

MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF CHATHAM COUNTY, GEORGIA, HELD ON FRIDAY, MAY 14, 2004, 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 9:20 a.m., Friday, May 14, 2004.

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II. INVOCATION

Dr. Billy B. Hair, Chairman, 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
Frank G. Murray, Chairman Pro Tem, District Four
Jeffrey D. Rayno, District One
Joe Murray Rivers, District Two
John J. McMasters, District Three
Harris Odell, Jr., District Five
David M. Gellatly, District Six
B. Dean Kicklighter, District Seven

ABSENT: Dr. Priscilla D. Thomas, Vice Chairman, District Eight

IN ATTENDANCE: R. E. Abolt, County Manager
R. Jonathan Hart, County Attorney
Sybil E. Tillman, County Clerk

EXCUSE ABSENCES OF COMMISSIONER THOMAS

Chairman Hair said, the first thing on our agenda this morning, I'm going to ask for a motion to excuse Dr. Thomas for her absences while recovering from an auto accident, so I'll entertain a motion to excuse her. Commissioner Rivers said, so moved approval. Chairman Hair asked, second? Commissioner Kicklighter said, second. all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Thomas was not present.] Chairman Hair said, the motion passes.

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V. PROCLAMATIONS AND SPECIAL PRESENTATIONS

1. PRESENTATION BY U. S. ARMY CORPS OF ENGINEERS COLONEL GERBER TO THE COUNTY FOR AN OUTSTANDING PROGRAM OF WETLANDS MITIGATION.

Col. Roger A. Gerber said, Mr. Chairman, it is truly my honor to be here and continue this relationship that the Corps of Engineers has had with the County and the variety of projects and the wetlands banking and, in particular, to present to you this award of recognition for the proactive environmental planning that you did in working with us in this planning assistance [inaudible] project to look at a variety of projects that could be potential sites for a mitigation bank and through that we've selected three of them and then our regulatory program has selected one and we've now entered into that, a 500-acre mitigation bank, and it's truly a win/win that will help you to have a place that you don't have to negotiate individual permits and mitigation and it's a win/win for the environment because now we have a site that truly will work as a wetland and we aren't out there trying to create wetlands in areas that don't work. So it's —, it will save us some time and cost with the federal resources and certainly for the County so it is my distinct honor to present to Chatham County the Wetlands Mitigation Banking Program Award of Recognition to Chatham County in recognition of their proactive environmental planning and establishment of the Chatham County Wetlands Mitigation Bank.

Chairman Hair said, thank you very much. This truly really is a win/win and our —, particularly our engineering staff deserve a lot of credit for this, for this award. We very much appreciate this. It is also our pleasure this morning to continue this spirit of cooperation to present certificates of appreciation. We have Mr. Morgan, Richard Morgan is with us this morning, and I'd like to read his Certification of Recognition:

Certificate of Recognition

presented to

Richard W. Morgan

For exceptional leadership as the Chief, Regulatory Branch, Southern Section, Savannah District, U. S. Army Corps of Engineers, and as chairperson for the Georgia Mitigation Bank Review Team while assisting the County in pioneering the initiative to establish the Chatham County Wetland Mitigation Bank. Mr. Morgan's efforts in building consensus among the Federal and State agencies were indeed noteworthy in this unique endeavor, culminating in the approval of the Bank on April 13, 2004.

Chairman Hair said, we also have one for Mr. Crosby, who is not able to be with us today, and Mr. Morgan's going to accept that. Mr. Morgan said, thank you.

Certificate of Recognition

presented to

David E. Crosby

For exceptional support as Lead Biologist, Regulatory Branch, Southern Section, Savannah District, U. S. Army Corps of Engineers, while assisting the County to pioneer the initiative to establish the Chatham County Wetland Mitigation Bank for use in mitigating wetlands impacts for public works projects within the County. Mr. Crosby's expertise and support were instrumental in this unique endeavor, culminating in the approval of the Bank on April 13, 2004.

County Manager Abolt said, Mr. Chairman, gentlemen, I would like to, in addition to what Col. Gerber has said, recognize another Colonel, who's date of rank is a little bit older than Col. Gerber's, that's our own Col. Al Bungard. You know that the leadership that he has shown has made this day possible to the Litchfield Tract, the Wetlands Banking and as alluded to by Col. Gerber. This is what the federal government wants local governments to do, and receiving this recognition at this time I think again sets apart Chatham County as not only partners with the federal government, but understanding full well and implementing intent of our environmental protection. I want to personally thank Al Bungard and his staff. Al [Bungard], thank you.

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2. RESOLUTION ON RETIREMENT OF ED POENICKE.

Chairman Hair said, the next thing on our agenda is a resolution [sic] on the retirement if Ed Poenicke. Ed [Poenicke] will join me down front. Good morning. Mr. Poenicke said, good morning. Chairman Hair asked, how are you? Mr. Poenicke said, feeling great. Chairman Hair asked, do you feel retired yet? Mr. Poenicke said, not fully. Chairman Hair said, it takes a while to wind down, doesn't it? I'm going to read the proclamation and then ask Ed [Poenicke] to make a few comments.

PROCLAMATION

WHEREAS, Chatham County and its citizens take great pride in its beautiful landscaped parks, lawns and yards both in businesses and private sections and many of the beautiful greenery and array of flowers are the result of the sharing of expertise by Edward Frank Poenicke, Jr.; and

WHEREAS, Ed Poenicke earned his Associate Degree from Alfred Agricultural College in 1972, a BSA Degree in Horticulture from the University of Georgia in 1974 and his Master's of Public Administration from Georgia Southern University in 1991; and

WHEREAS, Ed Poenicke has grown vegetables and flowers since he was four years old in Brooklyn, New York, and began providing the UGA Cooperative Extension Service research-based horticulture information to the citizens of Chatham County on May 1, 1976, and retired April 1, 2004; and

WHEREAS, in 1977, Mr. Poenicke started the Master Gardener Program, an A-Z gardening program participated by over 1,000 people which gives them the opportunity to gain in-depth knowledge about gardening; and

WHEREAS, he started the Egg Hatching Exhibit with the Oglethorpe Mall in 1978 which allows individuals to see how life comes about in nature. It brings joy and excitement to young and old and reaches 15, 000 to 25,000 people each year over the three days it is set up; and

WHEREAS, Ed Poenicke has provided many services and made many accomplishments that includes helping the Savannah Apartment Association with a landscape contest and have judged it for sixteen years; working with television, radio and the newspaper throughout his entire career having appeared on Coastal Sunrise on WSAV-TV for five and a half years and writing a column for the *Savannah Morning News* for twenty-six and a half years. He has presented talks and lectures to garden and civic clubs and church groups and taught classes for Armstrong Atlantic State University Continuing Education Program.

NOW, THEREFORE, I, Dr. Billy B. Hair, Chairman, on behalf of the Chatham County Board of Commissioners, do hereby salute:

EDWARD FRANK POENICKE, JR.

for over twenty-eight years of dedicated service in sharing his wisdom and knowledge of horticulture to the citizens of Chatham County.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of Chatham County, Georgia to be affixed this the 14th day of May 2004.

Dr. Billy B. Hair, Chairman, Chatham County Commission

ATTEST:

Frances Q. Rasmussen, Deputy Clerk

Mr. Poenicke said, I'd first like to introduce my wife. She's been through a lot with me, my wife Jeannie [phonetic] and my one daughter, Laura. They have been through a lot with me, watching me and doing stuff and everything else that —, and Laura started out holding those little chicks and she could handle all of that pretty easily. But it's been a pleasure through a lot for this County, worked a lot with the County Administrator, the City Administration, trying to beautify everything and I consider we're just a piece of time in God's great world and if we can add a little beauty to it all, that's the most important thing. And that's what I've tried to do is add beauty to this County, for this area, for this whole State. Thank you.

Chairman Hair said, thank you, Ed [Poenicke].

Commissioner Rivers said, Ed [Poenicke], I need your telephone number, your cell phone number, and I've got a piece of leaf down there that I'm going to have waiting on you. Mr. Poenicke said, okay. Commissioner Rivers said, and you know you put me to work in my backyard, but I haven't dug up those stumps that don't grow oak trees yet. Mr. Poenicke said, you'll have time. As I understand it, you're stepping down too. Commissioner Rivers said, well, hey, we're going together.

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VI. CHAIRMAN'S ITEMS

1. CORRECTION OF TAX ERROR FOR HUNTER ENTERPRISES (SEE AGENDA ITEM X-11).

Chairman Hair said, we discussed this in the pre-meeting. The reason I pulled this off, as I stated in the pre-meeting, was that I think in addition to correcting an obvious error, we also need to look at our process and we agreed in the pre-meeting that we would direct the County Attorney and the Board of Assessors' Attorney to get together to come up with a better way of handling these clerical errors and then present it back to us for action some time in the future. But I will entertain a motion to correct the tax error for Hunter Enterprises.

Commissioner Kicklighter said, so moved. Chairman Hair asked, second? Commissioner Rayno said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Thomas was not present.] Chairman Hair said, the motion passes. Thank you.

ACTION OF THE BOARD:

Commissioner Kicklighter moved that a request from the Tax Commissioner's office to retroactively adjust the overstated fair market value of the 2003 personal property assessment of Hunter Enterprises, Ind., #110078, a/k/a Ye Olde Tobacco Shop/Verdery's Lamps. Commissioner Rayno seconded the motion and it carried unanimously. [NOTE: Commissioner Thomas was not present.] (See Agenda Item X-11.)

