're not filling positions, you're just creating an approved job spec. Commissioner Odell said, well, I guess my question was, creating a job spec, what we are not doing is the services —, I really don't have a question for you, sir [Dickerson] —, what we are not doing is, we already have the services being performed (a), and there's a person either performing it or performed it in the past and we now have a new classification. That is not what you're saying we're doing? Mr. Abolt said, you have control of the job spec. Mr. Dickerson

is saying in the specs that he has available he doesn't have this capability. How Mr. Dickerson might choose to advertise recruit for the position is his choice. It is not a reclassification. Chairman Hair said, it is creating a new classification. Commissioner Odell said, creating a new classification. Mr. Abolt said, that is correct, sir. Two new classifications as outlined in the attachment. Commissioner Odell said, but it's not taking a function that is currently in existence where we have people in that function and reevaluating that function. You're not doing that? Mr. Abolt said, two different things. That's a reclass. No, sir. Commissioner Odell said, I understand that it's a reclass. Mr. Abolt said, I prefer Mr. Dickerson to comment. My understanding of it was he does not have this capacity, which he believes he needs to carry us into the new facility, period. Commissioner Odell said, I don't think [inaudible] to my question.

Commissioner DeLoach said, following along the line of what Harris [Odell] is talking about, since we're going to create these two new positions that we've never had, we've never had anybody actually managing the budget of the Library to make sure they're in compliance and rocking along and we haven't got somebody that's Director of Communications before is what my understanding is right now. Then if we're going to create these two positions, are we going to eliminate two other positions in the Library or are we creating two other places that we're going to have to have employees? My understanding is that I'm not increasing the number of employees for the Library. All I'm doing is putting in two positions that have never been there before. Mr. Abolt said, that's correct. Commissioner DeLoach said, it does not increase the pay or anything else, that just creates the positions. Chairman Hair said, that is correct.

Commissioner Odell said, it's not funding. Mr. Abolt said, there's no additional funding required. Chairman Hair said, this is not a funded issue. This is strictly a reclassification.

Mr. Abolt said, if I may, I don't want to be obtuse in my response, but you have complete control over job spec manual.

Commissioner Murray said, I've just got one question and that is that I think you've kind of answered the one Eddie [DeLoach] asked and, in other words, you are not putting in two additional people. Chairman Hair said, no. Commissioner Murray said, alright, the other side of that is, there was a letter to the editor about a week ago about the County Commission approving our budget and when we did that we took away from the Library and the Library was going to have to close down half of the libraries throughout Chatham County, and the reason I'm bringing that up now, that is not the case and I just think that needs to be understood by the citizens who read that letter. We are not having to close down all these libraries because we did not approve a budget that had more funds in it for the Library. But if this is not adding two additional people, then I don't have a problem supporting it.

Chairman Hair said, the Chair will entertain a motion. Commissioner DeLoach said, so moved. Commissioner Thomas said, second. Chairman Hair said, motion and a second. Any further discussion? All those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Rivers was not present.] Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner DeLoach moved to approve the request for two new position classifications for the CEL Regional Library. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Rivers was not present.]

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4. REQUEST BOARD APPROVAL TO WAIVE THE 90-DAY HIRING FREEZE AND AUTHORIZE HUMAN RESOURCES TO ADVERTISE POSITIONS THAT THE DEPARTMENT DEEMS MORE COST EFFICIENT TO FILL.

- ? **STATE COURT CLERK - ADMINISTRATIVE ASSISTANT I (1 POSITION)**
- ? **JAIL MAINTENANCE - BUILDING MAINTENANCE MECHANIC (1 POSITION)**
- ? **CLERK OF SUPERIOR COURT - CLERICAL ASSISTANT II (1 POSITION)**
- ? **JAIL - CLERICAL ASSISTANT II (1 POSITION)**
- ? **BUILDING MAINTENANCE AND OPERATIONS - MAINTENANCE WORKER IV (1 POSITION)**

Commissioner Price said, so moved. Chairman Hair said, I have a motion. Do I have a second? Commissioner Thomas said, second. Chairman Hair said, second. Any discussion? All those in favor —, Sybil [Tillman]. All those in favor vote yes. Sybil [Tillman], you're a little slow this morning, you know. Did you have your coffee this morning. Ms. Tillman said, I don't have coffee. Chairman Hair said, oh, okay, well that's the problem. Maybe that's the problem. You need to have some coffee. If the Manager wouldn't use these fancy words, it would be a lot easier. Commissioner Price said, Jon [Hart], you haven't been around long enough for us to pick on you yet. Commissioner Odell said, that's right. Chairman Hair said, his time's coming though.

ACTION OF THE BOARD:

Commissioner Price moved to approve the request to waive the 90-day hiring freeze and authorize Human Resources to advertise the following positions: State Court Clerk - Administrative Assistant I (1 position); Jail Maintenance - Building Maintenance Mechanic (1 position); Clerk of Superior Court - Clerical Assistant II (1 position); Jail - Clerical Assistant II (1 position); and Building Maintenance and Operations - Maintenance Worker IV (1 position). Commissioner Thomas seconded the motion. Chairman Hair and Commissioners Saussy, Jackel, Odell, Price, DeLoach and Thomas voted in favor of the motion. Commissioner Murray voted in opposition. The motion carried by a vote of seven to one. [NOTE: Commissioner Rivers was not present.]

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X. ACTION CALENDAR

(The Board can entertain one motion to adopt the below-listed calendar. Such motion would mean adoption of staff's recommendation. Any Board Member may choose to pull an item from the calendar and it would be considered separately.)

Chairman Hair said, Action Calendar. Does anybody want to pull anything off. Commissioner Jackel said, Item 10. Chairman Hair asked, what? Commissioner Jackel said, Item 10. Chairman Hair said, 10, okay. Anybody else? Is that it? Commissioner DeLoach said, #5. Chairman Hair said, Item 5. Anything else? The Chair will entertain a motion to approve the balance of the Action Calendar. Commissioner Price said, so moved. Commissioner Murray asked, where was the item on the towers? Mr. Abolt said, sir, that's on second reading. Chairman Hair said, second reading. Alright, I have a motion, do I have a second. Commissioner Odell said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Rivers was not present.] Chairman Hair said, the motion passes.

[NOTE: Refer to Item 5 and Item 10 for discussion on those items.]

ACTION OF THE BOARD:

Commissioner Price moved that the Action Calendar be approved in its entirety with the exception of Items 5 and 10. Commissioner Odell seconded the motion and it carried unanimously. [NOTE: Commissioner Rivers was not present.]

[NOTE: ACTION OF THE BOARD IS SHOWN ON EACH ITEM AS THOUGH AN INDIVIDUAL MOTION WAS MADE THEREON.]

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1. APPROVAL OF THE MINUTES OF THE REGULAR MEETING ON JANUARY 23, 1998, AS MAILED.

ACTION OF THE BOARD:

Commissioner Price moved to approve the minutes of the regular meeting on January 23, 1998, as mailed. Commissioner Odell the motion and it carried unanimously.

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2. CLAIMS VS. CHATHAM COUNTY FOR THE PERIOD January 15, 1998, THROUGH JANUARY 28, 1998.

ACTION OF THE BOARD:

Commissioner Price moved that the Finance Director is authorized to pay claims for the period January 15, 1998, through January 28, 1998, in the amount of \$2,783,950. Commissioner Odell the motion and it carried unanimously.

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3. REQUEST BOARD ADOPT A RESOLUTION AUTHORIZING THE EXERCISE OF EMINENT DOMAIN POWER FOR CHATHAM COUNTY'S 1996-1998 DRAINAGE CAPITAL IMPROVEMENT PROGRAM. [ALL DISTRICTS.]

ACTION OF THE BOARD:

Commissioner Price moved to approve the resolution authorizing the exercise of eminent domain power for Chatham County's 1996-1998 Drainage Capital Improvement Program. Commissioner Odell the motion and it carried unanimously.

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4. REQUEST BOARD APPROVAL FOR INSTALLATION OF STREETLIGHTS AT THE INTERSECTION OF CHATHAM PARKWAY AND TELFAIR ROAD. [DISTRICT 5.]

ACTION OF THE BOARD:

Commissioner Price moved to approve the request for installation of streetlights at the intersection of Chatham Parkway and Telfair Road. Commissioner Odell the motion and it carried unanimously.

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**5. REQUEST BOARD AUTHORIZE THE CHAIRMAN AND CLERK TO SIGN AN APPLICATION FOR A TRAFFIC SIGNAL PERMIT FROM GDOT FOR THE POOLER PARKWAY/U.S. HIGHWAY 80 INTERCHANGE.
[DISTRICT 7.]**

Commissioner DeLoach said, I just wanted to bring that up so that the citizens of that area realize we are putting a traffic light or applying for a traffic light in that area so that it should improve the traffic flow.

Commissioner Price said, while we're on that subject —. Commissioner Odell asked, will that make it three lights out there? Commissioner DeLoach said, one. Commissioner Price said, we're going to see —, Eddie's [DeLoach] district and my district are affected out in Georgetown by the intersection of King George and Abercorn. I was told previously January was the month we would see construction started on that intersection. Nothing has happened. Do we have any idea where that's going? Commissioner DeLoach said, we're going to have that on Information.

Chairman Hair said, yes, that was addressed in Atlanta that they had an environmental problem out there. That's been solved now. It's not going to delay it. They're looking at an August date.

Mr. Abolt said, if I may, and Mr. DeLoach alluded to it too. In the past, in fact, since Mr. Bungard has been County Engineer, time has not been able to be freed up in your agenda every month to have a briefing on major road projects. I would encourage —.

Commissioner Price said, I'm not talking about the bypass, but I do appreciate that. I'm talking about the intersection of King George Boulevard and —. Mr. Abolt said, the TSM project. Commissioner Price said, yes. Chairman Hair asked, providing for the left lane? Commissioner Price said, yes. Commissioner DeLoach said, that's already let. Commissioner Price said, the question is, when are we going to see construction on that? I can understand the overpass and Southwest Bypass is a different issue.

Mr. Bungard said, in December, mid-December I said we'd issue notice to proceed before Christmas. We did that. The contractor has been out there. All those stakes you see and flags are identifying utilities and they are supposed to indeed be starting to work, but that start includes their mobilization and getting geared up, but all the prep work is out there being done right now, but if you want an exact date on when the first hump of dirt is going to come out the ground, I'll get that for you.

Commissioner Price said, I'd appreciate that. I just hope —, and you inherited this project. I realize that. I hope Eddie's [DeLoach] plans for his district and Pooler, and this is his district that I'm talking about too, will move faster than this one has because this thing has taken forever, a year, year and a half, and I mean, the government moves slow, but not that slow.

Mr. Bungard said, I do recall when I first got here the initial concern was would it be starting before Christmas and everybody kind of wanted us to the delay, and we did, but the plan is to in fact start turning dirt pretty soon.

Chairman Hair said, the Chair will entertain a motion. Commissioner DeLoach said, move for approval. Commissioner Odell said, second. Chairman Hair said, motion and second. All those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner DeLoach moved to approve the request to authorize the Chairman and Clerk to sign an application for a traffic signal permit from GDOT for the Pooler Parkway/U.S. Highway 80 Interchange. Commissioner Odell the motion and it carried unanimously.

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**6. REQUEST BOARD APPROVE EARLY ACQUISITION OF PROPERTY OWNED BY MR. AND MRS. JAMES STRICKLAND, 9301 WHITE OAK ROAD, TRUMAN PARKWAY PHASE IV.
[DISTRICT 1.]**

ACTION OF THE BOARD:

Commissioner Price moved to approve the early acquisition of property owned by Mr. and Mrs. James Strickland, 9301 White Oak Road, Truman Parkway Phase IV. Commissioner Odell the motion and it carried unanimously.

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7. **REQUEST BOARD ENTER INTO A SUPPLEMENTAL AGREEMENT FOR MODIFICATION OF CONTRACT HAR 20-00-005 TO EXPAND THE SCOPE OF WORK WITH NO INCREASE IN CONTRACT AMOUNT (\$1,825,000) AND EXTEND THE COMPLETION FOR CONTRACT HAR 19-00-005 WITH GDOT.**

ACTION OF THE BOARD:

Commissioner Price moved to approve the request to enter into a Supplemental Agreement for modification of contract HAR 20-00-005 to expand the scope of work with no increase in contract amount (\$1,825,000) and extend the completion for contract HAR 19-00-005 with GDOT. Commissioner Odell the motion and it carried unanimously.

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8. **REQUEST FOR NEW LICENSE FOR SUNDAY SALES OF BEER, WINE AND LIQUOR POURING FOR 1998. PETITIONER: RAYMUNDO L. JAIME, D/B/A EL POTRO MEXICAN RESTAURANT #14, LOCATED AT 7 GATEWAY BOULEVARD. [DISTRICT 6.]**

ACTION OF THE BOARD:

Commissioner Price moved to approve the request of petitioner, Raymundo L. Jaime, d/b/a El Potro Mexican Restaurant #14, located at 7 Gateway Boulevard, for a new license for Sunday sales of beer, wine and liquor pouring for 1998. Commissioner Odell the motion and it carried unanimously.

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9. **REQUEST RENEWAL OF SUNDAY SALES OF BEER AND WINE POURING LICENSE FOR 1998 FROM THE FOLLOWING:**
- A. **PETITIONER: JOHN GERACA, D/B/A GIOVANNI'S ITALIAN RESTAURANT, LOCATED AT 1 FORT ARGYLE ROAD. [DISTRICT 6.]**
 - B. **PETITIONER: MICHAEL J. BYRNE, D/B/A DEER CREEK CLUB, LOCATED AT 1 DEER CREEK ROAD. [DISTRICT 4.]**
 - C. **PETITIONER: MICHAEL J. BYRNE, D/B/A PLANTATION CLUB, LOCATED AT 1 COTTONWOOD DRIVE. [DISTRICT 4.]**
 - D. **PETITIONER: MICHAEL J. BYRNE, D/B/A MARSHWOOD CLUB, LOCATED AT 1 PALMERS DRIVE. [DISTRICT 4.]**
 - E. **PETITIONER: MICHAEL J. BYRNE, D/B/A OAKRIDGE CLUB, LOCATED AT 11 WESTCROSS, THE LANDINGS. [DISTRICT 4.]**

ACTION OF THE BOARD:

Commissioner Price moved to approve the request for renewal of Sunday sales of beer and wine pouring license for 1998 from the following: (1) Petitioner: John Geraca, d/b/a Giovanni's Italian Restaurant, located at 1 Fort Argyle Road; (2) Petitioner: Michael J. Byrne, d/b/a Deer Creek Club, located at 1 Deer Creek Road; (3) Petitioner: Michael J. Byrne, d/b/a Plantation Club, located at 1 Cottonwood Drive; Petitioner; (4) Michael J. Byrne, d/b/a Marshwood Club, located at 1 Palmers Drive; (5) Petitioner: Michael J. Byrne, d/b/a Oakridge Club, located at 11 Westcross, The Landings. Commissioner Odell the motion and it carried unanimously.

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10. **REQUEST BOARD APPROVAL TO RENEW THE DATE IN *ITEM I. TERM OF AGREEMENT*, OF THE CONTRACT BETWEEN CHATHAM COUNTY AND THE SAVANNAH HOCKEY AND SKATING ASSOCIATION.**

Commissioner Jackel asked, Mr. Golden, are you satisfied with all of this? And the bridge is going to be alright for the concrete trucks and stuff? Commissioner Price said, he recommended it. Commissioner Jackel asked, are you satisfied with what's going on there and the bridge is going to be okay for the concrete trucks?

Mr. Jim Golden said, yes, we had a problem with the weight limit for the bridge, Mr. Chairman, and that problem has been solved because we had it inspected for cement trucks to come across, but we are evaluating the cost. It will be rebid and come back and any changes and additions overrides, we'll make a recommendation to the Board. Commissioner Jackel said, thank you.

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Chairman Hair said, the Chair will entertain a motion. Commissioner Price said, so moved. Chairman Hair said, I have a motion. Commissioner Odell said, second. Chairman Hair said, second. All those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, thank you.

ACTION OF THE BOARD:

Commissioner Price moved to approve the request to renew the date in *Item 1. Term of Agreement*, of the contract between Chatham County and the Savannah Hockey and Skating Association. Commissioner Odell the motion and it carried unanimously.

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11. REQUEST BOARD APPROVAL TO AMEND THE UNFUNDED C.I.P. TO ADD BOARD OF EDUCATION, CITY OF SAVANNAH PROJECT AT HESSE ELEMENTARY SCHOOL.

ACTION OF THE BOARD:

Commissioner Price moved to approve the request to amend the unfunded C.I.P. to add Board of Education, City of Savannah project at Hesse Elementary School. Commissioner Odell the motion and it carried unanimously.

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12. REQUEST BOARD APPROVAL TO AWARD BIDS AS FOLLOWS: (Please note that new purchase thresholds of \$10,000 or more have been enacted; however, contracts and change orders of a lesser amount still will appear.)

ITEM	DEPT.	SOURCE	AMOUNT	FUNDING
A. Annual contract, with option to renew for two additional one-year terms, to provide concessions at the sport complexes	Recreation	Moonwalk of Savannah d/b/a Fun Time	62.75% gross sales paid to the County	Revenue Producing
B. Reject all bids for Safety Incentive Program Services	Finance			
C. Final renewal option to annual contract to install conduit and County-provided cable on an as-needed basis	I.C.S.	Delta Electric	All terms and conditions remain the same	•General Fund/M & O - Various Departments •SSD - Various Departments
D. Final renewal option to annual contract to provide electrical maintenance and repair services	Various Departments	•SAMCO •Joyner Electric	All terms and conditions remain the same	•General Fund/M & O - Various Departments •SSD - Various Departments
E. Annual contract, with option to renew for two additional one-year terms, for ammuniton	Police, Sheriff and CNT	•Gulf States Distributors •Master Cartridge Corp. •G.T. Distributors, Inc. •Southeastern Public Safety	See staff report	•SSD - Various •General Fund/M & O - Various •Confiscated Funds - Various
F. Annual contract, with option to renew for two additional one-year terms, to provide reprographic and reproduction services	Engineering	Coastal Reprographics & Supply, Inc.	\$24,210 (estimated)	•SSD - Engineering •CIP - Various •SPLOST - Various
G. Annual maintenance agreement on F.M.I.S. software licenses	I.C.S.	Pentamation	\$23,486.21	General Fund/M & O - I.C.S.
H. Confirmation of acceptance of a tender offer to provide, at no additional cost to the County, of a completion contractor for the Burnside Island drainage project	Engineers	Nobel Insurance Company, Inc. (Bonder)	n/a (no cost to the County)	n/a

ITEM	DEPT.	SOURCE	AMOUNT	FUNDING
I. Confirmation of award of an interim contract for County's insurance agent/consultant until the competitive selection of an agent/broker	Finance (Risk Management)	The Karoly Agency, Inc.	\$2,500 per month	General Fund/M & O - Insurance and Surety Bond Premiums

ACTION OF THE BOARD:

Commissioner Price moved to approve Items 12-A through 12-I. Commissioner Odell seconded the motion and it carried unanimously.

