

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF CHATHAM COUNTY, GEORGIA, HELD ON FRIDAY, DECEMBER 3, 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 9:24 a.m., Friday, December 3, 2004.

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**II. INVOCATION**

Commissioner Joe Murray Rivers gave the invocation.

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**III. PLEDGE OF ALLEGIANCE**

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

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**IV. ROLL CALL**

The Clerk called the roll.

PRESENT:	Dr. Billy B. Hair, Chairman Dr. Priscilla D. Thomas, Vice Chairman, District Eight Frank G. Murray, Chairman Pro Tem, District Four 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
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IN ATTENDANCE:	R. E. Abolt, County Manager R. Jonathan Hart, County Attorney Sybil E. Tillman, County Clerk
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**YOUTH COMMISSIONERS**

Chairman Hair welcomed the following Youth Commissioners who were in attendance: William Jackson, a Junior at Groves High School, and Jasmine Gusby, a Sophomore at Jenkins High School.

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**ORDER OF BUSINESS**

By a consensus of the Board Item VI-1 was taken out of order and was heard at this point on the agenda, followed by a short recess to allow the departure of guests who wished to leave.

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## V. PROCLAMATIONS AND SPECIAL PRESENTATIONS

- 1. PRESENTATION TO CHATHAM COUNTY BY MIKE PLANT, PRESIDENT OF THE GEORGIA GOVERNMENT FINANCE OFFICERS ASSOCIATION, OF THE CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD FROM THE GOVERNMENT FINANCE OFFICERS ASSOCIATION FOR THE COUNTY'S FISCAL YEAR ENDED JUNE 30, 2003. PLEASE NOTE THAT THIS IS THE 20<sup>TH</sup> CONSECUTIVE YEAR FOR RECEIPT OF THIS AWARD.**

County Manager Abolt said, this is very special. This is two decades, 20 years of having this County recognized in the eyes of those that we serve, the quality of stewardship and accountability that you all serve when it comes to public funds and public trust. Twenty years is amazing for the receipt of this award. There are very few county governments throughout the State of Georgia and the country that have this. In year's past you've been served by an extremely qualified staff. As you know, with the challenge of years gone by there was some concern as to whether or not that tradition would continue. It has. I'm very proud as your Manager to recognize people like Ms. Linda Cramer and her staff for picking up the torch and making this so special. Also, the gentleman to my left, Mr. Derrick Cowart, represents the firm of Tindol-Smith and Mr. Tindol happens to be in the hospital today. He wanted to be here, but he could not. Derrick [Cowart] assures me that Rick [Tindol] is probably watching on TV right now. So through the TV channel I would like to tell Rick Tindol thank you for all he has done for this County. Now I'd like to get Ms. Cramer —.

Mr. Mike Plant said, thank you and good morning. I'm Mike Plant and I'm the President of the Georgia Government Finance Officers Association, and I'm honored to be here today on behalf of the Government Finance Officers Association to present this Certificate of Achievement for Excellence in Financial Reporting to Chatham County. The Certificate of Achievement Program has been in operation since 1946. The purpose of the program is to encourage and assist governments to prepare financial reports of the highest quality for the benefits of citizens and other parties with vital interest in the government's finances. During the half century that the program has operated, it's gained widespread recognition as the premier indicator of excellence in government financial accounting and reporting. To win the Certificate of Achievement for Excellence in Financial Reporting Chatham County had to substantially conform to the program's demanding criteria, which go well beyond the requirements of generally accepted accounting principles. This is not the first time that Chatham County has received this honor; rather, this presentation marks the 20<sup>th</sup> year —, the 20<sup>th</sup> consecutive year that Chatham County has received this award, and I noticed the wall over there pretty much covered with them. Such a record reflects the professionalism and the commitment of the numerous individuals as well as the many hours of hard work. It also reflects the high degree of dedication and leadership on the part of the Board of Commissioners of Chatham County. The Government Finance Officers Association hopes that this award to Chatham County will serve as an example and encourage others to strive for the highest standards in their own financial reports. Therefore, it is my privilege on behalf of the Government Finance Officers Association to present this Certificate of Achievement for Excellence in Financial Reporting to Chatham County, Ms. Linda Cramer and the entire staff of the Finance Department. Congratulations.