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VII. COMMISSIONERS' ITEMS

1. RUNAWAY POINT PARK (COMMISSIONER MCMASTERS).

Chairman Hair recognized Commissioner McMasters.

Commissioner McMasters said, thank you, Mr. Chairman. Runaway Point Park is in my district. It used to be in Joe Murray Rivers' district and —. Commissioner Rivers said, well, we shared it. Commissioner McMasters said, we shared it. Okay. I inherited it nonetheless, and Phase 1 of the park —, when was it done, Joe [Rivers]. Commissioner Rivers said, ah, shoot. Commissioner Murray said, we put that in the SPLOST because you [Rivers] and I represented it together at that time. Way back probably in the early 90's. Commissioner McMasters said, okay. Commissioner Murray said, '92 or '92. Commissioner McMasters said, so essentially we started a SPLOST park off President Street called Runaway Point Park. There was a Phase 2 to actually build in the athletic facilities and restrooms and concessions and this Commission recognized in the SPLOST of March of last year that in addition to our priorities of bridges, roads and drainage, some of the more original intents of SPLOST, that high, high priority would be given to funding to complete unfinished SPLOST parks, and Runaway Point Park along with Tom Triplett Park were identified and funding —. Commissioner Rivers said, and Mother Mathilda. Commissioner McMasters said, — thank you, and Mother Mathilda Park in Joe's [Rivers] district, so the funding was approved by the voters and we had a meeting with the community and Ms McCoy, who's the representative for the Runaway Point Park community, and not long after getting into office, she called me and said, "Would you please, please, please try to get this park finished for our children within the community." Anyway, we got the funding through SPLOST and we held a meeting on October 2, 2003, on site with a tent and a loud speaker system, and we had 15 or 20 people from the community come, and the project consultant and staff were there and we put —, staff generated an estimated project schedule time frame which went as follows: Construction plans were to be done December 1st of 2003; the bidding was to be completed approximately January 15th; contract award by this Commission was supposed to occur in February of this year; groundbreaking was to occur in February of this year; construction mobilization was to occur in March; and the construction of the completion of the project was supposed to be December of this year. We put up on the channel, the government channel this schedule and I've received numerous calls from the constituents asking why our groundbreaking that was supposed to occur in February has not occurred, and I was informed by staff that this groundbreaking would occur now in May. I think it's very doubtful that this project will complete as we promised —, as I promised to my constituents, so I asked Pat Monahan, who's been extremely helpful, to explain why this project got away from us, and I think staff

and myself are in agreement, and I'd like to review what's transpired with this, and this is all in your packets. And what happened, on February 13th Suzanne Cooler, our civil engineer, wrote a memo to Harry McDonald outlining eight deficiencies in the designer's plans for this park. Now at this point, according to the time frame, we're already 30 days behind even putting this out for bid. One of the first things that staff noticed, it appears that the existing improvements were taken from Phase 1, and I don't believe that the current consultant did Phase 1. Am I correct in that or wrong in that, Russ [Abolt]? County Manager Abolt said, I believe the current consultant did Phase 1. Commissioner McMasters said, so the current consultant did both phases. County Manager Abolt said, that's my understanding. Commissioner McMasters said, okay. County Manager Abolt said, Mr. Monahan's out. I have an expert. Mr. Drewry can respond with more specificity beyond Mr. Monahan's memo to you on the 10th of May. Commissioner McMasters said, okay. So it appears that existing improvements were taken from Phase 1 plans and not as an as-built survey. On March 31st Robert Drewry wrote to you, Mr. Abolt, saying that staff had two major concerns with the engineering design of this park, the first of which was that construction plans did not substantiate existing topography. In other words, it would have been extremely difficult for a potential contractor to accurately bid the project. Secondly, during the plan review the staff noted that the proposed interior and exterior walls of the building were pre-fab 24 gauge galvanized steel. Staff questions the durability of the designed walls. Pat Monahan condenses some of these things and elaborates further that the plans for Phase 2, Runaway Point Park, were reviewed jointly on February 12th and prior to that time a meeting with Al Lipsey and Valerie Hinesley, who is the contractor, identified a number of deficiencies. Upon examination it was discovered that the restrooms were built with fiberglass walls. The location of a restroom at the tennis courts created a potential safety problem due to poor visibility, and the need for two restrooms in such close proximity was questioned. (B) Questions were raised about electrical requirements that were shown on their plans. There is an existing meter service at the park, but the plans reflected that each structure would have each own meter. This is staff speaking. It is more cost effective to utilize one service and feed each building. This centralizes control and reduces the separate meter billing costs. These issues were to be included in the building rework. (C) It was discovered that there were no as-built plans provided for Phase 1, even though it's the same consultant, and there have been no verifications of existing conditions. (2) Given their comments, and this is staff's comments, the County had seen the buildings three times and never questioned them before. That's the consultant, Hickson-Hinesley —, the County had seen the buildings three times and never questioned them before. They're asking for a change order to the contract. Al Lipsey said that he was never told that the buildings were to be fiberglass. It had been explained that there had always been the intent to utilize a similar building as in type building at Runaway Point. The shelters as originally proposed seemed to have little in common. The proposal received for this building and the rework of the existing shelter from Hinesley-Hickson is approximately \$31,000. Staff feels that this cost is too extreme.

Commissioner McMasters said, based on the cost received to re-engineer an extension of the existing shelter, a new shelter can be built for a little more. In any event, the County is capable now of modifying or replacing the structure and Hinesley-Hickson's services are not required. As for the restroom/concession with little or no modification, the same structure built at Tom Triplett Park is appropriate for Runaway Point Park. The construction of this building does not require the services of Hinesley-Hickson. The change order has been received from Hinesley Hickson for the current work project that is out. There is to be a review to discuss the balance of funds remaining. In any event, it is the intent to reduce their scope of work and to eliminate any additional costs that they feel they're entitled to. We have increased our partici—, the County has increased our participation in the construction review process. In fact, it is questionable as to the extent of services that Hinesley-Hickson have been doing.

Commissioner McMasters said, I would like to know how we're going to get this project back on line and our commitments to our taxpayers and my constituents are going to be made. I'd like to know how much this original award was for. County Manager Abolt said, I can't speak on point of the original award, but I think by your own litany of those that have provided memoranda to you we've put our very best people on it. Mr. McDonald, as you know, I refer to him euphemistically as our junkyard dog, Pat Monahan in concert with Parks and Public Works staff are making this a priority and we will make it a priority. The performance of the consultant is another matter obviously that will be corrected. Other things have been done to bring to their attention the need to do a better job. But that aside, you have our very bet on this project so that we can breathe life back in the project and have a groundbreaking as soon as we're satisfied on the quality of the construction that will take place.

Commissioner McMasters said, Russ [Abolt], the thing that really concerned me when I spoke to Pat [Monahan] on the phone and that's what generated this detail, which I greatly appreciate, is Pat [Monahan] suggested that with all these delays and all this confusion with the consultant, his fear was that there would not be enough money to finish Phase 2. Can I please get an accounting of where we are with the funding for this consultant —. County Manager Abolt said, yes sir. Commissioner McMasters said, — and some assurance. I'd like a date certain. County Manager Abolt said, what you have in there —. Commissioner McMasters said, for a groundbreaking. Would that be possible? County Manager Abolt said, I don't know about the date for groundbreaking. The important thing will be the award of bids, but yes, sir. We do not want to find ourselves in the situation with a groundbreaking. Unfortunately, it would influence the award of the bids if the bids are not adequate in our estimation. Mr. Monahan and staff are just trying to protect you in that regard, but by the 28th we will answer those questions with the assumption that we will deal with the issue of the contract award. Commissioner McMasters said, thank you.

Chairman Hair said, okay. Thank you. Commissioner Kicklighter asked, can I add one quick thing to that? Chairman Hair said, certainly.

Commissioner Kicklighter said, with the parks, I commend you, Commissioner. Now that you have Robert Drewry on that along with Pat Monahan, that's what actually jumpstarted the Triplett Development once we asked them to get involved, and they oversee it. They get behind and seem to push the project planners and make them move forward

a lot —, at a lot faster past than undoubtedly they're comfortable moving. Commissioner Rayno asked, who planned your project? Commissioner Kicklighter said, the same —, same group actually designed that, but it was moving along at a —. Commissioner Rayno asked, Hinesley-Hickson? Commissioner Kicklighter said, — snail's pace until —. Commissioner Rayno asked, it was Hinesley-Hickson? Commissioner Kicklighter said, yes —, until the staff got behind it and got moving forward with it.

Chairman Hair recognized Commissioner Murray.

Commissioner Murray said, yeah, since we're on parks, when are we going to do something with Charlie Brooks? County Manager Abolt said, thank you very much, sir. Commissioner Murray said, it's already in the works I understand. I just thought I'd throw that in.

ACTION OF THE BOARD:

Commissioner McMasters requested an accounting of where we are with the funding for Runaway Point Park for the consultant, Hinesley-Hickson, and asked that he be given a date certain for the groundbreaking. County Manager Abolt stated that by the 28th of May answers will be given to Commissioner McMasters with the assumption that we will deal with the issue of the contract award.

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CHATHAM AREA TRANSIT AUTHORITY

The Board recessed as the County Commission at 9:40 a.m., and reconvened as the Chatham Area Transit Authority.

The Chatham Area Transit Authority was adjourned and the Board reconvened as the County Commission at 10:05 a.m.