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XI. FIRST READINGS

Proposed changes to ordinances must be read or presented in written form at two meetings held not less than one week apart. A vote on the following listed matters will occur at the next regularly scheduled meeting. Comments, discussion and debate from members of the public will be received only at the meeting at which a vote is to be taken on one of the following listed items.

NOTE: Copies of items 1 through 6 are not provided in this agenda packet. See enclosed status report dated the 29th of January from Dr. Smith.

- 1. TO ADOPT "AN AMENDMENT TO THE EMERGENCY MANAGEMENT ORDINANCE OF CHATHAM COUNTY TO MODIFY CERTAIN PROVISIONS IN ACCORDANCE WITH THE GEORGIA EMERGENCY MANAGEMENT ACT AND ANY AMENDMENTS THERETO; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES;" AND TO APPROVE THE ACCOMPANYING "DECLARATION OF EMERGENCY" AND "DECLARATION OF EFFECTIVE ORDINANCES DURING EMERGENCY" FORMS. Hold on first reading until response is received from each of the municipalities.**

ACTION OF THE BOARD:

First reading held until response is received from each of the municipalities.

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- 2. TO ADOPT "AN AMENDMENT TO THE EMERGENCY MANAGEMENT ORDINANCE OF CHATHAM COUNTY TO PROHIBIT PRICE OVERCHARGING DURING EMERGENCIES; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES." Hold on first reading until response is received from each of the municipalities.**

ACTION OF THE BOARD:

First reading held until response is received from each of the municipalities.

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- 3. TO ADOPT AN AMENDMENT TO THE EMERGENCY MANAGEMENT ORDINANCE OF CHATHAM COUNTY TO ALLOW FOR TEMPORARY MOBILE/MANUFACTURED/INDUSTRIALIZED HOMES, TRAVEL TRAILERS, RECREATIONAL VEHICLES, AND MOBILE/MANUFACTURED/INDUSTRIALIZED HOME PARKS IN ANY ZONING DISTRICT DURING EMERGENCIES; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES. Hold on first reading until response is received from each of the municipalities.**

ACTION OF THE BOARD:

First reading held until response is received from each of the municipalities.

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- 4. TO ADOPT AN AMENDMENT TO THE EMERGENCY MANAGEMENT ORDINANCE OF CHATHAM COUNTY TO ALLOW FOR EMERGENCY BUSINESS LICENSES; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES. Hold on first reading until response is received from each of the municipalities.

ACTION OF THE BOARD:

First reading held until response is received from each of the municipalities.

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- 5. TO ADOPT AN AMENDMENT TO THE EMERGENCY MANAGEMENT ORDINANCE OF CHATHAM COUNTY TO ALLOW FOR EMERGENCY BUILDING PERMITS; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES. Hold on first reading until response is received from each of the municipalities.

ACTION OF THE BOARD:

First reading held until response is received from each of the municipalities.

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- 6. TO ADOPT AN AMENDMENT TO THE EMERGENCY MANAGEMENT ORDINANCE OF CHATHAM COUNTY TO PROVIDE A CURFEW AND CLOSED OR RESTRICTED AREAS DURING EMERGENCIES; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES. Hold on first reading until response is received from each of the municipalities.

ACTION OF THE BOARD:

First reading held until response is received from each of the municipalities.

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- 7. PETITIONER, SANDY DIXON, IS REQUESTING THAT THE COUNTY ZONING REGULATIONS, STREET CLASSIFICATION MAP NO. 1, BE AMENDED TO RECLASSIFY ROBERT B. MILLER ROAD AS A COLLECTOR. THE MPC RECOMMENDED THAT THE REQUEST BE APPROVED.
MPC FILE NO. 97-11983-C
NO DISTRICT/TEXT AMENDMENT

ACTION OF THE BOARD:

Read into record as first reading.

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- 8. THE PETITIONER, VAWN L. SCHROLL, AGENT (FOR GLADYS M. WISE, OWNER) IS REQUESTING THAT A 2.5-ACRE TRACT OF LAND LOCATED ON THE SOUTH SIDE OF JOHNNY MERCER BOULEVARD ON WHITEMARSH ISLAND, BE REZONED FROM P-R-A (PLANNED RESIDENTIAL-AGRICULTURE) TO A P-BN-1 (PLANNED NEIGHBORHOOD-BUSINESS-LIMITED) ZONING CLASSIFICATION IN ORDER TO ESTABLISH A COMMERCIAL PERSONAL SERVICE SHOP (HAIR STYLIST). THE MPC RECOMMENDED THAT THE REQUEST BE DENIED AND THAT A TEXT AMENDMENT TO THE R-A CLASSIFICATION TO ALLOW PERSONAL SERVICE SHOPS BE APPROVED.
MPC FILE NO. 97-112004-C
[DISTRICT 4.]

ACTION OF THE BOARD:

Read into record as first reading.

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XII. SECOND READINGS

- PETITIONERS, HILDA WHITAKER, FRANK L. BOURNE, JR., JAMES SHEPPARD, RONALD KOLMAN, MARTIN J. HEIMES AND MARIANNE M. HEIMES, ARE REQUESTING THAT THE TEXT OF THE CHATHAM COUNTY ZONING REGULATIONS BE AMENDED BY REPEALING THE CURRENT ORDINANCE AND ENACTING A NEW ONE IN ITS PLACE. GIVEN THE MAGNITUDE OF THIS UNDERTAKING, THE MPC RECOMMENDED THAT THE REQUEST BE APPROVED AND THAT THE COUNTY FUND THE ACTIVITY AS A LINE ITEM IN THE NEXT TWO YEARS' BUDGETS. NOTE: ITEM WAS TABLED AT MEETING OF JANUARY 23, 1998. SEE ADDITIONAL STAFF INFORMATION INCLUDING A REPORT FROM THE COUNTY ATTORNEY AND OPTIONS FROM MPC STAFF.
MPC FILE NO. 97-11982-C
NO DISTRICT/TEXT AMENDMENT/UNINCORPORATED AREA**

Chairman Hair said, this item was tabled. If we want to discuss it, we have to take it off the table. I hear no motion to take it off the table. Commissioner Murray asked, we have to take it off the table? Chairman Hair said, we have to take it off the table to discuss it. Commissioner Murray said, alright, I'll do that. Chairman Hair said, we have a motion to take it off the table. Do I have a second? Commissioner Thomas said, second. Chairman Hair said, second. All those in favor of taking it off the table vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Jackel was not present.] Chairman Hair said, the motion passes.

Commissioner Murray said, my reason for taking this off the table was to find out if, in fact, we have had time for staff to do anything on this and where it stands. Mr. Abolt said, yes sir. It's in your packet, sir. You had two questions last time: What options might you have to fund it and the other is legally, I believe Mrs. Whitaker raised the question, could building permit fees in that budget defray the cost of the study? In your packet you have an opinion from Mr. Hart which, in effect, says that option is not available to you. As far as other options, Mr. Newton has put together four in number, which gives you the full array of options to do it either through a consultant or down by just doing it through staff. I've also confirmed with Mr. Newton that the overall cost of the study, the expectation would be that 50% of it would be paid for by the County whatever the study might be, as well as the balance 50% coming from the City of Savannah.

Chairman Hair said, my only concern with this, if we vote on this today, I think the only way we can vote on this today is if we can move forward, is for them to take it out of their existing budget. We do not have a budget item for this. I said this two weeks ago. We have no money in the budget for this, and if the MPC can do it within their existing budget, I have no problems moving forward on this. This is certainly something that needs to be done, but we do not have money in the budget and I don't think this is the kind of thing we should take contingency funds for, and so if we act on it today, I would hope we act on it only to the extent that we would require MPC to do it within their existing budget.

Commissioner DeLoach said, in our discussion or in the information that was sent to us from Jon [Hart], what did —, elaborate on what you said about it whether it could or couldn't be done.

Mr. Hart said, this has been subject to a previous County Attorney's opinion several years ago about what could happen to the regulatory funds that are collected by the Department of Inspections and that time the monies that were being collected were just being dumped over into the general revenue. At that time a decision was rendered that those had to be specially segregated funds since they were regulatory funds. Now —. Commissioner DeLoach said, okay, where did that, where did that happen then? Mr. Hart said that happened approximately two years ago when a question came up about budgetary matters. There are two Code sections that deal with regulatory funds. It's 48-13-5 and it talks essentially that regulatory funds must for the administration of the particular service involved and it specifically excludes as part of those administrative services other costs and conditions regarding zoning of land and land development. So we can't declare those an administrative service. Additionally, the regulatory fees that we charge in Inspections have to be reasonably or approximately related to the cost of the regulation.

Commissioner DeLoach said, let me ask you this. I understand the direct —, I understand your opinion about it. I'm just wondering, is this a management —, is this management of the existing regulations or can it —, is there any way to interpret this to be a management function rather than a zoning function because we have to have a set of zoning guidelines to manage the County? Now, if this is not an attempt to set us up a set of zoning guidelines to manage the County, there is no way in the world it can be interpreted any other way as far as, you know, just for me being up here guessing, and I'm sure you've got more privy to it than I do, but to me, as a lay person, the only way I can do zoning in Chatham County is to look back on what we have laid out as what we feel like the zoning matters should set up and be. This right here is an attempt to set up those zoning matters so that we up here, or whoever comes behind us, will have a set of rules to go by. Now that is management as far as I'm concerned because it enables anybody who's sitting here to read and decide from that point on what Chatham County's going to do. Now I feel like, and I understand in your interpretations and some other interpretations that if we need an opinion from the General —, I mean, from the Attorney General, we can get one, you know, or we could apply for one and ask for one and eventually we'd get one, but to me I feel like we should approach it as to let's go ahead and do this and if there's a problem with it, let the Attorney General tells us there's a problem with it because to me I understand this is as a management process. I mean, just plain and simple, I'm going to manage the County, I'm going to set up a set of guidelines, this is what I'm doing. I can pay for this out of the fees that are charged to the different companies, one of them being myself, to get this done. Now can I do that? Does that make sense?

Mr. Hart said, well, what you —, you put yourself —, you put your finger on the question of concern about the regulation and I think it's a legitimate question, Commissioner DeLoach, but the statutory language is very clear that a regulatory fee may not include an administrative fee, okay. This is a regulatory function, and taking —, setting aside money to rewrite the zoning ordinance specifically would be more administrative certainly than anything regarding the regulation of anything that that fee was designed to do. Commissioner DeLoach said, I feel like that's more an interpretation of what administrative is. I am not saying the everyday function of the MPC or the staff or anything else. That is what —, to me, that's what that says, administra-

tive. Management is another subject, and this to me sets a set of guidelines to help us manage Chatham County. Administratively, I understand, we can't take money and pay for any of our staff to actually do the function of the work. I understand that, but to me I think it's an interpretation that I feel like we should interpret it as a management tool that can be paid for by the, you know, by the regulatory fees and go ahead and do it. If there's a question of it later, then we've already got the set of plans. We're going to have to do it anyway. Why not go ahead and do it, go ahead and start the process. If in fact we do have to pay for it out of some other funds, then we have to pay for it, but, one, we want to do this, as the Chairman, you know, he realizes and we all realize that we need to do this. Let's go ahead and let us interpret this as this is a management tool and we're going to fund it with regulatory fees, pay for it in that direction. If the Attorney General or someone else goes toward and takes us to court on it, and we get a ruling otherwise, well we're already down the road a year and we can pay for it some other way. Is that a good approach to this?

Mr. Hart said, well, I would agree with what you're saying, Commissioner DeLoach, except for the specific language in that Act has an exclusion in it, other than the cost and conditions of zoning and land development, and it seems to specifically exclude that use. I recognize that you're saying, what do you call administrative and what do you call regulatory, and I understand that one person may view that one way and someone may view it the other, but that's been a pretty consistent interpretation of this particular Code section and I could not find any other county that would interpret it otherwise, but, you know, if you want an Attorney General's opinion, I'd be willing to try to do that also. I understand the Commission wants to do this and we tried to look at it that way.

Chairman Hair said, my concern with Commissioner DeLoach's approach is that I think it would not be prudent for us to vote on something against our own lawyer's ruling, and again if we want an Attorney General's ruling, I have no problem with that. We can delay that until we get an Attorney General's ruling, but to go out there and deliberately go against —, vote against our legal opinion, I think would not be very wise to do because at some point in time if he ruled against us, we would have to find money, which means we're going to have to cut something else and that's going to be something very critical. I just don't think that's a good way to do business. If we want an Attorney General's ruling, if Commissioner DeLoach doesn't agree with our lawyer, there's nothing wrong with requesting an Attorney General's ruling, but if we're going to do that we need to delay it until we get that ruling. I don't think we should proceed against our lawyer's advice. I think that would be very unwise. Commissioner Murray and then Commissioner Jackel.

Commissioner Murray said, I agree with Commissioner DeLoach, but at the same time I would feel a lot more comfortable if we had that opinion from the Attorney General first and I request that we do that.

Commissioner Jackel said, I tend to agree with Commissioner DeLoach too. I don't see this as an administrative fee. In no way do I see this as an administrative —. Commissioner DeLoach said, it's a great deal there. That's a hard one to call.

Chairman Hair said, maybe we should table it and get an Attorney General's ruling, direct staff to get an Attorney General's ruling and wait until we get that.

Commissioner Jackel said, what I want to know is how can we possibly do this. I mean, there's [inaudible], they tell me so. How can we possibly do this and still be within as you see the regulations? Mr. Hart said, we've got to be able to show two things. Number one, you've got to have it declared not to be an administrative fee, but a regulatory fee, and then you're going to have to demonstrate that regulatory fee is connected to the Department of Inspections. Now the MPC sitting over there redrawing our zoning ordinance, it may be a stretch to say that that has some causal connection to the regulatory fee. Your regulatory fees must be set for the reasonable cost of what it takes to regulate whatever that fee is set for. Commissioner Jackel said, but drawing regulations is part of what it takes to do it. Chairman Hair said, but doing that would be administrative. Commissioner DeLoach said, that's my only hold right there, that's where I want to go with this.

Chairman Hair said, alright let's table it until we get an Attorney General's ruling and —, okay. Commissioner Rivers said, I move that we table that. Commissioner Price said, second. Chairman Hair said, alright. We have a second. All those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes. Thank you.

ACTION OF THE BOARD:

1. Commissioner Murray moved that this item be untabled for consideration by the Board. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Jackel was not present.]
2. Commissioner Rivers moved that staff be and is hereby directed to seek an opinion of the Attorney General and that the petition of Hilda Whitaker, Frank L. Bourne, Jr., James Sheppard, Ronald Kolman, Martin J. Heimes and Marianne M. Heimes, requesting that the text of the Chatham County Zoning Regulations be amended by repealing the current ordinance and enacting a new one in its place be tabled until the Attorney General's opinion is received. Commissioner Price seconded the motion and it carried unanimously.

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2. **PETITIONER, J. DANIEL FALLIGANT, AGENT (FOR THE SAVANNAH PRESBYTERY, INC., AND JACK STAFFORD, OWNERS) IS REQUESTING THAT TWO PARCELS LOCATED ON THE NORTHEASTERN CORNER OF KING GEORGE BOULEVARD AND ABERCORN STREET BE REZONED FROM THE CURRENT PUD-C (PLANNED UNIT DEVELOPMENT-COMMUNITY) TO A PUD-B(B-N) (PLANNED UNIT DEVELOPMENT-BUSINESS: NEIGHBORHOOD BUSINESS) CLASSIFICATION TO ALLOW THE DEVELOPMENT OF A GROCERY STORE AND SMALL NEIGHBORHOOD RETAIL CENTER. THE MPC RECOMMENDED APPROVAL.
MPC FILE NO. 97-11970-C
[DISTRICT 7.]**

Chairman Hair said, Mr. Saxman, before you start, this is going —, I know there's a lot of people in the audience that want to talk on this issue, and everyone will have every opportunity to say everything they want to say. I will ask that to speed this along though that, if you represent a group, that you would speak for the group and you can ask for a show of the hands out there of the people that support your position. I'm going to ask everybody that comes in the well to be very brief. We will allow anybody to say anything they want to say, but I am going to ask you to keep it to the point. Most of the Commissioners up here, all the Commissioners up here are very familiar with this issue. There's probably not going to be anything you're going to say in the well this morning that we haven't already heard four times, and so there's no need for us to sit here and hear it the fifth time, and while we don't want to limit debate, at the same time we don't want to be here until nine o'clock at night hearing the same thing over and over. So I would ask everybody to exercise those rules please. Commissioner DeLoach asked, anybody talk to you about this yet? Chairman Hair said, we probably could take a vote now without any discussion, but —, Mr. Saxman?