Ms. Linda Cramer said, thank you, Mike [Plant]. I appreciate Mike [Plant] coming down here, he drove down from Atlanta last night in the dark. Luckily it wasn't raining. Mr. Plant said, I had headlights. Ms. Cramer said, luckily lights, but I would like to take this opportunity to thank my staff for their hard work in enabling us to receive the award this year. I'd also like to thank all of you for your commitment to high quality financial reporting here at Chatham County. And, as you know, we've done a lot of rebuilding in the Finance Department and added a lot of strength to the department over the past year or year and a half. And I think we've got a great group there and it will continue this tradition for you. The ones who are here today I want to introduce: Melva Sharpe is our Water and Sewer Utility Coordinator; and Lynn Stennett, she's our Investment Officer. She also works with our grants. Julia Rogers is one the newest additions to our staff. We stole her from Rick Tindol's firm and she's our Senior Accountant. She was not here for this CAFR award, but I know she'll be involved next year. She was very involved in our CAFR preparation for this year. Leshia Lanier, she is our Financial Services Manager; and Rhonda McCullough back there in the Santa shirt. She's got the Christmas spirit. She's our Special Projects Management Technician who worked on really putting our CAFR book together for us [inaudible]. Read DeHaven, y'all know he's our Budget Officer; and Tom Drane is our Chief Accountant. He's been with Chatham County for a number of years and has been involved with a lot of CAFR preparations. Cheryl Deariso, my Assistant Director, is not here today. She had —, I'd like to recognize her. Also, Vida Hill-Stephens had a baby a few weeks ago and she's been out, but we'd like to recognize her hard work as well, and I'd also like to recognize Mr. Cowart. He's worked very closely with us on the audit, as well as the other members of his staff. Do you want to say anything? No? Okay. But anyway, thank you very much and we'll be telling you about our forecast here in a little while. In the meantime we'll hang this on the wall. Thank you.

Chairman Hair said, thank you. Congratulations.

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## VI. CHAIRMAN'S ITEMS

- 1. SWEARING-IN OF RECORDER'S COURT JUDGE V. CLAIRE CORNWELL-WILLIAMS.**

Chairman Hair said, the first thing we're going to do this morning and I think the reason we have such a large crowd is we're going to swear in our newest Recorder's Court Judge today. We have Claire Williams with us, and we have a lot of

dignitaries, I'm probably going to miss some, I see the Chief Judge, Judge Dillon back there, I see Alderman Felser, we have newly-appointed Recorder's Court Judge Tammy Cox with us and I saw —, I think I saw Judge Abbot, and I apologize if I missed anybody else. Commissioner Kicklighter said, State Judge Coolidge. Chairman Hair said, oh, we have Judge Coolidge. Anybody else that I missed? Commissioner Rivers said, Freesemann. Chairman Hair said, and Judge Freesemann is here. County Manager Abolt said, Judge Burke. Someone from the audience said, Judge Karpf. Chairman Hair said, we have all of them here. We have the judges well represented. I knew I was going to get in trouble when I started that, you know. Claire [Williams], if you will come forward, I'm going to also —, she has a number of family members that I'm going to introduce. She has her husband, Allen, with her this morning. If you'd stand up, Claire [Williams]. She has her sons, Stuart and Woody, are here. She has her mother, Sue, she has her mother-in-law, Celia Williams, and she also has her minister, Dr. Steven Williams and his wife's with us and, Claire [Williams], I want you to feel free to introduce anybody else that's not on my list.

Ms. Claire Cornwell-Williams said, I appreciate that. I appreciate all of y'all coming, especially all of [inaudible] friends. My sister-in-law, Celia Williams, brother-in-law, Celia and Frank —, Beth and Frank, and also my brother-in-law, Larry Dunn, as well as Allen and Walter Dasher, who are [inaudible]. Thank you for all —, the rest of y'all good friends.  
[NOTE: Phonetic spelling of names.]