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VIII. TABLED/POSTPONED ITEMS

<p>in your agenda packet. The files are available from the Clerk. Those on which staff is requesting action are indicated by asterisk (*).</p>
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1. **REQUEST BOARD APPROVE A PLAN AND RELATED AGREEMENTS THAT WOULD ENABLE THE S&O CANAL SOCIETY TO USE DESIGNATED 1% SPLOST FROM 1998-2003 FOR AN INTERPRETIVE CENTER. Tabled at meeting of April 16, 2004, for more information. (To allow more time for the audit to be completed, recommend this be kept on the table).**

ACTION OF THE BOARD:

This item was not untabled and placed before the Commissioners for action.

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- * 2. **REQUEST BOARD APPROVAL OF A RESOLUTION TO ADOPT THE COASTAL GEORGIA GREENWAY THROUGH-CORRIDOR ROUTE THAT LIES WITHIN ITS JURISDICTION. [ALL DISTRICTS.] TABLED AT MEETING OF APRIL 16, 2004. (See memo of the 6th of May responding to additional questions on this matter).**

Chairman Hair said, I'll entertain a motion to take Item #2 off the table. Commissioner Rayno said, so moved. Chairman Hair asked, second? Commissioner Kicklighter said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Thomas was not present.] Chairman Hair said, the motion passes. I'll call on Commissioner Rayno.

Commissioner Rayno said, the original intent for tabling this particular item was to have some community meetings to discuss this project. I've been in contact with other counties and some of them told me that they were not going to

move forward with any kind of new authority or new layer of bureaucracy and the only one that's been positive was Bryan County. What I'd like to do is just with a date specific in about 30 days have a public meeting planned for the County to see where they want to go with this and see whether or not we could actually use the Chatham County Recreation Authority as opposed to developing a whole new layer of government. Chairman Hair said, maybe with intergovernmental agreements, as we discussed in the pre-meeting. Commissioner Rayno said, yes.

Chairman Hair said, so we'll grant staff to do that and then within 30 days, Mr. Abolt, you understand that? And, Mr. Hart, do you understand that in terms of looking at the agreements? Okay, so what we need to do now is put that —, retable it to probably the second meeting in June. Would that be appropriate? Would that give you time? County Manager Abolt said, I would say that because of an event that we had to deal with —. Chairman Hair said, second meeting. County Manager Abolt said, — the first part of June, I would site —. Chairman Hair said, second meeting in June. County Manager Abolt said, — for the G-8 please —. Chairman Hair asked, are you comfortable with that, Commissioner Rayno? Just a second —, Commissioner Rayno? Commissioner Rayno said, yeah, that's fine. Okay, so we will retable —, I'll entertain a motion to retable until the second meeting in June. Chairman Hair recognized Commissioner McMasters.

Commissioner McMasters said, if a motion to table is not debatable, I would like to make some comments before we make a motion. Chairman Hair said, make them right now. It's not debatable. Commissioner McMasters said, thank you. Okay. Commissioner Kicklighter said, motion to table. Chairman Hair said, I heard a motion to table. Do I have a second to that? Commissioner Murray said, you might wish you had done that. Chairman Hair asked, do you want to withdraw that motion. Commissioner McMasters said, motion to untable.

County Manager Abolt said, Mr. Chairman. Just to perfect the motion, we only have one meeting in June. Chairman Hair said, okay, so it will be the last meeting. County Manager Abolt said, the only meeting, the June meeting. Chairman Hair said, yeah, the only meeting —. Commissioner Rayno said, June 25th. Chairman Hair said, yeah, there's not a first meeting. Okay, Commissioner McMasters.

Commissioner McMasters said, thank you. Thank you, Mr. Chairman. I really appreciate Pat Monahan's May 5th responses to my questions about this project, and I'd like to point out in Item #2, Presentation By Staff, Pat [Monahan] says, I agree that staff should be making the presentation on this subject before the Board of Commissioners. Even before the receipt of Commissioner McMasters' question, I addressed this subject with Al Lipsey. And of course I was asking about the appropriateness of having the consultant —, the paid consultant in the private sector make the presentations on this most important community project. So I would like to perfect when this motion —. Chairman Hair said, no, it's not a motion. Commissioner McMasters said, it's not a motion —. Chairman Hair said, table. Commissioner McMasters said, — but when it comes back in terms of direction to staff, I think our staff, Mr. Lipsey needs to take the lead on this or Mr. Monahan, and in addition you'll note in the Background comments from Mr. Monahan, it says that —, it says while the boards and councils of six counties and affected cities serve on a policy board for this Coastal Greenway Project, I think they should be invited, Russ [Abolt]. It also says that we have two appointees on the Steering Committee for the Coastal Greenway Project, that's Tom Wilson. I think he needs to be involved, and it also says local governments, public partners on this project, include GDOT, Georgia Department of Community Affairs and the Georgia Department of Industry, Trade & Tourism. They should all be invited through our staff to participate when this comes back to this Commission.

Chairman Hair said, okay. All right, one more. Chairman Hair recognized Commissioner Murray.

Commissioner Murray said, if we're going to include all these people, we need to include the RDC also because they are involved in this. County Manager Abolt said, yes sir. We'll do everything you tell us to. I'm concerned now about managing your time. That only meeting you have in June will also be the day in which you have budget hearing. I certainly want to open up the door to anybody you want in this room, but there may be competition for time. Chairman Hair said, let's keep it that way and if we want to table it, we can table it.

Commissioner Rayno said, well, the problem with that is a bunch of people will show up for that meeting and that's unfair to them. Why don't we go to the first meeting in August. Commissioner Odell said, I think that's —. Chairman Hair asked, you mean —, July, you mean? Commissioner Rayno said, yes.

Chairman Hair said, all right, the motion is —. We haven't made the motion to table yet anyway. Table it to the first meeting in July. Commissioner Rayno, I'll call on you.

Commissioner Rayno asked, just for the record who's the consulting party on the particular project? Mr. Abolt said, Hinesley-Hickson. Commissioner Rayno asked, Hinesley-Hickson? Okay. I make a motion to table until the first meeting in July. Chairman Hair asked, second? Commissioner Murray said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioners Rivers and Thomas were not present when this vote was taken.] Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

1. Commissioner Rayno moved to untable this item and place it before the Commissioners for consideration. Commissioner Kicklighter seconded the motion and it carried the motion carried unanimously. [NOTE: Commissioner Thomas was not present.]

2. Commissioner Rayno moved to table this item until the first meeting in July, 2004. Commissioner Murray seconded the motion and it carried unanimously. [NOTE: Commissioners Rivers and Thomas were not present when this vote was taken.]

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- * 3. **PETITIONER HAROLD B. YELLIN, AGENT (FOR A. J. & C. GARFUNKEL, LLC, AND HAROLD BLACK, OWNERS) IS REQUESTING REZONING TERRA FIRMA HAMMOCK, JOHNNY MERCER BOULEVARD, FROM A PUD-CC-24/TC (PLANNED UNIT DEVELOPMENT-COMMERCIAL CENTER-24 UNITS PER NET ACRE-TOWN CENTER) ZONING CLASSIFICATION TO A PUD-M-3.5 (PLANNED UNIT DEVELOPMENT MULTI-FAMILY-3.5 UNITS PER NET ACRE) ZONING CLASSIFICATION. THE MPC RECOMMENDED APPROVAL.
MPC FILE NO. Z-040225-42859-1
[DISTRICT 4.]
See additional MPC report dealing with questions on setbacks and further reply to questions posed by Commissioner McMasters.**

Chairman Hair said, I need a motion to take Item 3 off the table. Commissioner Murray said, so moved. Chairman Hair asked, second. Commissioner Kicklighter said, second. The motion carried unanimously. [NOTE: Commissioners Rivers and Thomas were not present when this vote was taken.]

Chairman Hair said, I'll call on Commissioner Murray to make a motion.

Commissioner Murray said, before I make a motion, do we have anybody out there that wants to speak? If we don't, I'll go ahead and make it. Chairman Hair said, I don't see anybody. Make your motion. Commissioner Murray said, okay, I'm going to read this and, Sybil [Tillman], after I finish reading it, you can have a copy for the record so we have it just like it's written out. I have carefully listened to all of the evidence that has been presented, and I find that based on this evidence, and I would ask my fellow Commissioners to concur on this, that typography on this land, location, property, the existence of easements, the wetlands, the marshes, the unique vegetation and foliage create a piece of property that has unusual and extraordinary conditions that are associated with this property. I have reviewed the proposed site plan dated May 10, 2004, which lays out the various building pods and find that the overall plan is a good plan in a much less intense use than it is presently zoned for. I would move that this Commission make a finding that there are unusual and extraordinary conditions and rezone this property to PUD-M-3.5 and as a condition of that, that the foregoing pod plan be made part of the specific development plan. Upon referral of this to the MPC and their consideration of the specific development plan, that they also recognize that this is unique and unusual property and that if the specific development plan differs materially from the approved general plan, that the specific plan be reviewed by the MPC Commission and Chatham County Commission. Subject to all those conditions, I would move that we rezone this property to PUD-M-3.5.

Chairman Hair asked, second? Commissioner Kicklighter said, second. Chairman Hair asked, any further discussion? Commissioner Rayno said, yes. Commissioner McMasters said, discussion. Chairman Hair recognized Commissioner Rayno.