Mr. Bill Saxman said, Mr. Chairman, members of the Board, I'll give a real brief discussion of what's taken place up to the date of filing of the petition. Back in '96, there was a petition filed to amend the Georgetown master plan. The ordinance is written as such that the master plan is approved and amended by the Planning Commission. The master plan was requested to be amended in '96. There were some issues and a series of actions were taken and it actually ended up in the courts. As you have indicated, you're probably aware of all that, but in summary the courts have ruled that the petitioner in this case could not have a site plan approved by the master plan, or amendment to the master plan, to change it from institutional to a commercial classification in order to establish the use they wish to put on the property and that the process would be they'd have to go through Section 11 of the County Code, which is basically the standard zoning procedures. They could go in and ask that PUD-B-C be rezoned to another classification. They have asked for a PUD-B-N, which is a Planned Unit Development-Business Neighborhood classification. That is a more restricted classification basically, which is laid out on the Georgetown master plan [inaudible]. The PUD-B type zoning out there is a community business type zoning. There is one small area which is B district, which is heavier commercial, which is down on Grove Point Road, but in summary the Planning Commission has recommended approval of modifying the zoning on that northeast quadrant from a current PUD-C to a PUD-B-N classification to allow the proposed use and that is to be handled just as a similar zoning petition before any other zoning action. Based on the judge's ruling, the Planning Commission cannot hear an amendment to the master plan unless it's in support of or being supported by the developers of that particular PUD-C district. In this particular case, the developers of that PUD-C are opposing this particular change in land use plan, and the only option for this zoning process is a zoning change. They [inaudible] any particular questions. The Planning Commission did go through with the normal review as far as traffic and impact on the surrounding neighborhoods, they had a general site plan they looked at, which the general site plan they felt was compatible with the area. If the zoning in this case was changed, they felt that that area would not be adversely affected by the activities that are proposed. And with that I'll answer any questions. They did go through the seven series of issues as far as the alternatives of whether or not this is compatible and those seven standards, which are required by State law, were addressed and included in your report. I'll reiterate, if you have any questions, I'll try to answer them.

Commissioner Jackel said, I had some information that this thing was also in front of the MPC on the 3rd of June of 1997, it was denied. Mr. Saxman said, that was the site plan issue, right. Commissioner Jackel said, [inaudible] brought back with. Mr. Saxman said, well, it was filed as a zoning petition this last time. The judge ruled when the injunction was put on the process back after the June decision by MPC to deny the change of the land use classification, when it went to court, and then the judge ruled that the Planning Commission had no right to review that kind of action. As a matter of his interpretation, that the only way they could have the property changed was to go through a zoning process, which they are going through now, and he did specifically exclude that action —, included that action with the only option that the developer had to check with the County Attorney's staff at the time, and they agreed that this is a legal petition before the Board.

Chairman Hair said, and it doesn't violate the one-year provision. Mr. Saxman said, right. Chairman Hair said, okay, Commissioner Murray.

Commissioner Murray said, well, it's not really a question. I think it's something that probably needs to be addressed in this particular issue. We haven't really practiced it over the last several years, but a good many years ago this Commission approved a policy that we would speak if in fact we had discussed this particular zoning issue or any zoning issue with any of the parties involved in it, and, yes, I have. I had Phillip McCorkle —. Commissioner Price said, I did too. Commissioner Murray said, and Danny Falligant came by my office and they did discuss that with me. It is not going to influence my feeling one way or the other as far as the project goes, but I just think we need to bring those forward to clear the air for anybody that might be in the audience.

Chairman Hair said, we should do that. I also received a telephone call from Mr. Friedman. I returned his call and I did not talk to him, but I did receive a phone call from him. Commissioner Odell said, I talked to three people on both sides. Chairman Hair said, okay. So now that we have full disclosure. [Several other Commissioners began speaking at the same time indicating that they too had spoken with the parties.] Commissioner Murray said, I think that's just something we approved a good many years ago. I think it's something we need to start bringing up on any zoning issue.

Chairman Hair said, our process in the past has been that we always allow the petitioner to go first and then anyone opposing this will certainly have ample opportunity to oppose it and then any type of rebuttal that will be necessary we will allow that. Mr. McCorkle, you and Mr. Falligant will go first.

Mr. Phillip McCorkle said, thank you, Mr. Hair. My name is Phillip McCorkle. I represent Asbill Christopher Developers, which are the folks out of Columbia, South Carolina, that would like to build a small neighborhood shopping center on this corner. It would have 34,000 square feet for a small neighborhood Piggly-Wiggly and 6,000 square feet for associated retail. I think I'll just put this here in front and I'm not going to belabor the site plans with another site plan review. It's a zoning request, but that's what the center would look like on the corner. This is King George this way and Abercorn that way [indicating] and that would, of course, be the center. It's fairly straightforward, and I will be as brief as I can be without prejudicing my client's position or rights. I want to, as a matter of law again, and you've heard this before, and it's always awkward, but I want to put my objection, constitutional objection into the record so that if there's any question that anybody has any doubt how my client feels about this and how the church feels about it, that I've made it clear. We feel that the zoning regulation that's applied to this piece of property at this time, which only allows institutional-professional uses under our master plan of the PUD-C zone, deprives them of adequate compensation in violation of both the State and Federal Constitutions. It deprives them of their

due process rights under the Fourteenth Amendment of the Constitution, and does not bear a substantial relation to the public health, safety, morality or general welfare. In addition, the zoning ordinance as applied to our property is arbitrary and capricious and also violates, by being arbitrary and capricious, due process and equal protection clauses of the Fourteenth Amendments of the United States Constitution and also the State Constitution, and finally, our appearance before this body does not waive our client's right to assert the position that the entire zoning ordinance is unconstitutionally vague because of a lack of proper maintenance of the official zoning maps. So with those three notifications, and I'm going to give the Clerk a copy of this just so she can attach it to the minutes, we will actually get down to the issue now that I have reserved my client's rights, and I apologize for having to do that, but I have no choice.

Mr. McCorkle said, there's been a good bit of discussion with regard to restrictive covenants. I want to bring that issue onto the floor and tell you what we think and what the law says about restrictive covenants versus zoning. I'm quoting from Section 57.02 of *Rathkoff on Zoning and Planning*, which is the treatise that people turn to when they have zoning issues, and quoting from that section, it says: "Pursuant to the principle that zoning and covenants operate independently, courts hold that the existence of a restrictive covenant has no relevance to the question of whether a zoning restriction is valid. A rezoning of land has no affect upon restrictive covenants burdening the land and, conversely, restrictive covenants have no affect upon the validity of a rezoning." The most restrictive always will apply. There's plenty of Georgia law on this, as Mr. Hart will tell you. If you have covenants that allow A and B and you have zoning that only allows A, then you can only do A. If you have —, if it's opposite, then you can only do A because of the covenants, not the zoning, whichever is the most restrictive will control the use of the property. The owner of property, if he is subject to covenants and subject to zoning, has to deal with both of those issues, and we are attempting to deal with the zoning issue today. The covenant issue, as you've all been informed, I know, is still in the breast of the court, as we say. The court has not ruled as to whether the Georgetown Associates, Mr. Friedman's partnership, has any rights at all and some restrictive covenants were in fact filed in 1974. Our position is that we would hope that you would deal with the zoning issue today and let the court deal with the covenant issue at the appropriate time. I know also that Mr. Portman, I know he's not doing this to intentionally mislead this Commission, but he's repeatedly said, and I believe he's prepared to say today that these covenants were placed on this property, and I'm talking about covenants that were recorded in 1974 that limited the corner being bought by the Savannah Presbytery, to religious and educational uses. He's been saying that those covenants were placed there because they were required by the PUD zone, that there's some language in the PUD zoning ordinance that says that if you do a specific site plan, you've got to record some restrictive covenants. Well, there's two problems with that argument. One is it flies in the face of a clear reading of the ordinance itself. And you know how planned unit developments work, you've seen those. You get a general development plan, the County Commission approves the zoning with the general development plan. You go in with a specific site plan to the MPC and you might say, well, we're going to leave 25 feet of open green space, so we want to build an 8-ft. high wall, or whatever you might want to do to assure the adjoining property owner that you're going to in fact protect their property. And from time to time there is a law in effect now that says they can require you to record covenants to make you do those things. That's the best way to assure that they will be done. It says here, as a condition —, this is in Section 4-6.62 of the zoning ordinance, and I'm sure this is where Mr. Portman's getting his opinion, as a condition for approval by the Metropolitan Planning Commission of the final plan for a development within a PUD district, the developer shall record protective covenants in the property protecting buffered easements, permanent open spaces and site development according to the approved plan. All those clearly are site development issues, not use issues. Use issues are not required or dictated by this requirement for restrictive covenants. And then over in 4-6.64 it says when you record the final development plat with the Clerk of Court, you will show the location of the required buffers, permanent open space, along with any protective covenants that apply. That's the other place it's mentioned. So, clearly, it's intended to assure the MPC and the adjoining owners who might have some concern that you're going to do what you said you were going to do with regard to buffers and site plan issues, not use issues. Even more importantly than that, however, you cannot argue that the ordinance that's in effect today applied to the covenants that were recorded in 1974. I've got copies for all of you if you want them, but the fact is that the ordinance that controls it is 4-6.6, and the following sections, where the language that I just read to you was adopted, that ordinance was not adopted until 1984, which was 10 years after these covenants were placed on record by Georgetown Associates when they sold the property to the Presbyterian Church. So it's wrong to say that those covenants were placed in response to a requirement in the ordinance because the ordinance did not require anything with regard to covenants and did not mention covenants in 1974. So there is no causal connection, there is no reason or there's no contract, as I heard Mr. Portman say, between the County, the MPC, and the developer, and they're not trying to satisfy a requirement of an ordinance because clearly it did not exist until 10 years after those covenants were recorded. So, they're absolutely unrelated. In fact, because of what I just told you, and as a matter of law because of what I —, of the general rule of law that I read you from the *Rathkoff* treatise.

Mr. McCorkle said, to talk to you a few more minutes, and the actual discussion that I had with regard to normal zoning issues is very brief, but I do need to go over a couple more things with regard to the covenants and the zoning. The covenants, as I've already said, that were recorded in 1974, restricted property to religious or educational purposes. The covenants, the law on covenants, and this is again in the breast of the court. Judge Mikell has to decide this issue, but our position has always been since 1994 that the covenants had expired, and even if they hadn't expired, Mr. Friedman assigned the right to enforce and modify the covenants to the Georgetown Homeowners Association at some point, as developers often do. And we went through a long process this time last year, and the association after a public hearing, a straw vote, a vote by the Architectural Review Board, a vote by the regular board, the association in Georgetown approved a change in use to allow the neighborhood shopping center and the grocery store. We gave them some approval rights over what type of uses could go into the retail space, so we went through a process. So even if the covenants had not expired, which we maintain they have, there's been a process through the homeowners association, who has been delegated that authority, that has now changed those covenants. So, again, to encourage this Commission to weigh the judgments on the covenants, is just ingenious because covenants don't really apply. Even if they did apply, we'd go through the same process that Mr. Friedman, the President of Georgetown Associates, went through in 1993.

Commissioner Murray said, I understand that the covenants side of it. We as a Commission cannot address the covenants. Mr. McCorkle said, right. Commissioner Murray said, we have to address the zoning issue only. The covenants have nothing to do with us as a Commission. Now I understand, and I appreciate you explaining that part of it, but I really don't think we need to go into any depth on either side about the covenants because that is nothing that we can make a decision on one way or the other. We have to decide on the zoning itself.

Mr. McCorkle said, I will move over to the zoning. Thank you, Commissioner Murray. We are here, as Bill Saxman said, on the covenant issue because the judge has indicated that that's what we should do. The order —, there's two places in the

order where he tells us if there's any discussion or dispute as to whether we have the right to be here on the zoning issue —, I want to make this very clear —, on page 18 of the judge's order and his findings, he says any party other than the developer. The original developer can still go back through the simple amendment to the master plan to get his use changes that he owns property in his development. If you're not a developer, if you desire a change in an approved land use plan for a PUD, including changes in PUD districts or the uses described for various portions of a PUD-C per Section Zoning Ordinance 4-6.68, you must apply to the —, not the MPC, but to the County Commissioners in accordance with Section 11 of the zoning ordinance, which is what we did. We've asked for a map amendment pursuant to Section 11 of the zoning ordinance, and finally the last sentence of his order, the judge told the MPC they could not consider anything that would create a change in the land use themselves. That's the only —, something that could be done by the County Commissioners, you people. So he continued the injunction against the MPC, but he said nothing in this order is intended to prohibit the MPC from considering such petition or applications if they are referred to the MPC by the County Commission for a recommendation pursuant to zoning ordinance Section 11. So, again, in the judge's order he has indicated —, he didn't say whether we should get it or not. That's not his job, but he said that's a zoning issue for the County Commission, and of course that's why we're here today. I know also there's been a lot of discussion about whether this issue should be tabled further, and this is the last comment I'm going to make before we get to the actual zoning issues. Whether it should be tabled or deferred waiting on the court to decide something about the covenants, as Mr. Murray said, we don't have any say-so in this body today as to what the court's going to do with regard to covenants, but let me explain to you how long it's going to take and the reason that we don't want to be deferred, our position is that a vote for some kind of tabling or deferral is a vote against the petition because we're going to be up here a year from now, at best. It will take approximately that long for the litigation on restricted covenants to play itself out. Just yesterday we had a —, the verbal argument on the motions that both sides have filed has been set for April 29th, and Judge Mikell may watch this telecast so I've got to be careful of what I say, but it will take normally several weeks after verbal argument or oral argument to get a ruling, so I would say, you know, June at the best we'll have his decision on the covenants and then, since the tactics by our opponent has been to delay us, delay us, delay us, I would assume there would be an appeal for six to nine more months is the normal period for the appeal, so we would be into February, March, April of next year before we ever have a decision on the covenants. It's just not fair to put us off when we're asking for a decision on zoning.

Commissioner Jackel said, suppose we go ahead and we approve your zoning. You can't move forward until the courts resolve your covenants. Mr. McCorkle said, that's correct. Commissioner Jackel said, okay. So he's not going to even have the hearing and then if he rules against you, you're going to appeal or the other side's going to appeal. It will be tied up until then. Mr. McCorkle said, correct. Commissioner Jackel said, so the delay's for a year anyhow. Mr. McCorkle said, correct. We don't want it to be delayed for two years. Commissioner Jackel said, so whether we table it or not it's delayed for a year, isn't that correct. Mr. McCorkle said, one year, but here's the rest of my statement, Mr. Jackel. Commissioner Jackel asked, is that not the situation? Mr. McCorkle said, that is half of the situation. Commissioner Jackel said, so the burden's not on us whether we delay it or not. It's going to be delayed by the court a year, as you're telling us. Mr. McCorkle said, that's half of the story. Commissioner Jackel said, that's not —, well, explain it. Mr. McCorkle said, the rest of the story is this. Commissioner Jackel said, okay. Mr. McCorkle said, let's assume that a year goes by and we've gotten a ruling favorable from Judge Mikell and we've defended ourselves on appeal and the covenants are no longer an issue. If you defer this issue until that time, then we've got to get back on the agenda up here, come up here and have a hearing that we should be having today a year from now, you people will make a decision, that can be challenged in court, that can go on for six months, that can be appealed. That's another year, year and a half. So all I'm saying is let's get the issues on the table today. If we win or lose today, more than likely somebody is going to join this issue into the pending litigation already in the breast of the court, and we'll have one year and not two and a half years to wait. That's the big difference. If you defer today, then you're just saying well we're going to take it one step at a time, but that's going to cost us a year and a half, and that's the tactic of the opposition, so a vote to delay in my opinion is a vote against this petition. I'd rather you vote against the petition. I could refile in a year if you're going to vote to delay it for a year. So there's a big difference. There's a good reason for you to vote today, a good reason. Commissioner Jackel said, my understanding is that if it's delayed by the court a year, at the time the court makes its final decision it could be on the next agenda and we could vote right then. Mr. McCorkle said, and then after you vote, there could be —, your vote can be appealed by either side that has standing. That will take six to nine months to reach a decision in another Superior Court case. That decision can be appeal to another court of appeals. That's another nine months. That's a year and a half. That's the reason. Commissioner Jackel said, okay.

Mr. McCorkle said, I'm going to move on to the zoning issue now. This is to me a fairly simple, I hope, zoning question. We are here procedurally proper. The Metropolitan Planning Commission has analyzed, the MPC staff, their Traffic Engineer, their planners have analyzed the petition. It has been before the Planning Commission. The Chatham County Zoning Administrator has also recommended approval. In all instances there has been a decision by the people who have looked at that corner that it is a good spot for a grocery store and associated retail space. Normal zoning issues are not, you know, is it fair to a guy who sold somebody land 24 years and put covenants on it. That's not a normal zoning issue. As a matter of fact, the criteria which is state mandated that you look at have to do with the neighborhood impact, traffic, services, future development of nearby properties and the master plan. Those criteria are in Chapter 11 of your Zoning Ordinance, which Judge Mikell referred us to. The summary of findings is included in pages 22 and 23 of your write-up sent over to you by the Planning Commission, and rather than me argue these normal zoning issues, I'll let the Planning Commission staff and the Planning Commission speak for me. The first two issues in the summary of findings have to do with —, excuse me, neighborhood, how does it impact the neighborhood. That's always a zoning issue. The first question is, will it adversely impact the livability or quality of life in the surrounding neighborhood? The staff of the commission said no. Secondly, will the proposed zoning district permit uses that will render the adjoining properties less desirable and therefore less marketable, and they said, no, it won't. Now we at one time had a disagreement with the only adjoining property owner. We are surrounded by two sides by streets, busy streets, and the other two sides by the interest of the Cobblestone Apartments and by Waterford Apartments themselves. We modified this plan. This is not the original plan we came up with, and this is the plan we will work with from this point forward, but at one point, for instance, our retention area, which is now here up on the corner back here near the Waterford Apartments. We did not have as much of a fence, we didn't have as much buffer. We didn't have any fence here [indicating]. The people that have an interest in the Cobblestone Apartments didn't like that. They wanted us back of our short fence, so we've in fact dealt with our adjoining land owners, have modified our plan and have in fact given them some money so they can plant trees and buffers and additional plantings and maintain those through the years to make our project compatible with their development. So —.

Commissioner Odell asked, Phillip [McCorkle], are the adjacent land owners here? Mr. McCorkle said, no. Dana Braun is here representing the adjacent land owners. Commissioner Odell asked, is it your position that they would support the project?