Chairman Hair said, I believe Judge Lewis is going to swear you in. Even came with his robe. I'm very impressed.

Ms. Cornwell-Williams was sworn in by Judge Harris Lewis, taking the following oaths:

I, Claire Cornwell-Williams, do solemnly swear or affirm that I will truly and faithfully perform the duties of such officer, judge, Recorder's Court of Chatham County, to the best of my ability. I do further solemnly swear or affirm that I am not the holder of any public money due this State unaccounted for, that I am not the holder of any office or trust under the government of the United States or any other state or any foreign state which I am prohibited from holding by the laws of the State of Georgia, and that I am otherwise qualified to hold said office according to the Constitutions of the United States, the State of Georgia, and the laws of Georgia, and that I will support the Constitutions of the United States and of this State. So help me God.

I, Claire Cornwell-Williams, a citizen of Savannah, Chatham County, Georgia, and being an employee of the City and County of Savannah, Georgia, and the recipient of public funds for services rendered as such employee do hereby solemnly swear and affirm that I will support the Constitutions of the United States and of the State of Georgia. So help me God.

Chairman Hair said, congratulations.

Judge Lewis asked, did anybody bring a pen? You're a judge now. Congratulations.

Judge Cornwell-Williams asked, could I have a moment. Chairman Hair said, certainly. Judge Cornwell-Williams said, I want to thank Judge Lewis for swearing me in. I'd also like to take this opportunity to publicly thank Chairman Hair and the County Commissioners as well as the Mayor and City Council for the trust in me in appointing me to this position. I take this responsibility to the citizens of Chatham County and the City of Savannah very seriously and will honor the Commission and Council by always treating all individuals who appear in this court equally and with appropriate respect. I would also like to thank my family for their support during this appointment process, especially my husband, Allen, and the boys, Stuart and Woody, for their continued encouragement. Thank you also to my mother, Sue Cornwell, and mother-in-law, Celia Williams, for sharing this day with me. I also need to publicly thank my sister-in-law, family, friends and clients and fellow attorneys, who've kept the phones and e-mails going to make sure that I didn't slip through the cracks during the appointment process. Thank you also to the many attorneys who through the years have taught me so much about the practice of law and justice. I've been teased because I continue to wear this old black robe, but I'm extremely fond of this one. It's special to me because this was Judge Cheatham's robe. It reminds me of the integrity and respect he always showed the court and our judicial system. It helps to keep me focused on the real purpose of the court system and keeps me focused. On this special day I'm also especially thankful to Judge Lewis, Judge Brannen and Judge Dillon who've always had the time to mentor me when I needed guidance. I'll always be grateful for their time and wisdom. My special thanks to lawyers, such as Martin Kent, Don Donaldson, Lee Holliday, and especially Gene Brooks, who've shared their understanding of the law and how it affects everyday life. A special thanks to Gene [Brooks] for allowing me for all these years to take off to serve in Recorder's Court. For the 12 years that I have spent serving this court part time, has been invaluable to me and it would not —, that it would not have been possible without his understanding and support. Also I'm going to have to mention Dana Braun, who, while he was on City Council, was responsible for my original appointment as a pro tem to Recorder's Court. Without his initial faith in me this day would not be happening, and I appreciate it very much, Dana [Braun]. I look forward to serving in Recorder's Court. Recorder's Court is one of the busiest courts in our judicial system and I look forward to being a part of the proud team that keeps the court running smoothly and effectively for the people of Chatham County. Thank you.

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## 2. RECOGNITION OF OLYMPIAN CHERYL HAWORTH.

Chairman Hair said, I don't see here in the audience. Maybe she's got detained. We'll just hold that for another time.

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## **ANNOUNCEMENT**

Chairman Hair said, for those of you that's here for the discussion of the Public Defender's budget, we're going to move that up right after the Commissioners items, so as soon as we get to that we'll move that up on the agenda.

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## **VII. COMMISSIONERS' ITEMS**

### **1. REV. MICHEAL ELLIOTT OF UNION MISSION (COMMISSIONER RIVERS).**

Chairman Hair said, Commissioner Rivers is going to introduce Rev. Micheal Elliott on the Union Mission. Chairman Hair recognized Commissioner Rivers.