Commissioner Rayno said, I'm just going to say the dissenting opinion for the benefit of those people that live out there and who feel like this process is being shoved at them and they have no voice in the situation and are so frustrated that they don't even show up today because they feel like they have no recourse. And we were told at one time that if we were to use our position to try to stop this or reconfigure what was going on, we'd be arbitrary and capricious, and I've asked the attorney for the ACCG whether or not that was so, and he wrote back and I want to read this in the record:

Jeff, generally speaking, no it would not be considered arbitrary and capricious and at the same time it still might be insufficient to support a vote against the project. There are occasions where the courts have upheld zoning decisions where the proposed rezoning is inconsistent with the land use plan. I've also seen the reverse. I recall one decision where the county argued inconsistency with the land use plan. The court appealed noted that the county had ignored the land use plan on other occasions, the message from the court being that you can't have it both ways. You can use your plan as the basis for zoning but only if you do so consistently.

Commissioner Rayno said, what we're saying today, as we make this special occasion for this hammock, is that, hey, this land use plan that we worked so hard on for a number of years, we really didn't mean it when we voted for it two years back and we're just going to go against it and move forward. And so later on down the road you might live in another part of Savannah, another part of Chatham County and you think it's no big deal until the same —, not the same developers, but another group of developers come along and they want to take your piece of property next to your house and do something with it and then all of a sudden you're going to be mad, but you've already set a precedent. The courts can come in and say, "Well, you didn't stop it then, so there's no point in trying to stop it now. This

is what you believe in in Chatham County.” And this is the way it’s going in Chatham County. You might as well just burn the land use plan that we put out for the Islands, we might as well just burn the Southeast Land Plan and, Dean [Kicklighter], when you get out there on the Westside, I bet you when they want to put a dump next to somebody’s property, you won’t be so quick to want to approve that. But that’s private property rights if somebody wants to put a dump on their property. If they want to put it there, that’s private property rights. Commissioner Kicklighter said, that’s not a good comparison. Commissioner Rayno said, well, it’s about the same thing because it deals with environmental issues. Commissioner Kicklighter said, it’s about like the eagle landing somewhere. Commissioner Rayno said, and I know that a lot of these folks are cloaking themselves in property rights, but there are port laws and there is that greater law about caring about your neighbor, and I think when people put profit over people or they disregard the feelings of their neighbors in their own community, we’re selling that basic human thing short. We had a man who stood up here earlier and said if he could make the world greener and better, it would be a beautiful thing for our short time here on earth, but when you do the opposite, you destroy something which already exists for profit. They could change the plan and still make a profit to conform with the land use plan, but they’re not going to do that. They’re going to move forward and they hold this veiled cloak. They say, “If you don’t do it this way, we can come back and make something even worse.” I don’t like that kind of threat. I don’t think it’s being a good neighbor to do that to somebody. I don’t think it’s the right thing to do. And, remember, it’s not your neighborhood today, but it could be tomorrow and there’s nothing to stop them from doing it. I don’t understand a Metropolitan Planning Commission telling this Board we need a land use plan and then turning right around and doing a 180 and saying, “Ah, we’re not going to follow it, it’s no big deal.” And some people have gone so far as to say a plan is not meant to last forever. I would like to think that it would last at least a couple of years, maybe five, maybe ten, but not in Chatham County, not when there’s special interest at stake, and if the people are running for office I would be darn sure who’s supporting their campaigns before I voted for them. I’m done.

Chairman Hair recognized Commissioner McMasters.

Commissioner McMasters said, thank you. I want to make a distinction in this matter, and the distinction really is that this body, according to the wiring diagram, if you will, only deals with zoning, rezonings. The variances are not in our purview. They were the purview of the Metropolitan Planning Commission. I don’t understand how the MPC voted unanimously to approve the 50-foot —, the variance of the 50-foot setback without asking some very fundamental questions which my colleague Joe Murray Rivers asked, and that was how many of these homes really are going to impact the Islands Land Plan. It was a very good question and we’ve learned that there aren’t very many, and that’s really the essence here, but evidently the Metropolitan Planning Commission did not ask the sort of questions that this Commission asked, and that’s really their job because the variance is within their purview. I would also point out that the manner in which the Metropolitan Planning Commission handled themselves at the public meeting as almost advocates or lobbyists for the petitioner, setting aside the merits of the petitioner’s plans, but just the fact that they would go to such length to be advocates and not impartial was disturbing. I would finally like to recommend an exploration of a concept from MPC staff back to me personally, and that would be what would be your thinking or recommendation in the future on a go-forward basis of any issues or applicants that make requests for variances that are in conflict with land plans, would you consider them only for recommendation and let this elected Board make the final decision? I’d like to see your comments on that just as a working concept.

Chairman Hair recognized Commissioner Kicklighter.

Commissioner Kicklighter said, thank you, Mr. Chairman. I have to agree with Commissioner Murray. We have special circumstances here. It’s an isolated area. These people have gone above and beyond what has actually been requested. If you look at the average setback, you have 57.64 feet away from the marsh on average. This is 7.64 feet further from the marsh than the Islands Land Plan calls for and, you know, I went through and kind of just broke this down and you look at this and, you know, you’ve heard people talk about compromises and everything and you actually have here the State allows you to build a home 25 feet away from the marsh. The Islands Land Use Plan calls for 50 feet away from the marsh. Okay, what you have here, like I said, an average of 57 feet away, which is going above the land use plan if you look at the average. But then you break it down because let’s get a little more specific here. You only have six lots out of 34 that’s going to be below 35 feet away. Only six, and then you have only two lots that will be below 30 feet away out of the 34, and there’s zero lots sitting on that minimum State —, that the State allows 25 feet and, you know, everything else there other than eight lots is further than 35 feet away from the marsh, and then the average of all of them together is 57 feet away. Again, and I’ll warn —, you know, if anybody goes to block this thing, they’re already allowed to build 200 or whatever condos there, which is going to definitely increase the traffic in the area. These people have done a great job of, yeah, trying to make a living and I, as a politician, have no problem allowing someone to make a good living, and as long as I feel in my heart of hearts it’s not hurting the people around them, and these people have done a good job, they’ve got a —, they’re going to make a good living I’m sure on this, make some money, and in my opinion it’s not going to hurt the people around the area, it’s not going to hurt the marsh, and as far as setting future precedents or whatever, we actually —, if you’ve taken on this, you can’t have —, you can’t take the entire subdivision like this and compare that to individual petitioners coming in front of us and let that come forward. If that happens in the future with a entire subdivision, this would be 57 feet away from the marsh on average and as far as individuals, we have the Islands Land Use Plan. And, you know, a plan is nothing but a plan. It’s not the Holy Grail that you —, I mean, you don’t to just follow exactly buy it, it’s a guideline to follow, and I believe these people followed the guideline. They’re 57 feet away. I commend them. I think they spent more money than they even had to trying to go above and beyond to help the people in the area, and I respect the fact that they respected the concerns of the people in that area enough to go this extra mile that they took. They’re putting 34 houses there. It could be 200 condos, but we don’t need that traffic in that area, that added traffic, and I appreciate the developers and I appreciate the others on here that I believe you have a —, just a good open mind of doing what’s right on individual

cases. If not, then we can just set up our ordinances and we all go home and never come back and meet and Russ [Abolt] could enforce them. There wouldn't be a need for government if you followed one set of rules forever. We could end the government all the way. That's why I believe we're here is to look at individual cases, make individual judgments. If not, we can just set it up, we can all just leave for four years or how many ever and come back and see how it went. So —. Chairman Hair said, I'm in favor of that actually. Commissioner Kicklighter said, yeah. I encourage everybody to support it. It's a great plan.

Commissioner Rivers said, call the question. Chairman Hair said, we have a call for the question. Commissioner Murray said, can we just —. Commissioner Odell said, but Joe [Rivers] was —, recognize him. Chairman Hair said, he's called for the question. Unless he withdraws it, we've got to vote. It's up to you, Joe [Rivers]. Commissioner Rivers said, I'll yield to him.

Commissioner Murray said, this has not been an easy decision I don't think for anyone. I can certainly understand both sides. I, too, believe that we should have a 50-foot marsh setback; however, if we do not approve this, they can build, as Commissioner Kicklighter said, 260-something townhome units on that property with a 25-foot setback and they don't even have to come back to this Commission for it. They have downsized this property. I think they have a good plan. It's not perfect. Yes, I would like to see a larger setback. There are only two lots on here that are less than 30 feet. One's 29.02 feet and the other one is 29.58 feet. Everybody was concerned about the 25-foot setback. There's nothing that is that close. The average, if you take out the furthest one and the one that does not have to have a setback because it's not on the marsh, you'd still be over 50 feet on average. Now, I'm not saying they would build the others, but I don't want to take that chance. And to me, down-zoning this to residential and the protections that we have in the motion for it to come back to us for any changes, I think we are well covered on that and I just don't see any way at this point to turn it down. If we just want to vote and go end up going to court over it, we can do that and spend a lot of money and end up losing it, but I support the motion. It's not an easy decision. I would like to throw in something else too. There was a lot of discussion at the last meeting about zoning signs, only one of them being up. There were actually two. One was behind CVS and one was at the entrance coming in from the —, by Dirty Harry's Laundry. So, there were two up at that point, but I do support the motion.