Mr. McCorkle said, absolutely. Mr. [Inaudible] I don't think it will take him long and he'll make that clear. Commissioner Odell said, I was just wondering. You had mentioned that and I was wondering if they were here. Mr. McCorkle said, well, Mr. Cotton [phonetic] was going to be here, who is the owner, the General Manager of the owner, or the President of the owner of Waterford Apartments, but he is flooded in in Virginia from the El Nino and he couldn't be here, so he had asked Mr. Braun to come in his place. Mr. Braun will speak for him.

Mr. McCorkle said, the staff's read on the neighborhood or on the buffers is that the separation of buffers required and proposed will protect adjacent property owners. So we really don't have a problem with our neighbors. Traffic issues. Will the proposed use create a type or mix of vehicular traffic that is incompatible? No, it won't, according to staff, and I think that's correct. Will the proposed zoning district create greater traffic volumes at the vehicular access points, which intersection and how you get in the project, to the detriment of maintaining acceptable or current volume capacity ratio for the streets? Now we all know that's a tough intersection out there, and the toughest we were just talking about getting it fixed a little bit. The toughest turn is a left-hand turn when you're headed out of town on Abercorn trying to get into the King's Grant area of Georgetown. This is a terrible, terrible movement. Now, of course, on our corner you don't have that movement, which is good, so if you put the grocery store on this corner, you have less difficult movements than your normal everyday traffic pattern and that's why Piggly-Wiggly frankly wants to go on this corner. People coming from town, if you'll remember, the new Veteran's Parkway, which has helped out Georgetown so significantly in development and now this corner merchant development comes in down here on Abercorn, people have then bypassed all the existing grocery stores and small retail areas. They'll come up Abercorn. Now if you want to go in this Piggly-Wiggly site on this corner, on the church corner, they right in and right out. They don't have any left-hand movements, left-hand movements. So that corner is a great corner for those folks. If you live on this side of Abercorn, it's obviously you go to the store to go home. Even if you live over here in the King's Grant side, it's probably better to avoid that left turn movement if you go in and get your groceries and go straight across, so you've avoided that incredibly difficult left turn movement. So it's a good corner for this use and that's why the Piggly-Wiggly really wants this use. The staff and the staff of the MPC Traffic Planner and the County Traffic Engineer have looked into the intersection. It says and their analysis is, the traffic analysis approved by the County Traffic Engineer states that the traffic generation from this small parcel would not create a significant increase in traffic congestion provided that certain roadway is proven [inaudible] by the developer are installed. They're going to make us put in some improvements, a bypass lane, they're going to make us probably go down from one entrance, which we would like, from two to one, and so they're requiring things other. As you know, those are normally worked out in detail on the site plan, and as we come in with a site plan, we'll make the improvements and with those then the impact on that corner is insignificant. Remember, under the zoning you could put offices there now, medical offices, that type thing. Office, professional uses, so the increases in peak hour from the uses allowed under the existing zone to a neighborhood retail use are not that great and that's one basis for the conclusion by the County Traffic Engineer. So you've got neighborhood, you've got traffic, you've got services and that's usually answered no in a developed area. Will this development require a greater level of public services, like utilities, et cetera, and the answer is no, there's plenty of services. The sixth one is, will this impede development in the area necessary to maintain the stability and livability of the neighborhood, and the answer is no. The last question is, is it in keeping with the land use plan. Well, on this one the staff well, you know, the land use plan is the PUB-C zone and on the PUB-C master plan that corner is supposed to be institutional-professional, so in fact this is a change from the master plan, but all zonings are changes from the master plan. You look at the issue, neighborhood. You look at the issues of traffic, you look at zoning, you look at services, and if it calls for a change, you make the change. So, you know, generally the answer to that question would be yes, it is a change from the land use plan. So I don't consider that as nearly as important as these six other issues that were looked at by the Planning Commission. I'm not going to talk anymore unless y'all have any questions. Mr. Braun is going to speak briefly for the adjoining land owners and Mr. Falligant is going to speak on behalf of the current owners and the neighborhood in general.

Commissioner Jackel said, this thing was brought up before and turned down. I'm very curious what changes were made to get the approval? Why was it turned down and what changes were made? Mr. McCorkle said, frankly the reason we lost it in June was Mr. Cotton was very articulate in expressing his concerns about the impact it would have on his apartment complex. If we had had another week or two to talk with Mr. Cotton —, the reasons are not worth getting into. He came into this very late. We didn't realize that he was not part of the Georgetown Association, had not been part of the public gatherings that we had all last winter, so he really didn't have knowledge of this. We had, of course, notified the manager of the apartments as part of the zoning process, but he had not gotten knowledge so he was —, he came in and was all upset, spoke very eloquently and we didn't win because of Mr. Cotton. So what changed is we changed the plan and satisfied Mr. Cotton's concerns and that's in my opinion why the outcome was different. Commissioner Jackel asked, and that's the only real change that occurred? Mr. McCorkle said, I think so. Commissioner Jackel asked, what about the previous time prior to that? Mr. McCorkle said, I don't know anything about that. Commissioner Jackel said, maybe someone from MPC can explain to me then what changed and what made it from not approved to approved.

Mr. Saxman asked, are you talking about the 1990 action? Commissioner Jackel said, I'm not sure. I just know it was done —. Mr. Saxman said, the action in 1990 where a developer came in and tried to get the entire strip along the eastern side of King George Boulevard change from an institutional classification to just a community business district under the PUD-C, but he had no plans and basically he was looking at it as possibly as a strip development, strip commercial development. When you start putting in the numbers as far as traffic generation and things of that nature under a PUD-C, which was asked for for a tract of land which was probably about twice or maybe a little larger than twice what's being asked for now, it had a lot more negative impact on traffic. Commissioner Jackel said, excuse me just for a second. I understand the first petition was filed in 1990, then there was a petition filed on November 27 of '96. Do you —? Mr. Saxman said, that was the one that initially started this action here. They withdrew one of them and came back in later on with a —. Commissioner Jackel said, okay, so that one was withdrawn then? Mr. Saxman said, that was for a change in the land use classification. Commissioner Jackel asked, and then there was another one filed on April 16th of '97? Mr. Saxman said, this is the same process that's been underway. Commissioner Jackel said, okay, so the plan had been modified to —. Mr. Saxman said, now you have a zoning issue before you where before the Planning Commission had a master plan amendment process before them. They're two different processes. Commissioner Jackel said, okay, so it's the Metropolitan's position now when we were changing a master plan you weren't in favor of that, but —. Mr. Saxman said, well the Planning Commission had recommended denial of that in June, and like Mr. McCorkle indicated, that was probably the main issue that made the difference. Commissioner Jackel said, okay, because it was a change in the master plan there was a denial, but now that it's a change in the zoning —. Mr. Saxman said, well it was a split vote. Like Mr. McCorkle indicated, there were some issues that were brought out and when they came back with the zoning issue later on, those issues were cleared up by the petitioner and the objector who was there

to speak against it in June. It was a split vote, it wasn't a unanimous vote back in, even in June. I think it was just a —. Mr. McCorkle said, four to five. Mr. Saxman said, yes, a one vote difference.

Commissioner Murray said, Bill [Saxman], let me ask you. You said that back in 1990 the developer, which developer? Mr. Saxman said, well, the Presbytery had a, I guess, an option to sell the property to someone else, and it included their property plus about three other properties on up King George Boulevard. Those other properties have been developed now and they're institutional-professional classification with an office complex —. Commissioner Murray said, it wasn't this whole tract of land? Mr. Saxman said, it was this tract of land plus other lands to the north. Including this land, but there were other lands involved too. Commissioner Murray said, but within that zoning they were asking for this would have been allowed at that time, is that correct? Mr. Saxman said, well, this plus other uses. What they're asking for now is under neighborhood-business, which is more restrictive than what they asked for earlier. Commissioner Murray said, I understand that, but this still, nevertheless, this would have been in it. Mr. Saxman said, part of this would have been an allowed use, right.

Mr. Dana Braun said, thank you, Chairman Hair. As Mr. McCorkle stated, I represent the Waterford Apartments and the Cobblestone Apartments, which are the only adjoining and adjacent land owners involved in this zoning issue. One quick comment, Commissioner Jackel. Whether you label it as a zoning issue or a master plan issue that was before the MPC on two different occasions, it was the same issue. It still dealt with the type of use that was going to be permitted on this property. The petitioners went through a vehicle first of a master plan change, which would authorize this use, and now it's going through a zoning use, and we do agree with what Mr. McCorkle —. Commissioner Jackel said, what about —, what I'm having trouble with is this piece of land here, if we've got a master plan and you want to change the master plan, the MPC says, no, we don't think you ought to do this, but then we say, okay, this is a stretch on Abercorn, God, it would be great to build a shopping center in there, we say that's okay and we forget about the master plan. Mr. Braun said, no, the court —, that's because the court —. Commissioner Jackel said, you say there's no difference. In my mind that is a substantial difference and maybe, maybe you can explain that to me. They're saying the master plan, we don't want to change that. Okay, now we just want to look at it as a zoning issue. Well, sure, as a zoning issue it's fine. Explain that to me. Mr. Braun said, under the master plan, and Mr. McCorkle and Mr. Falligant will be more, can be more definite about the types of designations, under the master plan the whole Georgetown area, each area was designated for certain uses. This corner piece of property was designated institutional-professional. Had there been no master plan, each one of these segmented units would have been zoned in that way, and the uses authorized by the master plan in that institutional-professional area was the same thing that were authorized had it been zoned institutional-professional. So the change was brought to change the master plan to change that area from a institutional-professional to a commercial use, but the MPC denied it. The reason they —, and they had made other master plan changes to this area before, the Georgetown area. The reason it was denied was because my client was very adamant that he had not been any part of the process because he is the adjoining adjacent land owner and he felt it would impact the apartment —, his apartment complex, which was —, these two apartment complexes have a value probably close to ten million dollars, and it was going to be, we thought, an adverse impact on my client's property. We weren't part of the process, so the members of the MPC focused on the lack of knowledge or the lack of our involvement in the process, and we think that played a role in their denying it. That was then taken to the Superior Court. The Superior Court has basically ruled, and my —, we are part of that litigation, that this really needs to go through a zoning process because what you're attempting through this master plan change is the same thing as a zoning change. You can't —, because originally it was only going to be up to MPC and MPC should not be charged with the responsibility of changing land use. That is the authority of this Board, and that is why it has now gone to the zoning process, and now it's a zoning process to change the use within a master plan. This is still under a master plan, but it's still the use of this property. And I guess you could look at Georgetown as if it's own —, if it were a separate municipality, it would have —, these would all be considered zoning uses instead of uses within a master plan. It's still —, the bottom line, it's a change in use of the property and the same principles govern this body as a zoning change despite it being within a master plan because what is being done is the changing of the use of this property being requested from institutional-professional to a neighborhood-business use, and the same factors apply: how does this impact the other properties, is it the highest and best use of this property. It's the same issues as if it's a zoning issue. So what it is, no matter what you label it, you can label it a master plan change or you can label it a zoning change, what we are speaking about under either label is a change in use of property, and that's all we're speaking about: a change in authorized use of property. And the court, the Superior Court has ruled that even though this is in a master plan, to change the authorized use of this property needs to come before the Chatham County Commission and that is why it is here now. In going back —.

Commissioner Odell said, Dana [Braun], before you go on, let me just ask you a question. When the Superior Court made their ruling, did they make the determination as to whether or not the person or association being the one to bring the action to make the particular change which is before us? I'm not certain if I'm clear. Do I need to rephrase it? Mr. Braun said, I'm not —, yes. And we were involved in that case, but we have withdrawn so I'm not the most knowledgeable one about the —, all the details of that action, but I will try to answer. Commissioner Odell asked, did the Superior Court say that the Georgetown Neighborhood Association be the one to bring forth the zoning? Mr. Braun said, no. No, they did not say that. It's the —, I mean, the land owner is the petitioner. Commissioner Odell said, I understand that the land owner is the petitioner. I guess my question is, in that we do have a master site, whether or not the master site, those individuals should be the appropriate party to make the individual changes, and I look at Phillip [McCorkle] and Phillip [McCorkle] is saying no. Mr. McCorkle said, I can —, you want me to step in? The judge made it clear that the party who could ask for a change in use through Chapter 11, the zoning amendment, was the owner. He differentiated only between the owner and the developer. He said the original developer, Georgetown Associates, you'd have to assume that you folks twenty-something years ago knew what you were doing and you turned them loose just with the master plan, and if they want to change the uses, they only have to go through the MPC and they can get a change in use just in the master plan, but any other party who owns property has to come before this body to rezone the property, and that was the distinction they made. No rights of the association were discussed, implied or anything of that nature.

Mr. Braun said, as I've stated on a few occasions already, we are the adjoining and adjacent owners. You can see on this plat, on this diagram, the Waterford Apartments is located here and Cobblestone Apartments would be located a little bit further down here, and those are my two clients in this matter. As we were originally opposed and adamantly opposed, we are now adamantly in favor of this zoning request, or this change in use, the authorized change in use as requested by the petitioner. The reason we have changed our position is, one, we did not have much notice of this issue nor did we have any opportunity to discuss it with the developers as to what was going to be done on the property. Since the June 1997 Metropolitan Planning Commission meeting, when it was first denied, and it was denied by a five to four vote despite the MPC's staff request for —, recommended approval, we have met with the developer on numerous occasions and have worked out

the way that this shopping center, this grocery store could be located on this piece of property and not have an adverse impact on my client's property. There has been an agreement regarding fencing, an agreement regarding landscaping, there's been an agreement regarding the location of the retention pond, which was going to border on my client's property, and now it's going to be moved further away. There is an agreement regarding the buffer zone, there's an agreement regarding the irrigation and sprinkler system for the buffer zone. There is an agreement regarding further restrictions even within the neighborhood-business classification, further restrictions as to what may or may not go into this shopping center, all of which has satisfied my client that this will be advantageous to the residents of his —, of their complexes to have a grocery store in the neighborhood. My client, despite fighting at the beginning, always held out the position that a grocery store —, that Georgetown needs a grocery store, but without the lack of our input we were not satisfied at it being next to our property. Since that time, the agreement has been reached that makes it as least intrusive as possible and it will not have an adverse impact. There's no question a grocery store is beneficial to this area, there's no question that a grocery store is needed in the Georgetown area. I would not be here today, my client would not authorize me to be here today requesting this Commission approve the petitioner's request if we felt that this had any type of adverse impact on my client's large investment, a several million dollar investment in this area. For those reasons, my client requests that this Commission grant the petitioner's request to allow the use. I'll be glad to answer any further questions.

Chairman Hair asked, does anybody have any questions of Mr. Braun? Thank you, Mr. Braun. Commissioner Odell asked, how does it feel to be on that side of the mike, Dana [Braun]? Mr. Braun said, it feels much better to be on this, and I appreciate all y'all's attention. Chairman Hair said, it pays a lot better too. Mr. McCorkle committed me to be brief, and I think in comparison to him I was brief. Chairman Hair said, yes, I agree, and I hope the next one is going to be briefer. Is there anybody else on the petitioner's side? Mr. Falligant. Commissioner Odell said, this is a lawyer's field day and I am so pleased.

Mr. Falligant said, my name is Danny Falligant and I am appearing as the attorney representing the Savannah Presbytery. Ladies and gentlemen, several of the issues that I'm going to address normally are not issues that you would take into consideration in a zoning matter. However, there have been some allegations that have been made against the church, and I realize Mr. Friedman has not has his opportunity to make his presentation, but we have appeared before the homeowner's association of Georgetown, we have appeared before the Metropolitan Planning Commission, and I'm sure those allegations are going to be repeated here again this morning. And this allegations, we feel, attach the integrity of the Savannah Presbytery, and the allegations are primarily that the church is being greedy in selling the property and not building a church, and the reason I have to take a couple of minutes, and I'll try to be brief, is that you cannot consider these. Even though we talk to you about these, you cannot consider these as part of your consideration in voting unless they are mentioned here this morning. Let me say this, the Savannah Presbytery, to give you a makeup of the Savannah Presbytery, is made up of 40 Presbytery churches —.

Commissioner Jackel said, Mr. Chairman, can we stick to issues involved. Commissioner Rivers said, Mr. Chairman, let me —. Chairman Hair said, it might be more appropriate —. Mr. Falligant asked, as a rebuttal? Chairman Hair said, yes, to do a rebuttal, I think that would be [inaudible]. If the charge is not made then you won't need to rebut, but if it is made, you can rebut it. I'll allow you full rebuttal if it is made, okay. Mr. Falligant said, that will be fine.

Mr. Falligant said, I would like to say this then, so far as the issues that I do think need to be considered at this point in time that are part of zoning, zoning consideration. That if you will look at this section right here [indicating], it's called a religious activity center, that when the church went out there and bought in 1974, Mr. Friedman in essence picked the site out for the church. The church went out, they wanted to buy a piece of property for a church, and he sold them a piece of property that was in the religious activity center, and today the church owns this five acres and it is the only piece that is still in the religious activity center. The rest has been converted to apartment complexes or office buildings, and so Mr. Friedman actually picked out the site for the church. Commissioner Odell asked, Danny [Falligant], what was the rest? Mr. Falligant said, well what it was supposed to be primarily —, what it was supposed to be exclusively, it was supposed to be made up of churches of all different denominations in this 50 acres. In addition to that it was supposed to be like a library, a YMCA, a ballfield. It was to be the community center for Georgetown, and so that's why the church bought in this particular area is because this was where they were going to have the churches clustered in this area. Commissioner Odell asked, it started off with 50 acres? Mr. Falligant said, 50 acres. Commissioner Odell asked, and this was for how many? This proposal was for —. Mr. Falligant said, this proposal of the churches is for five acres. Actually, the total proposal was for seven acres, but I'd like to say this, that in 1976 the Methodist Church came out there roughly 18 months after the Presbyterian Church bought and Mr. Friedman sold them five acres, just like us, but the five acres was not in the religious activity center. It was, I guess, maybe three-quarters of a mile or a half a mile away. It was in the residential area over in King's Grant, over in that area, and so we take the position that in 1976 when the Methodist Church went out there and they bought their property, they should have been in our neighborhood, in our cluster; that Mr. Friedman at that time abandoned his development plan in 1976. What I'd like to do is just take a couple of minutes and have Mr. John Law come and speak and I'll reserve my comments for a rebuttal. First, I'd like to have Mr. John Law come and speak for just a minute and then right after that will be —, we'll have Ms. Jesse DeLoach will speak and then we'll open it up for the residents. Thank you.