Commissioner Rivers said, Rev. Elliott will give a request and an update.

Rev. Micheal Elliott said, good morning. It's an honor to be with you all again today. Again I appreciate this Commission's support of the Savannah Area Behavioral Health Collaborative. Last year you were gracious enough to provide us rent abatement on the County-owned property at 17 Minus Avenue, where we are currently conducting services for substance abuse treatment for all citizens of Chatham County. When you did that, we were under the impression that the rent abatement would continue until we completed the renovations of the Fox facility, and we learned a couple of months ago that your action only carried through to the end of the fiscal year. We're here to ask you to continue the rent abatement on Minus Avenue. It's got a definite sunset to it. Once the Fox property is completely renovated, we'll be relocating those services from 17 Minus Avenue to the property at Fox.

Chairman Hair said, I'll entertain a motion. Commissioner Rivers said, so moved. Chairman Hair asked, second? Commissioner Odell said, discussion. Commissioner McMasters said, discussion. Chairman Hair said, I need to get a second first. Commissioner Odell said, I'll second. Chairman Hair said, second okay. Then Commissioner Odell and Commissioner McMasters.

Commissioner Odell said, hey, Micheal [Elliott]. How you doing? Rev. Elliott said, I'm good. Commissioner Odell said, good. Do we have an idea of the cost? Rev. Elliott said, it is \$35,000 annually. I met with some of you individually and said \$15,000. That was the amount to date, but it's \$35,000 annually. Commissioner Odell asked, and is your request to go beyond this fiscal year, which does not end until June 30<sup>th</sup>? Rev. Elliott said, it could very well depending on how long it takes the Fox facility to be completed and we're only finalizing construction documents at this point. Commissioner Odell asked, the original request was it for this fiscal year? Rev. Elliott said, yes. Commissioner Odell said, then that takes us through June 30<sup>th</sup>. Am I not on —. Rev. Elliott said, no —, I'll have to ask Pat Monahan.

Chairman Hair recognized Mr. Monahan. I think he ---, Russ [Abolt], he's probably most familiar with it, isn't it? County Manager Abolt said, yes sir. Chairman Hair said, if it's okay, I'll call on Mr. Monahan.

Mr. Pat Monahan said, the Board only appropriated sufficient funds to take it through the fiscal year that ended June 30, 2004, because that was a budget amendment that was approved by the Board, and if this action takes place, then we will need to determine where that \$35,000 will come from —, 34,000 and change.

Commissioner Odell said, if the fiscal year ended June 30, 2004, that money's already been spent. Mr. Monahan said, yes sir. Commissioner Odell said, okay. This request is not to approve that money that's already been spent, but to approve for this current fiscal year through '05. Mr. Monahan said, correct. Commissioner Odell said, and there has been no request prior to this, is that true? Mr. Monahan said, no sir, there's not been. Commissioner Odell said, so —. Commissioner Kicklighter said, \$17,500 is what —? Chairman Hair said, no, \$35,000. It would go from July 1<sup>st</sup> of '04. Commissioner Odell said, and specifically it's for what? Mr. Monahan said, this would be to abate the rent at 17 Minus Avenue and the importance for finding another supplementary —, another source to supplement that, that payment is that lease is tied to a bond issue. Commissioner Odell said, that I think is the least we can do. We need to do more in the area of mental health and substance abuse. Chatham County cannot continue to have the jail be the largest mental health provider, and I strongly support the motion.

Chairman Hair recognized Commissioner McMasters.

Commissioner McMasters said, thank you. You clarified, this is renovation money, yet it's —, it's an abatement? Mr. Monahan said, it is an abatement of the rent. No renovation, abatement. I think the renovation he referred to was the Fox Appliance building on Fahm Street. That's another project that the County's undertaking on behalf of SABHC. Commissioner McMasters asked, so there's no renovation going on at —. Mr. Monahan said, no sir, this is —. Commissioner McMasters said, — [inaudible]. Mr. Monahan said, correct.