Chairman Hair said, all right, we have a call for the question. All those in favor of the motion vote yes, opposed no. Chairman Hair and Commissioners Rivers, McMasters, Murray, Odell, Gellatly and Kicklighter voted in favor of the motion. Commissioner Rayno voted in opposition. The motion carried by a vote of seven to one. [NOTE: Commissioner Thomas was not present.] Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner Murray moved that, as to the petition of Harold B. Yellin, Agent (for A. J. C. Garfunkel, LLC, and Harold Black, Owners), requesting rezoning Terra Firma Hammock, Johnny Mercer Boulevard, from a PUD-CC-24/TC (Planned Unit Development-Commercial Center-24 Units Per Net Acre-Town Center) zoning classification to a PUD-M-3.5 (Planned Unit Development Multi-Family-3.5 Units Per Net Acre) zoning classification, this Commission make a finding that there are unusual and extraordinary conditions and approve the rezoning of the property to a PUD-M-3.5 and as a condition of that, that the building pod plan be made part of the specific development plan, and further that upon referral of this to the MPC and consideration of the specific development plan, that they also recognize that this is a unique and unusual property and that if the specific development plan differs materially from the approved general plan, that the specific plan be reviewed by the MPC Commission and the Chatham County Commission. Commissioner Kicklighter seconded the motion. Chairman Hair and Commissioners Rivers, McMasters, Murray, Gellatly and Kicklighter voted in favor of the motion. Commissioner Rayno voted in opposition. The motion carried by a vote of six to one. [NOTE: Commissioners Odell and Thomas were not present when this vote was taken.]

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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: AN AMENDMENT TO THE CIP FUND TO RECOGNIZE LEASE PROCEEDS OF \$2,050,000 FOR THE PUBLIC SAFETY RADIO SYSTEM UPGRADE; A SPLOST 2003-2008 AMENDMENT TO RECOGNIZE \$6,324,789 IN TAX REVENUE AND TO APPROPRIATE \$6,324,789 TO SALES TAX PROJECTS; APPROVAL OF A WRITE OFF OF A \$69,726 RECEIVABLE FOR THE DMVS PROJECT IN THE MULTIPLE GRANT FUND AND APPROVAL OF THE DMVS EXPENDITURE OF \$69,726 IN THE CIP BOND FUND.**

Chairman Hair said, I'll entertain a motion to approve. Commissioner Murray said, so moved. Chairman Hair asked, second? Commissioner Kicklighter said, second. Chairman Hair asked, any discussion? All those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioners Odell and Thomas were not present when this vote was taken.] Chairman Hair said, the motion passes.

ACTION OF THE BOARD:

Commissioner Murray moved to approve the following: An amendment to the CIP Fund to recognize lease proceeds of \$2,050,000 for the Public Safety Radio System Upgrade; a SPLOST 2003-2008 amendment to recognize \$6,324,789 in tax revenue and to appropriate \$6,324,789 to sales tax projects; approval of a write-off of a \$69,726 receivable for the DMVS project in the multiple grant fund and approval of the DMVS expenditure of \$69,726 in the CIP Bond Fund. Commissioner Kicklighter seconded the motion and it carried unanimously. [NOTE: Commissioners Odell and Thomas were not present when this vote was taken.]

AGENDA ITEM: **IX-1**

AGENDA DATE: **May 14, 2004**

DATE: May 5, 2004
TO: Board of Commissioners
THRU: R.E. Abolt, County Manager
FROM: Linda Cramer, Finance Director

ISSUE:

To request approval of an amendment to the CIP fund to recognize lease proceeds of \$2,050,000 from G.E. Public Finance and to appropriate \$2,050,000 for the Public Safety Radio System Upgrade; a SPLOST 2003-2008 amendment to recognize \$6,324,789 in tax revenue and to appropriate \$6,324,789 to sales tax projects; approval of a write off of a \$69,726 receivable for the DMVS project in the Multiple Grant Fund and approval of the DMVS expenditure of \$69,726 in the CIP Bond Fund.

FACTS AND FINDINGS:

- 1) On March 12, 2004 the Board of Commissioners approved an agreement with Motorola, Inc., to upgrade the Public Safety Radio System and an Equity Lease Agreement with G.E. Public Finance to provide funding for the radio system upgrade.
- 2) On April 16, 2004 the Board of Commissioners approved a cash flow report for the Special Purpose Local Option Sales Tax Fund, 2003-2008. The attached resolution amends the FY 2003/2004 budget to establish funding for the projects outlined in the cash flow report.
- 3) The Assistant County Manager has requested that the balance of the DMVS project be funded from the "ANG Property & Structure" in the Series 1999 DSA Bond Fund.

FUNDING:

The budget resolutions create the necessary funding in the CIP and the SPLOST 2003-2008 funds. Funds are available in the Bond Fund for the DMVS receivable.

ALTERNATIVES:

- 1) That the Board approve the following:

CAPITAL IMPROVEMENT PROGRAM FUN

A budget amendment to recognize \$2,050,000 lease proceeds for the Public Safety Radio System Upgrade.

SPECIAL PURPOSE LOCAL OPTION SALES TAX 2003-2008

A resolution to amend the budget for fiscal year 2004 by \$6,324,789 for sales tax projects.

CIP BOND FUND

Approve expenditure of \$69,726 for DMVS project in the Bond Fund.

- 2) Amend or deny the requests.

POLICY ANALYSIS:

State law grants the Board authority to amend the budget during the year as it deems necessary.

RECOMMENDATION:

That the Board approve Alternative 1.

Prepared by: Estelle Brown

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2. INTERGOVERNMENTAL AGREEMENT WITH BLOOMINGDALE REGARDING ANNEXATION. Note: Attorney for Bloomingdale requests the item be delayed.

Chairman Hair said, Item 2 has been pulled at the request of the Bloomingdale attorney.

ACTION OF THE BOARD:

This item was pulled from the agenda by the attorney for the City of Bloomingdale.

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3. DISTRIBUTION OF PROPOSED BUDGET FOR FISCAL YEAR 2005. COPIES WILL BE PLACED IN LIBRARIES THROUGHOUT THE COUNTY.

Chairman Hair said, Item 3 is for information. If anybody wants to ask any questions, we certainly can do that. This is the proposed budget.

County Manager Abolt said, Mr. Chairman, the budget books are being distributed. Whenever you feel appropriate, even though most of you with the exception of Commissioner Kicklighter and Commissioner Thomas, have been briefed, I'm ready to provide an overview. It's at your discretion. Chairman Hair said, okay.

ACTION OF THE BOARD:

Information item. No action required.

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4. STATUS OF 3RD QUARTER FINANCIAL REPORT: BECAUSE OF PRIORITY AND WORKLOAD ASSOCIATED WITH BUDGET PREPARATION, THIS REPORT WILL BE DISTRIBUTED ON THE 28TH OF MAY.

Chairman Hair asked, any questions on that? County Manager Abolt said, that will be on the 28th, sir.

ACTION OF THE BOARD:

Information item. No action required.

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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, I'll entertain a motion to approve the Action Calendar. Commissioner Kicklighter said, so moved. Chairman Hair asked, second. Commissioner Gellatly said, second. All those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

ACTION OF THE BOARD:

Commissioner Kicklighter moved that the Action Calendar be approved in its entirety with the exception of Item 11. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

[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 FOR THE PRE-MEETING AND REGULAR MEETING OF APRIL 30, 2004, AS MAILED.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve the minutes for the pre-meeting and regular meeting of April 30, 2004, as mailed. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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2. CLAIMS VS. CHATHAM COUNTY FOR THE PERIOD APRIL 22 THROUGH MAY 5, 2004.

ACTION OF THE BOARD:

Commissioner Kicklighter moved that the Finance Director is authorized to pay claims for the period April 22, 2004, through May 5, 2004, in the amount of \$2,250,318. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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3. REQUEST BOARD APPROVE AN ANNUAL RESOLUTION TO REAFFIRM THE NECESSITY OF THE "E-911" AND WIRELESS ENHANCED "E-911" CHARGES.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve an annual resolution to reaffirm the necessity of the "E-911" and wireless enhanced "E-911" charges. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

AGENDA ITEM: X-3
AGENDA DATE: May 14, 2004

DATE: May 5, 2004
TO: Board of Commissioners
THRU: R.E.Abolt, County Manager
FROM: Linda Cramer, Finance Director

ISSUE:

To present to the Board an annual resolution to reaffirm the necessity of the "E-911" and wireless enhanced "E-911" charges.

BACKGROUND:

The Board of Commissioners have approved resolutions establishing E-911 charges. The state code requires that the necessity of the charge be reaffirmed by resolution on an annual basis.

FACTS & FINDINGS:

- (1) As provided for in state law, the Board of Commissioners approved a resolution on November 8, 1991, to be effective 120 days thereafter on April 1, 1992, increasing E-911 rates in the unincorporated area and all municipalities with the exception of the City of Savannah from \$.16 to \$1.50.
- (2) On March 12, 1999 the Board of Commissioners approved a resolution reaffirming the need for the charge of \$1.50 per month per exchange access facility. On August 13, 1999, the

Board of Commissioners adopted a resolution imposing a \$1.00 per month charge per wireless telecommunications connection.

- (3) The Official Code of Georgia section 46-5-134(d)(3) requires that Chatham County reaffirm the necessity for the "911" and wireless enhanced "911" charge beginning with the thirteenth month following the month in which the emergency "911" system service is first provided and during such month annually thereafter.
- (4) The charges provide funds to pay for the operation of the E-911 services and for purchase of equipment for such purpose. The budget for FY 2004 is \$1,602,918.

FUNDING:

Not applicable.

ALTERNATIVES:

- (1) That the Board of Commissioners approve the resolution for the Chairman's signature.
- (2) That the Board not approve the resolution.