Commissioner Jackel said, before you leave I would like for you to address a couple of things. One, the restrictive covenants, what your feelings are on that, why you feel you are no longer bound by them? Mr. Falligant said, why? I —. Chairman Hair said, we have already said that the covenants was not an issue and —. Commissioner Jackel said, to you. That doesn't mean they're not an issue to us. Chairman Hair said, our lawyer has also said —. Commissioner Price said, it's not an issue legally. Chairman Hair said, it's not a legal issue because our attorney has already ruled that they are separate issues and we've already had legal advice. Commissioner Jackel said, it's a thing to be considered in my determining how I'm going to vote. I'd like to hear that, why you think you should stray from the master plan. Chairman Hair said, I'm going to allow a brief question on that and I'm not going to allow a lot of debate on the covenants. I'm going to rule it out of order. I will allow you to answer the question. Mr. Falligant said, let me say this, in 1974 the church bought the property. At that time the covenants were placed on the property, and in 1976 Mr. Friedman, we take the position that Mr. Friedman abandoned the plan that he had so far as the religious activity center in 1976 when he sold to the Methodist Church. There's also a Mormon Church that they've been out there. They've got a very nice sized piece of property, and they're not in the activity center as well. So we feel like in 1976 we were abandoned by Mr. Friedman and that we have patiently waited for these covenants to run for the 20-year period and that they expired in 1974, and so we feel like we were abandoned by Mr. Friedman long before we have taken this position that the covenants no longer apply. We have patiently waited for 20 years. Commissioner Jackel said, okay. If your property is developed commercial, and that of course is a deviation from the master plan, and the other parcels there

that are marked commercial are all developed as they can be commercial, what's your feeling on how it's going to impact on owners in the Georgetown area? Mr. Falligant said, well, we've already had one of the owners has already —. Commissioner Jackel said, he owns an apartment and he's on the other side of the complex. I've heard from people who bought homes out there and said if all those commercial areas are developed as commercial and we add this new one being developed as commercial, that that's a little bit too much commercial activity. Mr. Falligant said, we think it's going to have no impact. Let me say this, Mr. Jackel. The reason Piggly-Wiggly wants this corner, it's the best commercial corner of all four corners, and when Mr. Friedman and his land planner planned it in 1974, he made a mistake. I think he'd admit —, I don't know if he'll admit it before this Board, he made a mistake. He didn't think about going-home traffic and right in and right out, and so I think the Lord picked this particular piece of property out for the church 20 years ago. Mr. Friedman made a mistake because the best corner is the one that the Piggly-Wiggly wants, and it just happens to be owned by the church.

Chairman Hair said, in direct answer to Mr. Jackel's question —. Mr. Falligant said, we will reserve Jesse DeLoach as well as John Law to later, and we'll just have the neighbors speak. Chairman Hair said, Mr. Jackel asked a question about Georgetown residents, I will allow if there are any Georgetown residents that would like to speak, if you would come forward at this time in direct response to Mr. Jackel's question. If you would come forward.

Mrs. Montine Earls said, I do live in Georgetown. I have known about this project basically since day one. As you know, we've had the meetings and everything. The residents of Georgetown do want this project. You will never please everyone. That's impossible, but I'm being asked constantly, when are we getting our Piggly-Wiggly, and I have to explain to them what's taking place. As far as the traffic, may I say, the same people that's going to be traveling that road when Piggly-Wiggly is built is traveling the road right now. I mean, they're going to still pass there, so that's not going to change. I'd rather go across 204 because I live in King's Grant. To go to the Piggly-Wiggly you're going to have to travel 204. I've had people say that if we can just get a drug store they will never leave Georgetown, if they can get a grocery store and get a drug store. Commissioner DeLoach said, need a Wal-Mart there too. Mrs. Earls said, we need a Wal-Mal. I'm for that. I mean, in all reality you know and I know that Georgetown is growing. These things are being needed in that area, and it's going to come so why not let it come now. Let's get started with it.

Commissioner Odell asked, are you a member of the Georgetown Association? Mrs. Earls said, yes, I am. Commissioner Odell said, I know that you are. Every time we have a meeting, you're here more often than I am. Has the association voted on this, do you know? Mrs. Earls said, yes they have. Yes, we did. Commissioner Odell asked, what was the vote? Mrs. Earls said, are you talking about numbers? Commissioner Odell said, no, I —. Mrs. Earls said, they voted in favor of, they voted in favor of making this happen.

Chairman Hair said, thank you, Mrs. Earls. Thank you for your comments. I appreciate that. Yes, sir, come forward please.

Mr. Snyder said, good morning. My name is Gregg Snyder. I'm the President of the Georgetown Community Services Association. You're questioning some numbers. The straw vote numbers were yes 264, no 192. That's the only vote we have of the entire community. As far as the approval process is concerned, it's already been touched on by Mr. McCorkle so I won't go through it again other than to say the ARB approved it, recommended it to our Board. Our Board approved it unanimously. Everything I know out there says that the community wants to see it. Thank you. Chairman Hair said, thank you very much. I appreciate your comments. Come forward please.

Mr. Ryals said, my name is Tommy Ryals [phonetic]. I'm a resident of Forest Cove Subdivision. To reiterate what Mrs. Earls said, I'll just tell you a little story about my position on it. A little family cookout, hamburgers, a pack of hamburger buns. An hour and a half trip to Kroger or Publix down 204, the traffic is horrible. A car accident or anything like that backs the traffic up even worse. The going-home side is the right-hand side. It's the logical place to put the store. The people that are using the road now are continuing to use it, but it prevents us from having to get out in the traffic and go all the way, two miles away, to a grocery store. We're probably the only residents in Chatham County that have to go that far to a grocery store. Commissioner Thomas said, no. Chairman Hair said, Commissioner Jackel has a question.

Commissioner Jackel said, let me see on this map. I think the point I'm trying to make is it's not clear. When you look at the map and what was going on there, you've got all these commercial sites in here, and just for the sake of argument, all these commercial sites are developed. You've got your Wal-Mart, you've got your Piggly-Wiggly, you've got your Publix, you've got our Kroger. All of them are developed, and then we've got this one site left that we're talking about here today and we're up here asking you now to develop that site. Would you then say, I've got Kroger, I've got Wal-Mart, I've got Burger King, I've got them all here, don't take this one spot away that we want a church or a library or something built on there? Mr. Ryals said, that's the logical place to put the store, Mr. Jackel. Commissioner Jackel said, that's not my question. Mr. Ryals said, okay. what's your question? Commissioner Jackel said, my question is all these commercial sites are developed and they're all zoned commercial so we know they're going to be developed. Mr. Ryals said, eventually one day they probably will. Commissioner Jackel said, okay, let's just for the sake of argument say they're all developed today. Mr. Ryals said, they're not. Commissioner Jackel said, I'm saying for the sake of argument, listen to my argument. Commissioner Thomas said, you can't. Commissioner Jackel said, they're all developed today, they're all filled up with all these things, and the only site left is this one. Wouldn't you be in front of that saying don't fill that up, you already have enough. Commissioner Price said, no, you'd be more inclined to say so, and I think I can speak along with Tommy [Ryals] here. I live out there too, Martin [Jackel].

Chairman Hair said, I think that he answered your question. Commissioner Price also lives out there. Commissioner Price. Commissioner Price said, I live out there too and I agree. I attended these meetings and participated in the straw vote and all the stuff that happened out there, and I agree that it's time for a grocery store in Georgetown. It's curious that that corner of that piece of property on that busy road, even 20 years ago, 30 years ago, how this has evolved to what it is today. It's curious that that piece of property, which belongs to the Presbytery Church, is now being hindered from going forward and being developed because of where it was given in the first place and how it was given. And Mr. Friedman hasn't had an opportunity to get up here and speak to us and give his presentation, so I'll hold my questions regarding that for him, but I do think it's possibly time to go forward with this, and I say possibly because I still want to hear from the other side. Chairman Hair said, thank you very much for your comments.

Mr. Falligant said, Mr. Chairman, in order to maybe cut down on the neighbors, I think we're going to hear a lot of the same thing, just ask everybody that's here, just ask them to stand up and let them —. I'm just suggesting that in order to try to

expedite this matter. Chairman Hair said, I don't think we need to hear a lot of the same comments, unless we need to hear that rebuttal, but I would be more than happy to see if you want a show of hands of those—. Mr. Falligant said, all of you that are here supporting this petition, please stand up. [Many members of the audience stood.] Mr. Falligant said, thank you very much.

Chairman Hair said, okay, I think it's time for us to move to the other side, and again we will have rebuttal on both sides if necessary. Again, I'm going to ask everyone to be as brief as possible. Mr. Portman are you going to be the first presenter? Commissioner Odell said, before Mr. Portman comes, I'd like to acknowledge the Fifth District Board of Education Representative and former outstanding principal at Beach High School, and Richard [Mole] hates for me to do this. I'd like for Richard [Mole] to stand, if he will. I told him for his good work and many, many years at Beach High School, every time I see him, I'm going to compliment him. Chairman Hair said, we have Ms. DeLoach also. Commissioner Price said, I thought he was talking about Ms. DeLoach. Chairman Hair said, stand up, Ms. DeLoach. I was going to recognize both of you. I thought when you came up to speak is when I was going to do it. I appreciate y'all being here.

Mr. Barney Portman said, I'm here to represent Georgetown Associates. I've given each of you a packet and if you'll follow me through I think it will be helpful as to my presentation. I've outlined exactly what I intend to present. First and foremost, so somebody will understand, what is Georgetown Associates, it's pretty simple. It's just a limited partnership that was set up twenty-something years ago of mostly local people who invested in Georgetown's 1600 acres in order to develop a piece of property. That's what Georgetown Associates is, was then and continues to be today. Commissioner DeLoach asked, how many was that? Would you say that several hundred —? Mr. Portman said, several people. It's on your list, on the letter, front page, about the third page is a list of actual people who invested in it. These are the people 20 years ago on those three pages who had the foresight to put their money up in this and invest in the 1600 acres of land. They're the people who still own one of the corners in question. I was happy to see that we did not get into the issues we got into at the MPC here, and I compliment you on that. One very great concern I had about the process, I feel like I'm in an underdog position in making a presentation against a church group. I've come in faced with possibly being accused of arguing against a church, and that's very difficult for a politician or lawyer or anybody else. But I think the process here is in question and if you were talking about —, and I sat in your seats, gentlemen —, if we were talking about the location of a church, that is, where to locate a church and they were asking for zoning, we always gave our deference to that. We thought that was important because lots of times you have single family areas and a church wants to locate there and so in zoning we're a little bit liberal on that, but I ask you today to look at the church as purely an investor. That's all they are in this situation. They are an investor. They're no different than the other investors that have invested in Georgetown. They invested in a piece of property and they're trying to get a return on their investment. So in looking at this situation, the goodness of the cause would not be something that would be proper to address, and I'm glad it hasn't come up in that fashion. I think the debate that was some intention about going in that direction, I think you limited that and I think that's proper. But I ask you to look at them as investors the same way as the other investors, and let's look at this starting with an even playing field. To begin with, this whole thing is a creature of a joint concurrence between the County Commission at that time and Georgetown Associates. No one had ever done a PUD-C in Chatham County before. The ordinance was created for this development of 1600 acres. The idea was to have someone come in and spend a lot of money to preplan a giant section of Chatham County, the biggest development that had ever occurred at that time, to preplan that with the County staff to come up with master plans, to take that master plan and incorporate it into Chatham County's master land use plan. And the ordinance itself said there should be a concurrence, an agreement between the County Commission and the development as to the plans for this piece of land. My clients came in and submitted everything they needed to do to reach that agreement. They came in and the Chatham County Commission agreed this is a plan we'll adopt, we'll adopt it as an ordinance, we'll adopt it as a map amendment, and this will now be the law in Chatham County insofar as this property is concerned. Relying upon that, my clients invested millions and millions of dollars, relying upon their concurrence and agreement with the Chatham County Commission as to the plans and the use for this piece of land. The court has recognized my client's position in this. The court has not said to these people come before the County Commission. The court said, what you are trying to do is illegal, you can't legally do what you're trying to do; we are not saying you can't try to go before the County Commission, we're not prejudging the County Commission's action on this because they haven't had a chance to address this issue. They objected to us coming to court on the basis that the MPC hadn't acted for the fourth time. The MPC had acted three times on this petition. They object, they said we shouldn't be in court yet because the MPC should have a chance to act. All the Superior Court was telling them is they're not going to pre-judge your actions. The MPC had had their chance to act, they weren't going to prejudge your action. They were saying we are not ruling, the judge said in his order, we're not ruling that they can't go before the County Commission. He didn't say go before the County Commission and get this approved. He said I'm not ruling yet, I'm going to let the County Commission address it and let them decide administratively as the legislative branch of the government whether or not they should act or not; I'm not ordering that, I'm just saying I'm not enjoining them from that. That's what the judge said. He has not said for them go there and get this thing approved. The judge also made it very clear that the developer has a special interest in this property, that he invested the money and he invested his time relying on the acts of the County Commission and, therefore, the MPC can't change what the County Commission agreed to. We ask you not to change what the County Commission agreed to.

Chairman Hair asked, can I ask you a question about that, Mr. Portman? Mr. Portman said, yes sir. Chairman Hair said, your first argument is that this master plan originally construed a contract between the County and the developer, is that correct? Mr. Portman said, correct. Chairman Hair said, and now you're saying if we were to rezone this we would violate the contract. Is that correct? Mr. Portman said, whether it's legally or morally, that's correct. Chairman Hair said, well, hasn't the developer already violated their side of the contract? Mr. Portman said, no they —. Chairman Hair said, because you set aside an area for religious community for a cluster of churches and yet you sold two church sites that weren't even in the site that you set aside, so you're already amended the contract yourselves. Mr. Portman said, no sir, because you delegated to the Metropolitan Planning Commission your discretion as far as the arrangement within the project and allowed the developer under your ordinance to get with the County —, with the MPC staff and make adjustments. Any adjustments were approved by your Metropolitan Planning Commission. Chairman Hair asked, but who brought those requests for adjustments? Mr. Portman said, the developer came in, which he has a right to do —. Chairman Hair said, which he violated, he's already violated the contract because he's already said this is where all the churches were going to go and he sold two sites outside of that cluster. Mr. Portman said, no, Mr. Chairman, you have delegated to the MPC the authority to act for you. Chairman Hair said, I understand that, but —. Mr. Portman said, and so you agreed to those changes. Chairman Hair asked, who initiated the petition? Mr. Portman said, by the developer and this church did not object. Chairman Hair said, so the developer actually violated their side of the contract. Mr. Portman said, no sir, they modified the contract by agreement of both parties. You and

I could have a contract and you and I could agree to change it, and that's what they did. And this church didn't object at the time. They made no objection, they made no objection. Chairman Hair said, you've answered my question.

Mr. Portman said, the question of the covenants we won't dwell on. All we'll say is this, to raise a technicality about covenants that you agreed to when you buy a piece of property, whether you talk about whether it's legal or not legal is not the issue before you. The question is in making your decision, in making your decision, you can take into account whether or not someone buys a piece of property, recognizing what the use is for, gets a discounted price for that piece of property, whether they have a right to come up and try to find a technicality to change those colors. That's the question that you can address in making your decision. Now as far as whether you can legally come back a number of times, as I understand it, I think you're setting a very dangerous precedent here because regardless of the fact that your ordinance doesn't make it clear, we think it does make it clear and they raise the question and your attorney may think it's not clear, it said whether the County Commission acts on a petition or doesn't act on a petition, that's what your ordinance says and I've got the attachment and quote from the ordinance on that, when somebody goes before the MPC, whether you act on it or don't act on it, you can't come back for a year. Now for somebody to maneuver and say I'm going to try it over here this way and make everybody come to a hearing and lose and then maneuver it around and come back to another hearing within a year, they have violated the spirit of the ordinance whether they violated the letter of it or not. And certainly you can take that into consideration. I want to point out to you the minutes of a meeting where the change of use was denied.

Commissioner Jackel asked, Mr. Portman, are you saying that if we allow this before us, we're setting a precedent that people can come up to us more than once in a year? Mr. Portman said, they've come to you or the MPC. They can try the MPC and if they don't have any luck at the MPC they can come back to you. And they accomplish the same purpose of making people appear for multiple petitions. This is the fourth time this year —, fifth time this year that my clients have had to come for a hearing on this matter. The fifth time. Chairman Hair said, our attorney has already ruled, Mr. Portman, that this is a separate zoning versus master plan change and it does not constitute action in the one-year time. We already have a ruling from —, not from the other side, but from our own County Attorney. Mr. Portman said, I understand he's interpreting your ordinance. What I'm telling you is the purpose of that ordinance, and I don't think you would argue with me on this, the purpose of it was to keep somebody from continuing to make people show up in regard to change of a land use on a piece of property, and so by maneuvering their way through, and they maneuvered into a legal position where they can come up multiple times to change the use of a piece of property regardless of what the ordinance says. You don't have to rule on the basis of the ordinance. You can rule on any basis you want to, but is it correct for somebody to manipulate the system? You have to decide that. You gentlemen have to decide it.