POLICY ANALYSIS:

The Official Code of Georgia section 46-5-134(d)(3) requires that Chatham County reaffirm the necessity for the "911" and wireless enhanced "911" charge annually.

RECOMMENDATION:

That the Board approve Alternative 1.

Prepared by: Read DeHaven

RESOLUTION

WHEREAS, E-911 service serves a life-saving link between people and emergency services by improving response times and the accuracy of automated address location; and

WHEREAS, Chatham County now provides this valuable service to promote the safety, health and well-being of residents of Chatham County and its thousands of visitors each year; and

WHEREAS, it remains in the best interests of the citizens of Chatham County to maintain this E-911 service, which Chatham County provides to the unincorporated area and all cities (except Savannah) as a Public Answering Point; and

WHEREAS, the Board of Commissioners of Chatham County does hereby desire to establish a method of paying for this service that would also reduce reliance upon property taxes for these funds; and

WHEREAS, the amount of \$1.50 per month per exchange access facility provided to the telephone subscriber was approved by the Chatham County Board of Commissioners on November 8, 1991 to be effective on the first day of April 1992; and

WHEREAS, the amount of \$1.00 per month per wireless connection provided to each telephone subscriber was approved by the Chatham County Board of Commissioners on July 10, 1998 to be effective on the first day of December 1998; and

WHEREAS, on August 13, 1999, the Chatham County Board Of Commissioners adopted an amended resolution to impose a wireless enhanced 911 charge within the geographic area that is served or would be served by Chatham County.

NOW THEREFORE, as required by the Official Code of Georgia, Title 46, Chapter 46-5-134(d)(3), the Board of Commissioners of Chatham County does hereby reaffirm the necessity for a monthly "E-911" charge of \$1.50 upon each exchange access facility subscribed to by telephone subscribers whose exchange to access lines are in areas served by Chatham County's Public Safety Answering Point, and reaffirm the necessity for a monthly charge of \$1.00 per month per wireless connection subscribed to by subscribers whose billing address is within the geographic area that is

served by Chatham County or that would be served by Chatham County for the purpose of such an emergency "911" system.

BE IT FURTHER RESOLVED that these charges remain effective as reaffirmed by the enactment of this resolution.

BE IT SO RESOLVED ON THIS 14TH DAY OF MAY, 2004.

ATTEST:

Dr. Billy B. Hair, Chairman

Sybil Tillman, Clerk

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- 4. REQUEST BOARD APPROVE A RESOLUTION TO PROVIDE WORKERS' COMPENSATION COVERAGE FOR THE CHATHAM COUNTY SHERIFF'S DEPARTMENT RESERVE UNIT AS LISTED ON THE 2004 MEMBERSHIP ROSTER.**

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve a resolution to provide workers' compensation coverage for the Chatham County Sheriff's Department Reserve Unit as listed on the 2004 membership roster. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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- 5. REQUEST FROM THOMAS AND HUTTON, ENGINEER FOR THE DEVELOPER, BOUY BROTHERS BUILDERS, TO RECORD THE SUBDIVISION PLAT FOR VILLAGE AT AUTUMN LAKE, PHASE 1, ACCEPT THE MAINTENANCE AGREEMENT AND FINANCIAL GUARANTEE, INITIATE THE 12-MONTH WARRANTY PERIOD AND CREATE A NEW STREETLIGHT ASSESSMENT DISTRICT. [DISTRICT 7.]**

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve a request from Thomas and Hutton, engineer for the developer, Bouy Brothers Builders, to record the subdivision plat for Village at Autumn Lake, Phase 1, accept the maintenance agreement and financial guarantee, initiate the 12-month warranty period, and create a new streetlight assessment district. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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- 6. REQUEST FROM THOMAS AND HUTTON, ENGINEER FOR THE DEVELOPER, ALBERT LUFBURROW, TO RECORD THE SUBDIVISION PLAT FOR SOUTH HARBOR, PHASE H, ACCEPT THE CONSTRUCTION AGREEMENT AND FINANCIAL GUARANTEE, AND WAIVE THE STREETLIGHT ASSESSMENT REQUIREMENT. [DISTRICT 4.]**

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve a request from Thomas and Hutton, engineer for the developer, Albert Lufburrow, to record the subdivision plat for South Harbor, Phase H, accept the construction agreement and financial guarantee, and waive the streetlight assessment requirement and allow the developer to combine this phase with the private streetlight system. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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7. REQUEST BOARD APPROVAL TO ENTER INTO A CITIZEN CORPS GRANT AGREEMENT WITH THE GEORGIA EMERGENCY MANAGEMENT AGENCY.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to enter into a Citizen Corps Grant Agreement with the Georgia Emergency Management Agency (GEMA) authorizing Chatham Emergency Management Agency (CEMA) to implement a series of Citizen Corps Programs to comply with State Homeland Security initiatives. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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8. REQUEST BOARD APPROVE AMENDING THE AGREEMENT WITH SCAD TO USE SIX TENNIS COURTS FOR PRACTICES AT LAKE MAYER COMMUNITY PARK.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve amending the agreement with SCAD to use six (6) tennis courts for practices at Lake Mayer Community Park. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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9. TO AMEND THE CHATHAM COUNTY FISCAL AND ACCOUNTING MANUAL FOR FINANCIAL ADMINISTRATION – CHAPTER XII FIXED ASSETS (B) DEFINITION.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to amend the Chatham County Fiscal and Accounting Manual for Financial Administration – Chapter XII Fixed Assets (B) Definition. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

AGENDA ITEM: **X-9**
AGENDA DATE: May 14, 2004

TO: Board of Commissioners
THRU: R.E. Abolt, County Manager
FROM: Linda Cramer, Finance Director
Michael Kaigler, Human Resources & Services Director
William Parson, Purchasing Agent

ISSUE:

To amend the Chatham County Fiscal and Accounting Manual for Financial Administration – Chapter XII Fixed Assets (B) Definition.

BACKGROUND:

On November 9, 1990, the County Commissioners approved by Resolution the Chatham County Fiscal and Accounting Manual for Financial Administration. The manual provides for established and consistent accounting and financial administration for the County.

Chapter XII – Fixed Assets (B) – Definition States:

1. Fixed Assets – generally include all tangible assets with a service life of more than one year and cost greater than \$1,000, i.e., land, building, improvements other than building and equipment.

This section is being revised to:

1. Fixed Assets – generally include all tangible assets with a service life of more than one year. Typical examples include land, improvements to land, easements, building, building improvements, vehicles, machinery, equipment, historical treasures, and infrastructure.

Fixed Assets Threshold Table

<u>Asset Type</u>	<u>Capitalization Threshold</u>
Land	Any
Infrastructure	\$50,000
Buildings	\$50,000
Vehicles, Machinery & Equipment	\$5,000

FACTS AND FINDINGS :

- (1) The Governmental Accounting Standard Board (GASB), the organization that establishes standards of state and local governmental accounting and financial reporting, issued a new reporting standard, GASB Statement No. 34, June 1999. Georgia laws require that local government financial statements be prepared in conformity with generally accepted accounting principles and therefore implement GASB 34. The new GASB 34 reporting model excludes the general fixed assets account group in the financial statements. All fixed assets will be reported in the statement of net assets to include infrastructure and the statement of activities will report depreciation expense. The new reporting model forces governmental entities to focus on infrastructure in an attempt to inform taxpayers about the cost of capital assets. Also, the capitalization of the assets properly allocate costs to the period when the assets are used to provide services. This is a huge change in the way assets were previously reported and involves extensive preparation. Chatham County is a Phase I government (total revenue greater than 100 million) for GASB 34 implementation. Chatham County implemented the general provisions for the financial statements, reported a complete inventory of all capital assets and reported the entire cost of new infrastructure for the fiscal year end June 30, 2002. Chatham County is also required to retroactively report infrastructure assets by the fiscal year end June 30, 2006.
- (2) Due to the new reporting provisions of GASB 34, new thresholds for capital asset reporting must be established and infrastructure assets should be treated separately. The Government Finance Officers Association (GFOA) recommends that state and local governments establish a capitalization threshold no less than \$5,000 for an individual item. The current threshold maximum amount for purposes of federal grant program reimbursement is \$5,000.
- (3) The capitalization threshold increase would allow the county to meet new reporting requirements and deadlines without creating a significant burden and allow staff to address other significant reporting requirements such as infrastructure.
- (4) Departments would be required to maintain inventory and adequate control procedures for noncapitalized assets. A periodical internal audit review would ensure compliance, identify problems and make recommendations. All personal computer equipment purchased through our Information and Communication Services (ICS) Department is inventoried and accounted for by ICS. The capitalization policy is for financial reporting purposes only.
- (5) The total capital assets reflected on the County's year end financial statements for June 30, 2003, totaled \$186,124,930.
- (6) June 11, 2002 the fixed asset responsibilities and position were transferred to the Purchasing and Contracting Division from the Finance Department.

FUNDING:

N/A

ALTERNATIVES:

- (1) That the revision would be changed to read as follows:

Definition

1. Fixed Assets – generally include all tangible assets with a service life of more than one year. Typical examples include land, improvements to land, easements, building,

building improvements, vehicles, machinery, equipment, historical treasures, and infrastructure.

Fixed Assets Threshold Table

<u>Asset Type</u>	<u>Capitalization Threshold</u>
Land	Any
Infrastructure	\$50,000
Buildings	\$50,000
Vehicles, Machinery & Equipment	\$5,000

(2) Do not approve this change.