Mr. Portman said, to say why, to say why the MPC voted to deny this the first time is assuming a whole lot. You don't have anybody from the MPC standing up here telling you why they voted to deny it. But let's read from the motion: Mr. Blanco made the motion to deny it. He stated the traffic study was not that influential. He said that most important to him is the vacant commercial land set aside originally was there and, therefore, there was no compelling reason to add more commercial land. That's what the maker of the motion said the reason he made the motion. For somebody, Mr. McCorkle to tell you why it failed is something altogether different. A vote was taken, a valid vote of the Planning Commission was then taken and the change of use was denied. Now my good friend, Mr. Braun, and he is a good friend of mine, forgot to tell y'all the most important reason why the vote was changed. Mr. Braun forgot to tell you that he was a party to the lawsuit with us and when we filed the action to stop the fourth petition before the Planning Commission. He signed the pleadings, helped us prepare the pleadings. His client participated in all the plans. They were adamantly against it. We got to the hearing and we were advised by his client that they were going to pay him over a hundred thousand dollars to withdraw, and he needed the money, and he withdrew from the lawsuit and he withdrew his objection and agreed to come here today and support the petition. They haven't offered to pay us the hundred thousand dollars, but they paid these people to change sides. Again, somebody is manipulating the system. Is that the way things should be done? Is that proper? Has anybody interviewed the people living in those apartments to see what their feeling are about the grocery store being outside their window? Commissioner Price asked, have you? Mr. Portman said, the owner —, yes, we've talked to some. They all have to work. We've talked to several of them. They don't want the grocery store outside their window. There's no apartment dweller here that's in favor of this petition. To correct one other thing about the straw vote, there were three choices not two choices on the straw vote. Mr. Snyder didn't mention the third choice. If you add the three choices together it was eight difference in vote. The third choice was to delay, to wait to see if a grocery store gets built on Mr. Friedman's site. That was the third choice. If you add the no votes and the to wait votes, there's only eight difference between the votes in favor and the votes that voted against or to delay. Out of five hundred and something votes, so there's not that strong a feeling out there overwhelming in favor of this thing. There's only eight points difference. I think Mr. Snyder just forgot about that third choice that was offered.

Mr. Portman said, now I think the most important thing in y'all's deliberation, let's get right down to the merits with all the other stuff. This is what you've got. The yellow is what you've already got zoned commercial. The yellow is already a part of the master plan. The yellow is already being marketed for commercial purposes. Commissioner DeLoach said, time out. Mr. Portman said, sure. Commissioner DeLoach said, you're showing that yellow 13 acres down there as commercial, and isn't that Forest Cove? Chairman Hair said, that's [inaudible] property. Commissioner DeLoach asked, it's right up there in the corner? Mr. Portman said, yes. Chairman Hair said, yes. Commissioner DeLoach said, I know where you're talking about. Mr. Portman said, it's all zoned commercial. Commissioner DeLoach said, I've got you. Mr. Portman said, that's all zoned commercial. This is all about money, gentlemen. Commissioner Thomas said, and lady. Mr. Portman said, they came in and negotiated with Mr. Friedman to buy his site and he set a price. They came over and they negotiated with the church and they got a little better price and that's why they went to that site, to get a better price.

Commissioner Price said, stop. Mr. Portman said, yes sir. Mr. Friedman asked that, and he said this to me last week, he asked how long is it going to take you to build the Piggly-Wiggly. The Piggly-Wiggly people could not commit to him. Is that not correct? Mr. Portman said, that's correct. Is that why Mr. Friedman did not proceed with that contract? Mr. Portman said, well, I think that there's a price question also. Commissioner Price said, well, if there was a question of when can you get going on this and —. Mr. Portman said, when can you get started and price. Commissioner Price said, they did not have an answer for them —. Mr. Portman said, correct. Commissioner Price said, and that was his reason for not going forward with that. Mr. Portman said, that and money. And there's been discussions since then about money that have occurred since the conversation you mentioned. Commissioner Price said, and I wouldn't know that unless Mr. Friedman had told me. Mr. Portman said, I understand. But money, there have been discussions and there have been several discussions about it. So this property is here —.

Chairman Hair said, Mr. Portman, you made a statement a while ago that it's all about money. Mr. Portman said, yes sir. Chairman Hair said, I totally agree with that, but would you agree that it's totally about money on both sides? Mr. Portman said, correct. Chairman Hair said, okay, that's alright. I just wanted to get that in the record. Mr. Portman said, and that's why I'm going to tell you what's fair and what's right. Chairman Hair said, you don't tell me what's fair. I think I can decide what's right and fair on my own. Mr. Portman said, well, let me explain to you why. I'll explain to you why. The traffic that passes through this intersection, which is something on any PUD zoning that you're required to assess. To my knowledge, the County Engineer has not assessed this —, the traffic capacity, and I'll ask him directly in just a minute. There's a limited resource here. When you get to a certain point, that road is over capacity. It's over capacity already. The adjustment you're going to make will not satisfy the additional capacity being used by this use. No one has taken into account on that intersection the effect of the people who are already in the front of the line as far as I'm concerned, and this is what I'm talking about fair. This property is already zoned, they should already have allocated to them a certain number of trips. That's what you've always done in the past as a Commission. That's what the City has always done. That's what your Engineers have always done, is take into account that the first guy who's got the zoning has some use of this resource. It's no different in sewer hookup. If a guy already has zoning and you allocate sewer hookups, you should have allocated that resource in a fair way, to the people who are already their. When the new guy comes along, he's supposed to take to the back of the line. That's the only fair way that resources are allocated by any governmental authority. If your resource here is limited, there's only a certain number of trips that's going to be allowed through that intersection without expending millions of dollars. Your County Engineer is here and you can ask him what kind of dollars we're talking about. Who should get those trips? Should the new guy get those trips or should the guy who's already here, who's already made millions of dollars in investment in the development of this project, who created this intersection. King George Boulevard did not exist before Georgetown Associates. It didn't exist. Should that guy not have first crack at the trips through this intersection? Or should the new guy on the block get first crack at it? We're going to have a traffic engineer and I'm going to let him address you on that because we've had somebody do a study on it, but to my knowledge, although your ordinance requires on any PUD zoning, and they're asking for PUD zoning, that the County Engineer make a determination of whether —, what corrections are being made to this intersection which would preserve the trips for the property currently zoned, which projects this is currently zoned, this is currently allowed. What number of trips is it going to take up and what's going to be left for them, and what improvements are they going to make to cover themselves. If they came in and said, we're going to cover the [inaudible] here and ourselves and we're going to spend that money, that's a different story, but your Engineer hasn't addressed that and I submit that's a very, very important thing. I, as a Commissioner, wasn't equipped to address that and I don't believe you're equipped as a Commissioner to address the overall capacity if these are being used the way they're allowed to be used. If somebody comes in with a permit tomorrow to build a Wal-Mart here, they're entitled to do that under the current zoning if they meet your other —, you know, building code things. What about the capacity of this intersection? You're using up this resource and you're not using it up fairly. Mr. Winsler is a Traffic Engineer. I'll let him give you his credentials and background and then explain to you what he's done on this.

Mr. Winsler said, I'll be brief on that. My name is Jerry Winsler. I'm the Vice President with DKS Associates. I've had the opportunity over the last 10 years to do several traffic studies both in the City of Savannah and for Chatham County. Three of them were on Abercorn and involved commercial development so I am familiar with this area. We were asked by Georgetown Associates to take a look at the impact of this rezoning on traffic conditions in the area and the ability to develop the other commercially developed property in the immediate vicinity of the intersection. We, as a different prospective, looked at the cumulative impact of all the development that could occur there under the current zoning, and that's the results I'm going to present to you. I do have some findings, and I guess these are summarized on three tables and probably the easiest way is to pass those out and I can review them. There's three or four key points, and those are three or four key points I'm going to highlight and explain. First is something I think is obvious to anybody that drives out there. Currently, the intersection doesn't have available capacity. It's not working very well. There are improvements planned, but those improvements are really to bring it back to being in acceptable condition for the people who are driving through there now. It is not intended to create a great deal of capacity for additional growth. The second point, and I know it's addressed in your requirements as you look at rezonings, is will this rezoning cause increase in the traffic in this area, and I'll show you on the table that it's a dramatic increase. You take from the current religious and education facility that could be there to a commercial development, compare it on a weekday, compare it on a weekend, you'll see there's a lot more traffic, and [inaudible] specific numbers you can make that judgment whether that's significant or not. Particularly a Saturday, particularly a Saturday which is a key and a peak time for commercial development. It's a very slow time for an office development that could be put on that piece of property. Lastly, when you take that traffic and you combine the traffic from rezoning here plus the commercial development on the other three quadrants of that intersection, there's no improvement that's currently programmed for that area that will take care of that, and it literally is millions of dollars because we're talking about through lanes, not just [inaudible] at the intersection to make that work. The tables I passed out to you, the first table identifies the currently zoned office, and that's the maximum office that could be put on that property as currently zoned, and it's got the traffic broken out by daily and peak hour, week day, Saturday. To compare to that is the proposed commercial development. You'll see two numbers. One happens to be their consultants, one is our calculations. Not that much difference. The big issue isn't how we're calculating it. On the first table the big issue is you see in the Saturday numbers, which were not presented in the report that's been done by the applicant, you can see the dramatic change from the zoning to the proposed retail: 135 daily trips versus 7,985. I don't think it takes much of a calculator to figure out that that's a significant increase. On a peak hour basis on a Saturday, you're talking about 25 to 765. The second table I've identified those exact percent increases so you could see what it is on a daily, what it is on a peak hour, a Saturday versus week day. Percentages again are dramatic increases, and that traffic does go through the critical intersection of Abercorn and King George. Distributions, we did have a major difference in our analysis versus the analysis that was done. The analysis that was done by the applicant identified that 50% of the traffic was coming from the north and would not even enter the intersection. Another 30% was coming from the south that just crossed straight and didn't affect any of the turn movements. That compared to a 35% that we came up to. So 80 versus 35 is a dramatic difference. We want to identify could we be possibly wrong, something that we're not looking at here? We took the population within five miles of this site, which is what you would consider a trade area to draw from, and if you look at the population within five miles, it's only 4% located north of the shopping center. How many homes are actually up there? By our look there's approximately 870 residential units north and it's basically a cul-de-sac. There's no other way in or out so they have to come through this area. If you took 50% of the trips are coming from that area, and here's a little map you can run through very quickly. It's 5,000 trips a day generated by this development. Half of them are coming from the north. That's 2,500 in and 1,250 out. There's only 870 homes there. Everybody has to go one and a half times a day to come to this shopping center to hit that number. It just can't happen. There has to be less traffic coming from the north, more traffic going through the intersection.

Commissioner Price asked, isn't that true of any development in that area in any of these sites? Your numbers are not —, are they not generally true for any of the areas that would have to go through this intersection to get to any of the other commercial sites in this area? Mr. Winsler said, any commercial site in this area would generate the same number of traffic, right. Commissioner Price asked, so what's your argument? No development in Georgetown? No further development should occur in Georgetown? Mr. Winsler said, no, what I'm pointing out is that this rezoning is going to cause a lot more traffic to go through the intersection than you've seen so far in the analysis that's been done. Commissioner Price asked, how much more would it require than any of the other areas to be developed, even the area that your client owns? Mr. Winsler said, well, I'm not comparing whether it's higher or lower than the other corners. The other corners are rezoned for commercial. This is the rezoning to add more traffic than what's already there. We're looking at the cumulative impact of putting this together. Commissioner Price asked, are you looking at what it is currently like out there right now or are you looking at future development or are you looking at —, did you consider the traffic safety management enhancement to the intersection that the County is involved in that? Mr. Winsler said, let me explain that. Right now, as I mentioned, it doesn't work and you would all know that when you're driving through the intersection. With the improvements taking place, they're going to add dual left-turn lanes to go from westbound to southbound, which is a major movement and a major bottleneck now, and a free flow right turn and you come back out to go back north. That will add approximately 7% capacity of the intersection. That will take it from a failing condition to an acceptable level of service, Level Service D. Not great, but it will work better than it currently does not. If you rezone this piece of property for this development and this development occurs, it will take up most of that capacity and put it back to the condition that it was before. There is no —, there is no residual capacity. Commissioner Price said, I can't understand that argument when everybody's turning left to go towards where the majority of the residential area is, turning left to go towards King's Grant, or towards that back area, Forest Cove, Wild Heron, and all that area. People instead that are turning left are now going to stop and go to the grocery store, and they're going to get on and go through the traffic light instead of turning left. They'll be waiting in line at the traffic light as they come out the grocery store, go back across Abercorn and go back over there. How is that going to negatively impact the intersection from what is now the current problem, too much traffic going left at that intersection actually going into Georgetown. Mr. Winsler said, well, you have traffic coming from all four directions. It's not —. Commissioner Price said, I understand that. Mr. Winsler said, if you add that traffic going all four directions into this intersection, this is not just my calculations, this is calculations provided by the applicant also, it shows that it takes up all that additional capacity that's being created. Commissioner Price said, but development of the other commercial areas in that area is going to increase the traffic anyway. Mr. Winsler said, yes it would, and in fact that's the point. If you take this traffic, add it on, now you add in the traffic from the other quadrants that they develop commercially, there is no capacity. What it amounts to is we do have a limited resource here. There's only so much capacity to work with. You don't have any now, you're creating a window of opportunity for a small amount of capacity, and this development will take it all. So if somebody comes in right after this, the Wal-Mart that you talked about coming in on the other corner —. Commissioner DeLoach said, I've got a Wal-Mart going there now. Mr. Winsler said, you basically are the bank. You basically are —, you are the bank. You can lend capacity out. You have applicants being the property owners adjacent to it who want that capacity. They all have bank books. They're coming to you. They have so many trips they feel they're deserving because of their zoning, but there's not enough capacity to give out. There's not enough there for everybody to get what they have in their bank book. The first applicant in has a bank book and they want five times as much as what they have in the bank. You give it —, you give that capacity out, there's no capacity left for any of the others without doing millions of dollars in improvements. That's the bottom line on traffic.

Chairman Hair said, Commissioner Murray and I have a question? Commissioner Murray asked, did you by chance do the traffic study for Publix on Wilmington Island? Mr. Winsler said, yes. Commissioner Murray said, that's what I thought. Thank you. Chairman Hair said, you know, my question is, you know, let's just cut to the chase here. We're talking about putting a Piggly-Wiggly on Mr. Friedman's property or putting a Piggly-Wiggly here. Would you agree that that's probably what we're talking about? Mr. Winsler said, I was evaluating the impact of putting additional commercial at that intersection that's not already there. Chairman Hair said, this whole issue, let me clarify it for you, okay. This whole issue is whether the Piggly-Wiggly goes on Mr. Friedman's property or on the Presbytery's property. That's the whole issue. That's what we're here two and a half hours for discussing. Where does the Piggly-Wiggly go? Now, I might not be the brightest guy in the world, but let me ask you something. If you talk about putting a Piggly-Wiggly at that intersection and you talk about the same number of customers, then how is putting it on the Presbytery property going to make worse of a traffic jam than putting it on Mr. Friedman's property? Mr. Winsler said, again, what I'm looking at is the cumulative impact —. Chairman Hair said, answer my question, answer my question. Mr. Winsler said, I can't because I didn't —. Chairman Hair said, you're the traffic engineer. Mr. Winsler said, but I haven't answered —, I haven't evaluated putting a Piggly-Wiggly on Mr. Friedman's property. Chairman Hair said, we're talking about the same number of people going to the Piggly-Wiggly no matter which corner it's on. Commissioner Price asked, how can you effectively address this if you haven't addressed the other areas? Mr. Winsler said, what we're addressing is the total impact. Commissioner Jackel said, the total impact. Mr. Winsler said, are you adding —, well, by rezoning this property you are adding more trips to this intersection assuming that the other does develop commercially and you can't make that work.

Commissioner Saussy asked, would you say that we really need another road into Georgetown? To alleviate all this? Mr. Winsler said, more lanes or —. Commissioner Saussy said, no. No more lanes. That's not going to alleviate it. You've got it going through the same intersection. Georgetown was not developed correctly, in my respect, my feeling, because it doesn't have but one road, and you're still developing. You need another road in there. If you're an engineer for roads, have you recommended that? Mr. Winsler asked, who should we recommend that to? Commissioner Saussy said, to the developer. Mr. Winsler said, well, if —, are you saying the petitioner should build more roads into this —? Commissioner Saussy said, somebody needs to. Mr. Winsler said, actually what I think the bottom line in terms of anybody coming in for a zoning request, in a lot of communities the way they handle that, you're coming in to rezone, your responsibility is to create the additional capacity that you're going to take up as a result of your increase at that intersection. If the petitioner were coming in and saying, okay, we're zoned for this much trips and we're going to add this many more trips, we can make these improvements that will add that much capacity, then I think you came even. From our standpoint, you've achieved the mitigation of that impact. I haven't seen any improvements being proposed they're going to bring that capacity up where it needs to be to serve other developments at the same intersection.

Chairman Hair asked, any other questions? Commissioner Murray said, my only thing I guess it would be to Mr. Portman. Would you agree that if this petition goes through and we approve it, as requested, and a grocery store does go up there, regardless of which name grocery store does as long as it's one of the chain stores, that on one of the other three corners before it's over with, there's going to be another chain grocery store, because that's the same thing they're doing all over this

community? So I don't, as far as the value of that property to your client or the Presbyterian Church, I think it's both going to be the same. I think what I see is who can get there first? Mr. Portman said, I agree with you to this extent. If we didn't have the limited resource of the intersection I would agree with you. In other words, if that intersection was a B intersection and had great capacity left, I don't think it would affect my client's value near as much as what we're talking about here. You don't have the capacity. Now, we've got the zoning. We've invested the millions of dollars. Should we be the one to have to add the capacity or should it be the new guy who's asking you to change something, and what I'm saying is your County Engineer hasn't addressed that issue. He hasn't looked to see what capacity is being used up, and that's one of the questions on your choices here that you're supposed to address in zoning, is whether or not it affects the capacity. It does affect the capacity. Everybody agrees it affects the capacity, but whose expense should that be? Should that be at the expense of the guy who's invested his money and developed this land or should it be the expense of the new guy coming in who wants you to change something, wanting you to add something to —.