POLICY ANALYSIS:

The manual provides established and consistent and uniform accounting and financial administration for Chatham County.

RECOMMENDATION:

That the Board approve Alternative 1.

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10. REQUEST BOARD APPROVE A REQUEST FROM THE TAX COMMISSIONER’S OFFICE TO WRITE OFF THE 2003 PERSONAL PROPERTY TAXES FOR JAMES R. BENTON, #122690, WITH AN ADDITIONAL REQUEST TO INSTRUCT THE ASSESSOR’S OFFICE NOT TO CREATE AN ASSESSMENT FOR 2004 AND ANY OTHER SUBSEQUENT TAX YEARS FOR THIS ACCOUNT AND THE SAME PERSONAL PROPERTY.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve a request form the Tax Commissioner’s office to write off the 2003 personal property taxes for James R. Benton, #122690, and approve the additional request to instruct the Assessor’s office not to create an assessment for 2004 and any other subsequent tax years for this account and the same personal property. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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11. REQUEST BOARD APPROVE A REQUEST FROM THE TAX COMMISSIONER’S OFFICE TO RETROACTIVELY ADJUST THE OVERSTATED FAIR MARKET VALUE OF THE 2003 PERSONAL PROPERTY ASSESSMENT OF HUNTER ENTERPRISES, INC., #110078, A/K/A YE OLDE TOBACCO SHOP/VERDERY’S LAMPS.

[See discussion of this item under Agenda Item VI-1.]

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve a request from the Tax Commissioner’s office to retroactively adjust the overstated fair market value of the 2003 personal property assessment of Hunter Enterprises, Ind., #110078, a/k/a Ye Olde Tobacco Shop/Verdery’s Lamps. Commissioner Rayno seconded the motion and it carried unanimously. [NOTE: Commissioner Thomas was not present.]

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12. REQUEST BOARD APPROVE A REQUEST FROM THE TAX COMMISSIONER’S OFFICE TO WRITE OFF THE 1998, 1999, 2000 AND 2001 PERSONAL PROPERTY TAXES OF DIALYSIS SPECIALISTS OF SAVANNAH, INC.

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve a request from the Tax Commissioner's office to write off the 1998, 1999, 2000 and 2001 personal property taxes of Dialysis Specialists of Savannah, Inc. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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13. 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. Agreement for an Internet based auction system for surplus property and approval for expenses to be funded from the revenue generating account	Purchasing and Contracting	GovDeals, Inc.	N/A	Revenue Generating
B. 14 Motorola radios and chargers	C.N.T.	Motorola, Inc. (sole source)	\$44,839.20	Confiscated Funds - C.N.T.
C. Change Order No. 1 to the contract for the construction of the Georgetown Lagoons Improvements, Phase I, project to incorporate the Phase II work into the existing contract and involves improvements to the two lagoons at Dovetail Crossing	SPLOST	Shaw Environmental, Inc.	\$117,000	SPLOST (1998-2003) - Drainage, Fawcett Canal Project
D. One (1) Ford 2004 SUV	Sheriff K-9 Unit	J. C. Lewis Ford	\$19,419	Multiple Grant Fund - Sheriff Department
E. Renew Annual software maintenance contract	Assessor	Terra Soft Systems, Inc. (sole source)	\$27,325	General Fund M/O - Assessor
F. Terrorism coverage	Finance - Risk Management	Travelers Insurance Company	\$22,000	Insurance & Surety Bond Premiums - 1009922 G-8 Property Insurance
G. Professional Service Contract	Elections Board	Diane Carver	\$23 hourly, not to exceed forty hours weekly (as needed basis)	Elections Board Budget
H. 550 gallons of Scourge for ground adulticiding	Mosquito Control	Adapco, Inc.	\$44,550	Mosquito Control

ACTION OF THE BOARD:

Commissioner Kicklighter moved to approve Items Item 13-A through Item 13-H. Commissioner Gellatly seconded the motion and it carried unanimously. [NOTE: Commissioners McMasters, Odell and Thomas were not present when this vote was taken.]

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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.

1. AMENDMENT TO CHAPTER 18, ARTICLE IV, "PARADE AND PUBLIC ASSEMBLY ORDINANCE," OF THE CHATHAM COUNTY CODE, TO STRIKE PARAGRAPH 5 OF § 18-404 AND TO ADOPT A NEW PARAGRAPH 5 OF § 18-404.

ACTION OF THE BOARD:

Chairman Hair read this item into the record as the first reading.

STATE OF GEORGIA)
)
COUNTY OF CHATHAM)

LICENSING AND REGULATION ORDINANCE OF CHATHAM COUNTY

AN AMENDMENT TO THE LICENSING AND REGULATION ORDINANCE OF CHATHAM COUNTY

BE IT ORDAINED by the Chatham County Board of Commissioners as follows:

Chapter 18, "Licensing and Regulation" of the Chatham County Code is amended to add Article IV, "Parade and Public Assembly Ordinance," which shall be read as follows:

"ARTICLE IV

Parade and Public Assembly Ordinance

§18-401 Definitions.

1. "Chief of Police" means the Chief of the Savannah/Chatham Metropolitan Police Department.
2. "County" means the unincorporated area of Chatham County, Georgia.
3. "Parade" means any march, demonstration, procession or motorcade consisting of persons, animals, or vehicles or combination thereof upon the streets, parks or other public grounds within the County with an intent of attracting public attention that interferes with the normal flow or regulation of traffic upon the streets, parks or other public grounds.
4. "Person" means any person, firm, partnership, corporation, company or organization of any kind.
5. "Public assembly" means any meeting, demonstration, picket line, rally or gathering for a common purpose that interferes with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public area or facilities open to the general public.
6. "Sidewalk" means any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.
7. "Street" means any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip.
8. "Hearing Officer" means an impartial person with sufficient legal training to review application of this ordinance who has been appointed by the Chatham County Board of Commissioners upon the filing of an appeal of a permit denial.
9. "County Manager" means the County Manager of Chatham County, Georgia.

§18-402 Permit Required.

It shall be unlawful to engage or conduct any parade or public assembly without first receiving a permit from the County Manager upon recommendation by the Chief of Police after application made according to the requirements set out hereinafter.

§18-403 Exceptions.

This ordinance shall not apply to the following:

1. Funeral procession;
2. Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;
3. Chatham County sponsored events or events permitted by Public Works and Park Services;
4. Casual park use that does not normally attract a crowd of onlookers; and,
5. A governmental agency acting within the scope of its functions.

§18-404 Application.

The person or persons associated in fact, whether or not a legally recognized entity, who wish to conduct a parade or public assembly shall apply to the County Manager for a permit. Such application shall at a minimum include:

1. The name and address of the applicant. If the applicant is an association of persons in fact or in law, the application shall contain a description of the entity; the name of said entity, if named; the registered or recognized address of the entity; the name of the person making the application on behalf of the entity; such person's relationship to said entity; and some demonstration or recitation of the authority of the person making the application to act on behalf of the entity.
2. A plan that must include the following information about the parade or public assembly:
 - a. The anticipated number of persons participating;
 - b. The date or dates;
 - c. The hours of each day the parade or public assembly will be conducted;
 - d. The exact location, or, if the parade or public assembly is processional or mobile, the route;
 - e. Whether sound amplification equipment will be employed and, if so, the hours it will be employed;
 - f. Whether artificial lighting will be employed;
 - g. Whether temporary static structures will be employed, and if so, a complete description (including measurements) of the structure;
 - h. Whether vehicles will be employed, and if so, a description of each vehicle that will be used and how it will be used;
 - i. A description of the anticipated need for safety, police, medical, sanitation, and other required personnel and equipment, with the anticipated needed numbers and posting by location and time of personnel needed;
 - j. A description of provisions necessary to the safety and welfare of the participants in the event and members of the public in the area where the event will be conducted and routes of access thereto and therefrom;
 - k. A description of measures that will be taken to ensure public health and sanitation;
 - l. Whether the event will require that the public spaces or facilities to be used or burdened, or the routes and means of access thereto and therefrom, be temporarily diverted from their dedicated or customary uses, or the public or private users thereof be diverted or excluded from, or limited in their use or enjoyment of, or their access to or through, said spaces or facilities, before, during or after the event.

3. A disclosure as to whether the applicant or entity for whom the application is being made has in the past conducted or participated in an event of a substantially similar nature to that which is the subject of the application, and, if so, where and when such prior event(s) took place, and whether as a result of such event(s) the applicant or entity became subject, whether or not then operating under the same name, as plaintiff or defendant, of any legal action, civil, criminal or administrative.
4. A disclosure as to whether the applicant or entity for whom the application is made has defaulted upon or is in arrears as to any judgment, civil, criminal, or administrative rendered against applicant or entity, whether or not then operating under the same name, as a result of participation in any prior event(s) of a substantially similar nature to that which is the subject of the instant application, and if so, a description of said judgment or order and an explanation for non-compliance.
5. An indemnification and hold harmless agreement in favor of Chatham County, Georgia, its elected officials, officers, agents, and employees, in a form satisfactory to the County Attorney.
6. Where an event conducted on, over, or upon, or burdening public properties, or employing the facilities thereon, which is also to substantially involve or take place partly or wholly upon private property with the consent of the owner(s) thereof, such owner(s) or their authorized representatives must join as an applicant for any permit for such event.

§18-405 Review by the County Manager.