Commissioner DeLoach asked, who's paying for the changes now? Mr. Portman said, you are. Commissioner DeLoach asked, who? Mr. Portman said, you. The taxpayers. Commissioner DeLoach asked, did the developer pay for that? Mr. Portman said, no. Commissioner DeLoach said, the current developer? Mr. Portman said, no. Commissioner DeLoach said, well, you overused the capacity. Why didn't you pay for this interchange? Mr. Portman said, Mr. DeLoach, what I'm asking you —. Commissioner DeLoach said, it's not an answer or anything, it's just the fact that we have grown in that area and we will continue to grow in that area and as we do we will have to address that situation when it comes up. Mr. Portman said, but should you add further at the taxpayers burden? Should you rezone this and add to their burden? Commissioner DeLoach said, we've already done it when we did the work for people turning in there now. I mean, it's not —, we're going to do it now, we're going to have to do it later. We realize that. Mr. Portman said, what this is telling you though is that if you rezone this you've got to spend your money. Are y'all prepared to do that and spend the taxpayers' money? Commissioner DeLoach said, we've already done that for your developer now.

Commissioner Murray said, the reason I asked several of the questions and the reason I asked you if you did the traffic study for Publix on Wilmington Island, the feeling I'm getting is whoever you're doing the studies for are the sides you're going to be on because I saw the same thing with that, some of the same questions Mr. Portman's asking right now were some of the same questions we asked about the site on Wilmington Island. It didn't make any difference. All the studies showed that that's where it should go, and those studies were wrong. I'm telling you that now because I live down there.

Commissioner Price said, call the question. Commissioner Saussy said, call the question. Mr. Portman said, I haven't finished my presentation. Commissioner Price said, I'm sorry, I thought you were. Chairman Hair asked, how much longer are you going to take? Mr. Portman said, just a couple of minutes. Chairman Hair said, okay.

Mr. Portman said, in addressing the list of question that you're supposed to address, it's the first time I've ever seen a report from the MPC, frankly, in which they're saying that answering the question of does not —, would the proposed zoning district be inconsistent with the comprehensive land use plan, and they said no, when this will require an amendment to the comprehensive land use plan. There's just no doubt about it. The comprehensive land use plan adopted the master plan of Georgetown. The County adopted that as a part of the comprehensive land use plan. The thing that Eddie [DeLoach] was just involved with with the westside study and all comes into this area and it was adopted just recently when y'all had all those hearings that the exact same master plan which is on the property was adopted. So there's just no doubt whatsoever that to pass this you are going against the comprehensive land use plan, and I've heard you, Commissioner Murray, speak about that a number of times about Wilmington Island. Commissioner DeLoach asked, has that been adopted? Mr. Portman said, it is a violation —. Commissioner DeLoach said, it hasn't been adopted. Mr. Portman said, it's in there though as the —, but the current one has been adopted. The current one has been adopted. It's in there as the old one and it's also recommended in the new one. Commissioner DeLoach said, okay. Mr. Portman said, it's in the old one and it's recommended in the new one both as being, zoned exactly what it shows being used for now.

Mr. Portman said, the other missing element that I think is probably one of the most important things that everybody always weighs. No one has come up here to tell you that they can't sell that property for the current use. No one's been here to tell you that it can't be sold for institutional-professional. There's a demand for institutional-professional. We have had people come forward who are willing to buy it for institutional-professional. I have never seen a zoning matter come up before you in which somebody said —, is asking for a new use strictly to make more money and not come before you and saying to you we can't use it for that or we haven't been able to get it. That's why I say it's strictly about money. Why should somebody make a windfall profit by changing their property from institutional-professional to commercial when the people who invested all their money to begin with and developed all this land and reached these agreements when they're still waiting to profit for their investments.

Chairman Hair said, Mr. Portman, I've never seen anybody come before us for rezoning that's going to lower the value of their property. They all increase the value of the property. Mr. Portman said, I agree with you, Mr. Chairman. Chairman Hair said, this is no different than any other. Mr. Portman said, I agree, Mr. Chairman, but it's a difference between coming up and saying I can't use my property for it's zoned for now, I can't sell it for what it's zoned for now, I need to get it rezoned for something else because I can't use it for what it's zoned for now. No taxes were paid on this property for 17 years because it was supposedly a church site and no church was built on that property. My clients have paid the taxes on their property since they developed it and they zoned it. I'm asking you for fairness when you decide this thing. I think Mr. Friedman may have one thing to say. Chairman Hair asked, Mr. Friedman, would you like to make a comment before we vote?

Mr. Ernie Friedman said, thank you, Mr. Chairman. I really did not want to make any comments today and I appreciate the fact that at least initially it appeared that this discussion was going to kind of stay within the bounds, statutory legislative bounds for rezoning. Unfortunately, for some reason it got out of those bounds. I am therefore only compelled to make a couple of comments because you made a few statements, Mr. Price made a few statements, Mr. Murray made a few statements, and I think in fairness to Georgetown Associates and some of them are in this room today, even those some of those comments brought laughter from the audience, those people invested their hard earned dollars in Georgetown Associates 25 years ago honestly and sincerely in an effort to develop the community and to make a profit. Now, and your statement is very true right from the beginning. 25 years ago when Georgetown Associates was created, it was created as a profit-making organization. Now I think in the process we have created also a really great community, good for the people who live there, good for the County, and so forth. But one of our principal motivations, which I would hope each of you do in your own individual

businesses would have some respect for, was the opportunity to invest money and make a gain. That does differentiate Georgetown Associates from the petitioner in this case. It is not a profit-making venture. Now I'm very active in my synagogue. I assume most of you are very active in the churches to which you belong. It is very difficult to stand here before you today and make an argument that really will work to the detriment of a church, and so for a moment let me ask you to just do me a favor. Let's pretend just for five minutes that the petitioner in this case is not a church. Let's say he's a doctor and let's say that 25 years ago that doctor came to me as the developer of Georgetown and said I want to open a medical office in your new development and I said to that medical doctor, that's great because we will have people out here who really need doctors, that will help take care of the health of our people and, in fact, there is an area that we have set aside for that purpose. It will be like a professional office center and you as a doctor chose a site within that and it was sold to you at a price that was appropriate for doctors' offices, but because you were the first doctor who had the vision and the willingness to risk establishing your practice in our new development, I said to you I will pay you \$20,000 towards the establishment of your office because I appreciate the fact that you have come out here ahead of everybody else and bought a piece of land to build your office. And assume further that the doctor said to me, Mr. Friedman, I will build my office out there, but in addition to paying you for your land, there's some other things I want you to do. First, I want you to build King George Boulevard so that as a 48-foot wide street so that it goes by my property so that my patients can get to my office because at that time there was no King George Boulevard. And then suppose this doctor also said, not only do I want you to build me a road, but I also want you to put in water lines and sewer lines and run electricity and gas lines to my office so I'll have some use for it, and suppose that Georgetown Associate said to Dr. Jones or Brown or whatever his name might be, okay, we'll do that, and by the way, doctor, here is our master plan and you will see that in the area where you want to build your office we plan to have other similar type offices there and in this area we plan to have houses and in this area we plan to have apartments and in this area we plan to develop the property commercially. Now all of you have been around a long time and I think you know that commercial development is a following development. You were mentioning before, I think, the principal of the Georgetown Elementary School was here in this room. Am I correct? Or a couple of the principals from some of your schools are here. Commercial activity, like schools, is a following activity. We didn't get a school in Georgetown until four or five years ago because we needed to have a base of people. Now suppose that this doctor after Georgetown Associates had built the road, put in the water and sewer lines, ensured the electricity and gas, decided not to practice medicine in Georgetown, and I want to answer a specific question that the Chairman asked because —, at least the assertion, and a statement I think was made by one of the attorneys, that it was Georgetown that abandoned that plan where the doctor was going to put his office. That's not true. The doctor established a mini-office there, he put a temporary trailer on the site and began the practice of his medicine. Before anything else was done on that larger piece of property that was for other doctors, the doctor abandoned the same. He left and never built his office. Never built his office. When he left, that property was still there for professional offices. Since you specifically asked that question, Mr. Hair, I thought that that specifically needed to be answered because the assertion that you may, or suggested at least, was that Georgetown had abandoned Dr. Jones when in point of fact, for good reason, just as businessmen will do, just as anybody else does, Dr. Jones decided that was not a good place to establish his office. He had the right to do that, absolutely every right in the world, and we don't fault him for that. Now the place where we had for doctors was not the only place that doctors were allowed in our development, and sure enough along came a few other doctors who wanted to locate offices in Georgetown and they did, and we put them in other places, and there are still other places within the master plan of Georgetown now where doctors' offices can go. Now there was some discussion about the legality of the covenants. I do not want to talk about that today because, as you pointed out, that is an issue for the court to decide, but forget the legality or we say the covenants are good, they say the covenants aren't any good. You know, we're not going to decide that today, but what could we look at today. We could look at the plain language and see what the parties said. Whether it's enforceable or not is another matter, and if you look at the plain language, the language says that this piece of property can only be used for doctors' offices. That's what it says. It says it in 1974 and it ran until 1994, and then it renewed itself until the year 2004. Now a court may decide that that ruling did or did not occur and you're not here to decide that today, but you can read. All of you can read plain English and that's what the plain English says. So that as you look at whether you want to say to Dr. Jones that now Dr. Jones you can sell that office site for a shopping center, you can decide whether or not, without regard to the legality of it, someone made a promise to do something in 1974 that they are now wanting you to excuse them from doing. Now '74 was a long time ago. A lot of things have happened since then. Some of the things that happened is that changes were made in that master plan. Every single change that was made in the master plan since 1974, with one exception, was made only because Georgetown Associates, as the developer, as the investor who paid the bill, either asked to have that change made and went through a process with the Metropolitan Planning Commission or Georgetown Associates agreed to that change. It was not, you know, I have lots of files and some of those files are from developers who bought pieces of land in Georgetown and just said to me, Mr. Friedman, we would like to change the use from A to B and, if we agreed, the change was made, and only one instance, and that was an example when we didn't even know it was happening, someone came in and got a piece of property changed. Other than that, in the 20 some-odd years that Georgetown has been there, there has been no change in any land use that we did not either initiate or that we did not agree to. Now, what does all this mean? I don't know to be honest with you. I am here, I am a lawyer, but I'm not here as a lawyer today. I'm here because I see behind the Chairman there is the great seal of, I guess it's the seal of Georgia or Chatham County, and in the middle of that there is three pillars and the pillar that is in the middle that is holding up the rest of it is entitled justice, and that's what I'm here for today. I'm here for justice because we kept our word. We stayed the course that wasn't an easy one. We paid the price, we've paid our taxes. Dr. Jones knew when he bought this land from us that the land across the street was the land that was to be used for commercial development. It is still our land, it is still to be used for commercial development. Will that development hurt us? I mean, you know, they get 20 people, you'll get 20 different answers. In my view, it will hurt us. In my view, we should not be made vulnerable to that sort of hurt. Commissioner Murray asked the question, I wasn't sure but I thought I heard you say, if a grocery store goes on this place will there not be grocery stores on all the other four corners. Was that your question? Commissioner Murray said, [inaudible] four corners, I said that if one grocery store, a large chain, comes into that area and builds, you'll have more coming in that area wanting to build for the competition. Mr. Friedman said, okay, thank you. I would just like to respond to that because I think that is not an unnatural assumption, but in point of fact and the kind of development that is proposed on this property goes under the heading of a neighborhood shopping center. It's not a regional center, it's not a shopping mall, it is a neighborhood shopping center, and that is what Georgetown needs. I mean, as the developer of Georgetown, we need a neighborhood shopping center, but if a neighborhood shopping center is established, it is very unlikely that another competing supermarket will go at that intersection simply because there is a limited number of people who would be served by that commercial development. It is not like, you know, Abercorn and White Bluff or some of those other huge intersections where you have thirty, forty, or fifty, or a hundred thousand people who live within a small radius. It is not likely, and nobody knows for sure, we certainly will work at it, but it will be a much more difficult task. Last —.

Commissioner Murray said, I did not think it would be likely to see one on Wilmington Island, and we do have a neighborhood shopping center with a chain grocery store in it. We have another chain grocery store, and then we had another one come in, which was the third one, and that's why I made the comment. I still feel like that will happen. Mr. Friedman said, and that is possible, but my understanding is that —. Commissioner Murray said, we have less people there than y'all have out in that area. Mr. Friedman said, all those stores are probably —, are suffering now, but anyhow, the last thing that I would like to say, and I do appreciate what I view at least, as your serious attention to what I had to say, is —, I'll go back to a comment that Commissioner Price made, and that is that you, together with all of us, including many of the people who are here today and stood up when you were asked who lived in Georgetown, have a common problem, and that is that we have a huge intersection that is inadequate to handle the traffic that it now handles, and with the minor improvements that are about to be made to it, that will be a blink of an eye, and those improvements will be overloaded as well. Now, I want to say this to Mr. Saussy. When Abercorn was laid out and it was a different group of Commissioners, I think Tom Coleman was the Chairman of the Commission when it first did Georgetown, so that's how far back I go. The State of Georgia did not want King George Boulevard to be anything other than just a feeder road, a two-lane road. They said, well, there's nothing out there so that intersection will be just two lanes. We went —, we meaning Georgetown Associates, went to the State of Georgia and to the County Commission and we said, make King George Boulevard a four-lane divided median because in the future there are going to be a lot of people living out here, and their answer to us was, well, if you believe that and if you'll pay for the difference, let's do it. So we did it. King George Boulevard is a four-lane median divided road today because Georgetown Associates paid the difference between that and what the State was willing to do. Should there be another entrance to Georgetown? Absolutely, if there is another one to be found. Unfortunately, because of the configuration of the land, it will be very difficult without a —, unless you came off of 17. I have been to the CUTS Committee on any number of occasions. At my request they did appoint a special study committee to look into this intersection to see what could be done for it. I hope that whatever the outcome of this road today, whatever the outcome of the lawsuit is after today, that none of us will forget that Georgetown is an important part of Chatham County. It has a serious problem, and it's not just a problem of the private sector. It's a problem of the public sector as well, and that perhaps working together, that problem, can ultimately be solved.

Mr. Friedman said, I think I've answered the comments that were made during Mr. Portman's presentation that I felt unfairly characterized the activities of Georgetown. Before you today is Dr. Jones who didn't open his medical office, now wants to sell his medical office for a shopping center, and I say to you on behalf of Georgetown Associates, he knew that the commercial land in Georgetown was across the street. When he decided not to build his medical office there, then he should find another doctor to come and buy his medical office, or it's not too late. We would love to have Dr. Jones' medical office in Georgetown right now. Chairman Hair said, thank you, Mr. Friedman. Mr. Friedman said, any questions I'll be glad to answer them.

Commissioner DeLoach said, I don't have any questions for Mr. Friedman. I just want to make some comments sooner or later, whenever you think it's time. Chairman Hair asked, are they related to his presentation? Commissioner DeLoach said, it eventually will be tied in. Mr. Friedman said, there are a couple of the partners from Georgetown who are here and whether or not they want to make a few comments —. Chairman Hair asked, would anybody else like to make a comment?

Ms. Myers said, I'm Carol Myers. Never been in this room before, do not know most of you people, but I want to tell all of you back there, you need to say thank you to me, and I'm going to explain why. 25 years ago my husband became a partner in Georgetown. It is now 1998. We just got the first small amount of return from our investment of 25 years. Chatham County's got a wonderful place for people to live. Y'all collect a lot of taxes and we think this is just one more thing you're doing wrong is to not let us go through with the plans we have made, and I don't want to get into anything because I can look at the faces and all of y'all are against us. I mean, both sides of the room, but we do have a say-so and that is what I want to say. Chairman Hair said, thank you very much, Ms. Myers. Any final comments?

Mr. Sadler said, good afternoon. I'm Kenneth Sadler. I represent my family who has an investment, and it echoes some of the similar comments of Ms. Myers. We have [inaudible] the course out there. If this is passed, we're going to be penalized for 25 years of hard work and investment, and I'm sure if it was your money you'd feel the same way of us. We deserve first crack at the commercial development out there, it's going to —, it could possibly impede other commercial development out there and in the County if people see that people are investing their hard-earned money and not being able to get a return. So I urge you to reconsider and let those who have made the sacrifice of trying to get a return on their money give us a chance to do that first. Chairman Hair said, thank you. Any final comments?

Mr. Portman said, yes. I want to clarify just one quick point. Georgetown Associates is an adjacent property owner under your ordinance. They own the property across the street from it and that is, under your ordinance that is an adjacent property owner. So when we say there is no objection from adjacent property owners, we are the adjacent property owner under your ordinance. We are, we own the property right across the street from what you have. Chairman Hair said, okay. Thank you, Mr. Portman. Mr. Portman said, the other thing I think that needs to be emphasized at least more. I don't know if I made it clear. You've got two other PUD's in Chatham County. You've got The Landings and you've got Southbridge. You've got —, a portion of it. When you have a large planned community come into this —, in Chatham County, you can bet that they are going to look very close at how reliable it is when they come in and make an agreement. It's very important, I think, to Chatham County for future development that we have a consistent policy, whatever that policy might be, in addressing these issues, and when someone is willing to put their money up and spend the kind of money they've spent out here, they should have a right to rely on the fact that until they are out of the thing, and five years from now or next year even, next year. If next year Abercorn Street improvements have been made and the lawsuits are all over with and the church comes back in here and wants to change the use of their property and we have a better look at that capacity, I don't know that we would be here objecting, but right now this will adversely affect Georgetown Associates, and they should have a right to rely on what they relied on when they started. And any developer coming here should have that. We need a consistent policy. Whether it's Georgetown Associates or the next guy that I come in before you and want to do a PUD for, I need to be able to tell that guy, put your money in Chatham County, they're going to do the right thing; when they make an agreement and you get your PUD recorded, they're going to stay with that. And I think it's very important that we have a consistency in these things and that we stick with what we agreed to until the developer's out. Once the developer is out of the picture, it's a different story, but as long as the developer is in there, and I think the court recognized that. If you read that lawsuit, I think they recognized it. I think there's a lot of issues here that haven't been addressed. I don't think anybody's heard from the County Engineer. I don't understand why not, but I think that this is not something that should be hastily acted on and I'm going to ask you to at the very least possibly study this thing a little bit.

Chairman Hair said, thank you, Mr. Portman. I'm going to —, Commissioner Murray has a question and then Commissioner DeLoach.