1. Within ten working days of receipt of an application, the County Manager shall review the application in light of all contents and goals, intentions, and presumptions as set out in this ordinance, and render a decision after receiving a recommendation from the Chief of Police and communicate same to Applicant, either permitting the event as planned or denying a permit for event. If the permit is denied, the County Manager shall provide the applicant in writing a statement of the reasons therefor.
2. Nothing in this process shall prevent the County Manager, at his/her sole option within the ten day period for approval or denial, to confer with Applicant with respect to modifications of Applicant's plan for the event, and amend the application to reflect such modifications if agreed to by Applicant. However, Applicant may neither supplement nor amend its application within the ten day period except at the invitation of the County Manager. Any attempt to do so *sua sponte* shall be deemed a separate and new application.
3. The County Manager may deny the application for permit upon any of the following reasons or combination of reasons:
 - a. The application does not contain all required information, or that information set out is so incomplete, vague, or ambiguous as to prevent full and proper review;
 - b. The application contains material omissions, falsehoods, or misrepresentations;
 - c. The applicant or entity represented by applicant is incompetent to contract, sue, or be sued;
 - d. The person applying lacks authority to present the entity for which the application is made;
 - e. The applicant or entity represented by applicant has on prior occasions damaged public property or has not paid in full for such damages, or is in arrears as to any judgment civil, criminal, or administrative rendered against the applicant or entity, or is in violation of any injunction or restraining order entered against the applicant or entity, whether under the same name(s) or another;
 - f. The applicant or entity has on prior occasions violated permitting ordinances in connection with events of a substantially similar nature;
 - g. The plan of the event as proposed would present an unreasonable danger to the health or safety of participants in the event or other members of the public

(though not through the agency of any predicted reaction by onlookers or members of the public);

- h. The plan of the event as proposed would unduly restrict and/or congest (vehicular or pedestrian) on any of the public roads, right of ways, sidewalks, or waterways in the immediate vicinity of such event;
- i. The plan of the event as proposed would constitute an unreasonable disturbance of the peace, or would unreasonably burden lawful commerce in the area at the time of the proposed event, or would unreasonably intrude upon the privacy or property of citizens in the area of the proposed event;
- j. The plan of the event as proposed includes activities which are prohibited by laws of the United States, the State of Georgia, or ordinances of Chatham County, the City of Savannah or activities which constitute nuisance or tortious conduct with respect to public or private property or persons.

§18-406 Appeal of Permit Denial.

1. Upon receipt of any decision by the County Manager to deny an application in whole or in part, the applicant may within five calendar days file an appeal of said denial with the County Manager which appeal shall be in writing and be sent to the County Manager by certified mail. Upon receipt of such appeal, the County Manager shall immediately forward the appeal to a Hearing Officer appointed by the Chatham County Board of Commissioners. The Hearing Officer shall be the Recorder's Court Judge on duty as of the date that the appeal is forwarded by the County Manager.
2. The Hearing Officer shall set a hearing date not more than seven calendar days after notice of appeal by the County Manager. The Hearing Officer shall cause notice of the hearing to be served upon the applicant by certified U.S. mail. Such notice shall include the hearing date and time.
3. At the hearing, all parties shall be provided a fair and impartial hearing and shall be allowed to produce any and all evidence concerning the denial of the permit.
4. Within seven calendar days after conclusion of the hearing, the Hearing Officer shall make a written decision on the appeal, which shall affirm, alter or reverse the denial of the application by the County Manager. The notice of the decision shall be sent to all parties by certified U.S. mail and shall set forth the reasons for the decision.
5. The decision of the Hearing Officer shall be binding on all parties, subject to the right of appeal as provided by O.C.G.A. 5-4-1, et seq.

§18-407 Intent.

It is the specific intent of the County in enacting this ordinance to regulate only the time, place and manner of events and not to regulate the content or message of any speech or expressive conduct.

§18-408 Revocation.

Notwithstanding the grant of any permit as provided herein, the County Manager shall have the authority to terminate a parade or public assembly at any time, or prevent its initiation, should traffic, weather, or other conditions develop which present an imminent and undue danger to those participating in the event pursuant to said permit, to the public at large, or should any consideration or combination of considerations enumerated herein as a ground for denial of a permit arise or first become apparent to law enforcement authorities after the grant of a permit. If in preparation of or after the start of a parade or public assembly for which a permit has been issued, participants in said event violate the terms of the permit or deviate in material fashion from the plan submitted in application for permit, the County Manager shall have the authority to terminate the event.

§18-409 Effective Date.

This ordinance will become effective upon adoption. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

§18-410 Severability.

Should any section, provision, or clause of any part of this ordinance be declared invalid or unconstitutional, or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances be declared invalid or unconstitutional, such invalidity shall not be construed to affect portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the County that this ordinance would have been adopted had any such invalid portion not been included herein."

ADOPTED AND APPROVED, this ____ day of _____, 2004.

Dr. Billy B. Hair, Chairman
Chatham County Commission

Sybil Tillman, Clerk
Chatham County Commission

[SEAL]

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2. AMENDMENT TO CHAPTER 11, ARTICLE I, OF GENERAL OFFENSES ORDINANCE TO ADD §11-141, "INTERFERENCE OR INJURY TO LAW ENFORCEMENT ANIMALS."

ACTION OF THE BOARD:

Chairman Hair read this item into the record as the first reading.

STATE OF GEORGIA)
)
COUNTY OF CHATHAM)

"GENERAL OFFENSES" ORDINANCE OF CHATHAM COUNTY

AN AMENDMENT TO CHAPTER 11, ARTICLE I, OF THE "GENERAL OFFENSES" ORDINANCE OF CHATHAM COUNTY

BE IT ORDAINED by the Chatham County Board of Commissioners as follows:

Chapter 11, Article I is amended to add §11-141, "Interference or Injury to Law Enforcement Animals" which shall read as follows:

"§11-141. Interference or Injury to Law Enforcement Animals.

- A. It shall be unlawful and punishable as provided by law for any person to commit the following acts:
 - 1. Knowingly or intentionally strike, kick, burn, hurl, or project, any objects or substances at a law enforcement animal with the intent to harm or interfere with a law enforcement animal while in the performance of its duties;
 - 2. Place any object, or other substance which would likely produce an injury, in the path of or on the roadway to be used by the horses;
 - 3. Intentionally interfere with a law enforcement animal by frightening, agitating, harassing, deliberately spooking or scaring the animal;
 - 4. Attempt to unseat the officer rider or intentionally interfere with the rider's control of the horse by grabbing the reins or other equipment.

B. Definitions.

- 1. Law enforcement animal. An animal, including but not limited to a dog, horse, that is owned or leased by a law enforcement agency for the principal purpose of aiding in:
 - a. The detection of criminal activity;
 - b. The enforcement of the laws; or
 - c. The apprehension of offenders.

- 2. Interfere with. Any activity intended to distract the law enforcement animal from or hinder it in the performance of its duties, including but not limited to throwing objects at, chasing, waving objects, calling, blocking or any similar activity.

- 3. In the performance of its duties. A law enforcement animal under the control of a law enforcement officer who is:
 - a. On duty for his/her respective law enforcement agency;
 - b. In an off-duty capacity working at an approved off-duty/extra duty event for a contracted entity for law enforcement services; or
 - c. An approved non-pay volunteer event.

C. Defenses. It is a defense if the accused shows that he or she was engaged in a training activity or discipline and acted as an employee or agent of a law enforcement agency."

Chapter 11, Article I is amended to add §11-142 "Severability," which shall read as follows:

"§11-142 Severability.

Should any section, provision, or clause of any part of this ordinance be declared invalid or unconstitutional, or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances be declared invalid or unconstitutional, such invalidity shall not be construed to affect portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the County that this ordinance would have been adopted had any such invalid portion not been included herein."

ADOPTED AND APPROVED, this ____ day of _____, 2004.

Dr. Billy B. Hair, Chairman
Chatham County Commission

Sybil Tillman, Clerk
Chatham County Commission

[SEAL]

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XII. SECOND READINGS

See "Tabled Items," VIII-3.

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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:

A written report was received as information.

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- 2. **LIST OF PURCHASING ITEMS BETWEEN \$2,500 AND \$9,999. None for this meeting.**

ACTION OF THE BOARD:

None was presented for this meeting.

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EXECUTIVE SESSION

Upon motion being made by Commissioner Rivers, seconded by Commissioner Kicklighter and unanimously approved, the Board recessed at 10:29 a.m., to go into Executive Session for the purpose of discussing litigation, land acquisition, and personnel.

Following adjournment of the Executive Session, the meeting of the Board of Commissioners was reconvened at 11:00 a.m.

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ITEMS FROM EXECUTIVE SESSION

- 1. **REQUEST BOARD APPROVE A MOTION TO AUTHORIZE THE CHAIRMAN TO EXECUTE AN AFFIDAVIT THAT THE EXECUTIVE SESSION WAS HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT.**

ACTION OF THE BOARD:

Commissioner Kicklighter moved to authorize the Chairman to execute an affidavit that the Executive Session was held in compliance with the Open Meetings Law. Commissioner Murray seconded the motion and it carried unanimously. [NOTE: Commissioner Thomas was not present.]

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ADJOURNMENT

There being no further business to be brought before the Board, Chairman Hair declared the meeting adjourned at 11:01 a.m.

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APPROVED: THIS _____ DAY OF _____, 2004

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

 SYBIL E. TILLMAN, COUNTY CLERK