Commissioner Murray said, based on some of the investors in Georgetown that have come up and spoken, when Georgetown was first purchased, did all these investors put their money in a pool and buy the total acreage out there? Is that how it was done, or did each one buy a separate portion? Mr. Portman said, it was all done at once as a tract. Commissioner Murray said, all done as one. Mr. Portman said, yes. There were some different mortgage arrangements, but generally it was one tract. Commissioner Murray said, that was all done 25 years ago or a little longer. Mr. Portman said, well, some pieces have been added since that time. Commissioner Murray said, first of all, we as Chatham County government are not here to see that somebody that invests their money somewhere like that gets a return on their money. That's not up to us. We don't have any say-so in that. The other thing is, if it's been that long for the total development that I've seen out there, and I think the rest of us have seen out there, that's not our fault that they haven't received something back on the return and it's not our fault that Ms. Myers just received a little bit back not long ago on that return. That is something that we shouldn't even be addressing here. Mr. Portman said, all we're asking is don't hurt us.

Chairman Hair said, Commissioner DeLoach. I think we need to wrap this up fairly quickly. Make some brief comments, Commissioner DeLoach. Commissioner DeLoach said, okay. A couple of things I picked up on is it's very difficult for me to take and decide that a church is Dr. Jones. It's a completely different issue. At that time Ernie Friedman was just as glad to have the church out there to help his development as the church was to get that property to develop out there. Make no mistake about it. Putting a church in that area enhanced the value of his development. That's the most important thing. He did not do this —, he gave a free gift of a certain amount of money, which I'm sure was appreciated, but he did not do this just out of the goodwill of his heart. This was an investment in a long term return. That is the point that needs to be made. Now, as far as the church goes and the investment they made, to me they made an attempt to develop a church there. Just like when Ernie [Friedman] put the first master plan down there, the Georgetown Associates put the master plan in, the original master plan I've seen drawn out, called for an area of churches around a public facility on that side with the corner lot being where the Presbyterian group bought the property. Now what has changed, and you can say, you know, Mr. Jones has changed, or Dr. Jones, or the Presbyterians changed or whatever, the fact of it is you changed your development right behind them, and it went from what should be, I thought the picture called for seven or eight churches in a cluster over on that side to two sets of apartment complexes with developments on down the road. To me, and this is where I've got to rub with your —, had you not ever changed your development plan, and you tell me, you know, it's a free and moving thing and it's something that has to change as time changes, well, this is time changing and to me it's a question and it goes down to money. At one time there was an offer on the table that if you sell this property you're willing to give me X-percentage of this return I will not stand in your way to sell this property. That happened, so if everybody was standing up and concerned about the corner lot, they wouldn't be saying give me 40% of the money. That is not the issue here. The issue here is, by God's will or whatever, the Presbyterian Church has gotten a piece of land from Ernie Friedman at a reasonable rate and, in turn, eventually, after losing thousands of dollars which they lost in trying to develop that church, here comes a windfall. We all would love to get a windfall. I'm not going to get any of it, you're not going to get any of it, and the Association is not going to get any of it if we go through with this change and the courts agree. I'm sorry for that fact. I've lost money on the stock market and other people have lost money on the stock market. I'm not real smart at it, but the fact of it is they came on a piece of property and now it's worth a considerable amount of money, and I feel like that they should have the opportunity to do with the property as they see fit based on the fact that the Association had changed the basic development plan long before this opportunity came to them and they had offered to do whatever they would like to do as long as they got a percentage of the money. That's the two things that rub me and that's the reason I have no problem in voting with the Presbyterian Church on this issue.

Chairman Hair said, okay. Thank you, Commissioner DeLoach. Commissioner Jackel and then I want to make one quick comment and then let's get to the vote.

Commissioner Jackel said, I think we've gotten away from what the real issue is here, and the real issue is this is a piece of property that's in front of us to be rezoned and what criteria do we look at when we rezone this property. There's no compelling need to rezone this property. None has been shown. No one has come forward and said that there's a compelling need that this property has to be rezoned. Why should we change it from the zoning that it presently is? When we look at the adjacent pieces of property, do we need more commercial area in the —, more commercial lots in the area? No, we don't need more commercial lots. There's plenty of them, and if we rezone this piece of property, then it's all commercial lots and there's nothing saved for public use. So the issue is not whether this group's making money or that group's making money, that's their business. My business is the Commissioners to decide is there any reason why I should rezone this property, and do I want to make every corner out there as shown on the map commercial property with nothing else reserved where a YMCA could be built or a library could be built or other public uses or other churches. I have to have reservations about that without some reason. When anybody comes up here and they want to rezone their property, we say why, what's the need in the community? They say, well, I want to add a beauty parlor in my house; will it affect your neighbors, no. Whatever it is they want to do, there should be some reason for us to change it, and I don't see that, plus we're in the unusual situation, not that unusual, but somewhat unusual, that there is this pending court action, and based that the courts may, even if we did rezone it, make this whole thing moot by doing so, I would now moved to table this thing until the court action is completed.

Chairman Hair said, we have a motion to table. You need a specific date, I believe. Can he make it on just the court action —? Mr. Hart said, is there a motion before the Board which that motion can be attached to? Chairman Hair said, there's no motion on the floor right now. You're correct, so there is no motion to attach the table motion to. Chairman Hair said, alright, the Chair will entertain a motion. Commissioner DeLoach said, I make a motion we approve the zoning change. Chairman Hair said, I have a motion. Do I have a second? Commissioner Price said, second. Chairman Hair said, second. Commissioner Jackel said, alright. Now I move to table it until the termination of the —. Chairman Hair said, we have motion to table and the motion to table is not debatable. All those in —. We've got to have a second to the table motion. Commissioner Odell said, I'll second it. Chairman Hair said, all those in favor of tabling the motion will vote yes, all those opposed to tabling will vote no. Commissioner Jackel voted in favor of the motion. Chairman Hair and Commissioners Saussy, Rivers, Murray, Odell, Price, DeLoach and Thomas voted in opposition. The motion to table failed by a vote of eight to one. Chairman Hair said, the motion is not tabled. Now I call for the question. Those in favor of the motion will vote yes, all those opposed to the motion will vote no. Chairman Hair and Commissioners Saussy, Rivers, Murray, Price, DeLoach and

Thomas voted in favor of the motion. Commissioners Jackel and Odell voted in opposition. The motion carried by a vote of seven to two. Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

1. Commissioner Jackel moved to table this issue until a final determination of the pending litigation has been made by the court. Commissioner Odell seconded the motion. Commissioner Jackel voted in favor of the motion. Chairman Hair and Commissioners Saussy, Rivers, Murray, Odell, Price, DeLoach and Thomas voted in opposition. The motion failed by a vote of eight to one.
2. Commissioner DeLoach moved to approve the petition of J. Daniel Falligant, Agent (for The Savannah Presbytery, Inc., and Jack Stafford, Owners) requesting that two parcels located on the northeastern corner of King George Boulevard and Abercorn Street be rezoned from the current PUD-C (Planned Unit Development-Community) to a PUD-B(B-N) (Planned Unit Development-Business: Neighborhood Business) classification to allow the development of a grocery store and small neighborhood retail center. Commissioner Price seconded the motion. Chairman Hair and Commissioners Saussy, Rivers, Murray, Price, DeLoach and Thomas voted in favor of the motion. Commissioners Jackel and Odell voted in opposition. The motion carried by a vote of seven to two.

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**3. AN AMENDMENT TO THE STANDARDS FOR COMMERCIAL WIRELESS TELECOMMUNICATIONS ANTENNAS AND TOWERS IN ORDER TO BETTER ENSURE COLLOCATION AND AESTHETIC COMPATIBILITY. THE MPC RECOMMENDED APPROVAL.
MPC FILE NO. 96-11484-C.2
NO DISTRICT/TEXT AMENDMENT/UNINCORPORATED AREA**

Commissioner Murray said, I have a letter that I would like to read into the minutes. It's addressed to Ms. Sheryl Wilkerson [phonetic], Chairman, Federal Communications Commission, 1919 M Street, N.W., Washington, DC: "Dear Madam Chairwoman: During recent travels in my home state of Georgia a number of city officials have brought up an issue that concerns them and me greatly." This was a FAX copy and some of it's kind of hard to see. "These officials have indicated to me that during the process of placing cellular towers in cities around Georgia the FCC has apparently not abided by local zoning codes. They further assert that these activities have resulted in numerous phone calls to local city halls by irate constituents demanding explanations of why these towers are being placed in their communities. Although I, along with local officials, realize that these towers are an important part of our ever-changing society, it is my hope that you and your staff could work with these officials and my constituents to avoid the perception that the federal government isn't doing as it pleases with no concern for local laws. It would greatly be appreciated if you could address this situation. If I may be of assistance, please do not hesitate to contact me or my staff member, Bart Gobel [phonetic], at (202) 224-8048. Thank you for your attention to this matter. Sincerely, Paul D. Coverdell, United States Senator."

Commissioner Murray said, the reason I'm reading this, it was sent to me by somebody that lives in my district. It's the same type things that we've been talking about. I know you've got an amendment to that ordinance right now that's coming up, but it seems that we're not the only community that's concerned about these towers. We still have towers going up. I understand there's two approved in the Skidaway Island area and those two out, and now you're coming with —, two originally that Bell South worked with the people from The Landings to work those towers in that were approved. You had some more that came back that now Southside Fire Department wants to put them up. It's only for financial benefit and that's the only reason they need to go there, and you've already got enough towers with those two from Bell South if they collocate like they're supposed to the could take place, and that's not happening, so I'm kind of hesitant to approve any amendments to the ordinance because we don't feel —, I don't feel like our ordinance is being enforced right now. And until we do that, why do we keep amending it? Can y'all tell me where I'm wrong with this?

Mr. Saxman said, well, the amendments we're making have been more restrictive each time they've come back as we've gone back into the process. In fact, I put a three-page summary on your podium just before the meeting tonight [sic], this afternoon. The Planning Commission made a recommendation last Tuesday based on a petition we had for another tower that happened to be a DeRenne and Skidaway Road location and they had some objectors for the tower, but that particular site they picked out was in their service area, and based on the way the law reads now, if they are within their service area they've got to have a tower to serve their needs. You can't deny them, and we —, a particular piece of property zoned for it, but it is a small parcel of land and that tower is going to be highly visible. The City of Savannah owns some property to the south about a mile south of Bacon Park, and it was pointed out at that meeting by some commission members that it would be more desirable trying to let them go put it down in the park and hide it in a bunch of trees than possibly stuck out right in the middle of Skidaway and DeRenne. If it proves to be functional, of course, we have to make an amendment to the ordinance because right now the ordinance before City Council and the County Commissioners is to limit accessory alternate towers as a means of trying to be more restrictive in residential areas, to only allow them in courthouses, municipal buildings or police stations or fire stations. Some of those sites [inaudible] apartments too for us, but we felt that if we opened that area up a little bit and as a municipality had a right on public lands, large public lands for recreational sites, it would be better to go back in and opened loophole up. Right now the current ordinance would allow them on public lands. The amendment before you is going to restrict that. The three-page addendum I have put out on your desk this morning would open that up for publicly-owned lands, three acres or more in size, to allow that as an alternative tower site even though it may not have a fire station or a police tower because it may have stand of trees or some vegetation that would actually help better screen it than a small commercial site and it would be suitable for it.

Commissioner Murray asked, I guess my point being, aren't these towers supposed to be at least two miles apart? Mr. Saxman said no. I mean, the ordinance right now says they've got to be 1,000 feet apart. This amendment before you —. Commissioner Murray said, 1,000 feet apart. Mr. Saxman said, right. The ordinance before you now is going to require that it be a minimum of 2,500 feet apart. Commissioner Murray asked, aren't the cellular companies —. Mr. Saxman said, the

cellular companies —. Commissioner Murray asked, saying they need to have at least two miles apart? Mr. Saxman said, no. They said they needed no further than two miles apart. Some of them say they have it closer than that according to what your tree cover is. Commissioner Murray asked, so why are we allowing and approving zoning, giving approval for them to put towers in that aren't but one mile apart when we've already said we wanted to collocate? That's not happening. Mr. Saxman said, well, we are —, all the ones we've known to come in so far are basically about full up, even fire department towers. I was just speaking to Mr. Robinson yesterday and I think he indicated all except one or two of their towers are completely filled up or have options on filling them up. So all —. Commissioner Murray said, we were also told that the Southside Fire Department is not planning on putting them on all their locations, and that is absolutely a lie because you see them doing it. Mr. Saxman said, they own every space that I know of. The minutes before are going to make it more restrictive. We feel, and we've been trying to do everything we can to make it as restrictive as we can, [inaudible] did show us at that meeting —, we had a seminar about a month ago and we were trying to get input similar to what the letter you read there to see if Mr. Kingston can get together with the FCC and see if there is some way the local governments can get some federal regulations changed, but the federal regulations aren't changed, we are restricted, and our hands are somewhat tied and I'll let Mr. —.

Chairman Hair said, all right, we have a motion and a second to approve. Commissioner Murray said, I will vote for this —, these changes we're doing to amend our ordinance, but I'll also say, Russ [Abolt], I want staff to enforce them and they're not being enforced and we all know that.

Chairman Hair said, okay, we have a motion and a second to approve. All those in favor of approval vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner DeLoach was not present.]

ACTION OF THE BOARD:

Commissioner Murray moved to approve an amendment to the *Standards for Commercial Wireless Telecommunications Antennas and Towers in order to better ensure collocation and aesthetic compatibility*. Commissioner Price seconded the motion and it carried unanimously. [NOTE: Commissioner DeLoach was not present.]

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4. AN AMENDMENT TO THE COUNTY SANITATION ORDINANCE TO ALLOW GARBAGE AND REFUSE TO BE COLLECTED FROM THE SIDE OF THE ROAD OR RIGHT-OF-WAY AND TO LIMIT THE TIME THAT RECEPTACLES MAY REMAIN AT THE ROADSIDE OR RIGHT-OF-WAY AFTER COLLECTION.

Chairman Hair said, this basically just puts us in line with the City and limits to 24 hours. The Chair will entertain a motion. Commissioner Odell said, so moved. Commissioner Murray said, second. Chairman Hair said, I have a motion and a second. All those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner Odell moved to approve an amendment to the County Sanitation Ordinance to allow garbage and refuse to be collected from the side of the road or right-of-way and to limit the time that receptacles may remain at the roadside or right-of-way after collection. Commissioner Murray seconded the motion and it carried unanimously. [NOTE: Commissioner DeLoach was not present.]

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5. AN AMENDMENT TO THE ALCOHOLIC BEVERAGES ORDINANCE, SECTION 17-115, CERTIFICATION OF SUNDAY SALES ELIGIBILITY.

Chairman Hair said, this basically, for the benefit of the audience, just requires them to —, their [inaudible] to give it to us by CPA or RPA. The Chair will entertain a motion. Commissioner Odell said, so moved. Commissioner Thomas said, second. Chairman Hair said, I have a motion and a second. All those in favor vote yes, opposed vote no. The motion carried unanimously.

ACTION OF THE BOARD:

Commissioner Odell moved to approve an amendment to the Alcoholic Beverages Ordinance, Section 17-115, certification of Sunday sales eligibility. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner DeLoach was not present.]

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XIII. INFORMATION CALENDAR

- 1. **PROGRESS REPORT ON GENERAL FUND CONTINGENCY ACCOUNT - M&O AND THE SPECIAL SERVICE DISTRICT (SEE ATTACHED).**

ACTION OF THE BOARD:

Information status report.

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- 2. **LIST OF PURCHASING ITEMS BETWEEN \$2,500 AND \$9,999 (SEE ATTACHED).**

ACTION OF THE BOARD:

Information status report.

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- 3. **UPDATE ON CARNEGIE LIBRARY.**

Mr. Abolt said, Mr. Dickerson is here. His item on your information item having to do with Carnegie Library, I know that Commissioner Rivers and others had expressed a high level of interest in that. If you like, that can be discussed. If not, the information report stands for itself. Chairman Hair said, yes, I think that —, we were in Atlanta this week and we were told that \$25,000 is in the budget, but I was in a meeting with Senator Diane Harvey Johnson and Senator Johnson —, Eric Johnson, and Representative Pelote and Representative Mueller, and they are trying to get that raised to \$100,000 in the budget, but right now what's in the budget is \$25,000 and they'll be trying to get that up to \$100,000. So, particularly for the [inaudible]. Any other questions?

ACTION OF THE BOARD:

Information status report.

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EXECUTIVE SESSION

Chairman Hair said, okay, the Chair will entertain a motion to go into Executive Session. Mr. Abolt said, I understand your intent will be land acquisition, litigation and personnel.

Commissioner Rivers moved that the Board go into Executive Session for the purpose of discussing litigation, land acquisition and personnel. Commissioner Murray seconded the motion and it carried unanimously.

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Following adjournment of Executive Session, the meeting of the Chatham County Commissioners reconvened.

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APPOINTMENTS:

- 1. **SAVANNAH ECONOMIC DEVELOPMENT AUTHORITY**

ACTION OF THE BOARD:

Commissioner Murray moved to reappoint Judy Nease to the Savannah Economic Development Authority (SEDA), to a term which will expire on January 7, 2003. Commissioner DeLoach seconded the motion and it carried unanimously.

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2. SOUTHEAST COASTAL REGIONAL MENTAL HEALTH/MENTAL RETARDATION/SUBSTANCE ABUSE BOARD

ACTION OF THE BOARD:

Commissioner Murray moved to make the following appointments to the Southeast Coastal Regional Mental Health/Mental Retardation/Substance Abuse Board: Appoint William C. Griffin to fill the vacancy created by the resignation of Candice Frawley, which term will expire July 30, 1999, and reappoint Anne H. Welch to a term which will expire July 30, 2000. Commissioner DeLoach seconded the motion and it carried unanimously.

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ADJOURNMENT:

There being no further business to be brought before the Board, Chairman Hair declared the meeting adjourned at 2:15 p.m.

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APPROVED: THIS _____ DAY OF _____, 1998

DR. BILLY B. HAIR, CHAIRMAN, BOARD OF
COMMISSIONERS OF CHATHAM COUNTY, GEORGIA

SYBIL E. TILLMAN, CLERK