Chairman Hair said, I think we need clarification of the motion because there is no source of funds identified, as Mr. Monahan said, so we could approve the action today and then come back with a budget transfer in the —, at the next meeting. County Manager Abolt said, yes sir. For the benefit of making this whole, if that is your desire to do this, just make the draw-down from M&O Contingency.

Commissioner Odell said, let me ask you. Chairman Hair asked would you accept that? Commissioner Rivers said, I accept that as second?. Commissioner Odell said, I will. Chairman Hair said, okay. Commissioner Odell said, we own the property and they are currently renting the property from us and as a result of that we're not charging rent. Mr. Monahan said, right. Commissioner Odell asked is that true? Mr. Monahan said, that's correct. Commissioner Odell asked, then if we own the property and, in other words, as a result of our owning the property we're not charging them rent, why is there a need for a transfer? Chairman Hair said, the bond issue. Mr. Monahan said, the bond issue. Chairman Hair said, it's got to be repaid. Mr. Monahan said, if the bond issue represents a mortgage, then the County is responsible for paying annually. Commissioner Odell asked, and this is part of that? Mr. Monahan said, yes sir, it is. The true fair market value of that building on a rental basis is about 60,000, but we're cutting it down to the minimum requirement of the bond issue, which is —. Commissioner Odell said, a little too much information. Mr. Monahan said, yes sir.

Chairman Hair said, we have a motion and a second. All those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes. Rev. Elliott said, thank you. Chairman Hair said, thank you.

#### **ACTION OF THE BOARD:**

Commissioner Rivers moved to approve that the Board abate the rent for Savannah Area Behavioral Health Collaborative for fiscal year 2004-2005 on the County-owned property at 17 Minus Avenue at a cost of \$35,000 annually to be taken from M&O Contingency. Commissioner Odell seconded the motion and it carried unanimously.

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#### **2. RELIEF OF TAXES ON ACCOUNT OF CATHIE VAN WECHEL D/B/A MACK'S 5 & 10 IN THE AMOUNT OF \$408.05 DUE TO AN ACCOUNTING ERROR (COMMISSIONER RAYNO).**

Chairman Hair said, I'll call on Commissioner Rayno.

Commissioner Rayno said, this is a situation where a woman owns the store where they had an accountant put together the inventory for personal property tax. There was an accounting error where they reported the retail value of the inventory as opposed to the wholesale value of the property causing them to have a higher tax bill, and they're seeking relief. Simply in the form of getting the wholesale value as being that amount that's taxed. It's very similar to a situation that Dr. Hair brought before this Board and I would hope that you would give it the same consideration as you did in the prior matter. And another issue that's related to this is the fact that there's a question of how these issues can be resolved in the future. The Tax Commissioner believes that it has to be done through the Board of Assessors and the Board of Assessors believes it can be done with the Tax Assessor, and I would hope that after we approve this motion today that those two parties would sit down and resolve it so we have one simple direction that they could simply resolve stuff so that it doesn't always have to come before the Board every time something simple like this occurs.

Chairman Hair asked, did you make a motion to approve the refund? Commissioner Rayno said, I make a motion to approve the refund for Mack's 5 & 10. Chairman Hair asked, do I have a second? Commissioner Kicklighter said, second. Commissioner Rivers said, I'll second. Chairman Hair said, okay, Commissioner McMasters and then Commissioner Rivers.

Commissioner McMasters said, from the materials that I've read, I don't really believe the Tax Commissioner nor the Board of Assessors, Tax Assessors has statutory ability to do it; that the writing —, that the law says that it's up to the Commission. Does it —? Chairman Hair said, well —.

Tax Commissioner Danny Powers said that's a debate on a legal issue and I certainly don't want to get in the middle of that this morning. What I want to do is just correct the number that was in the agenda. I think it was listed as \$408.50. It's \$408.05 would be the amount that would end up being written off. In addition to that, I'd like for the minutes to just simply reflect that she had paid these taxes on the larger value, on the higher value, and there will be a refund issue in this as well. The Tax Commissioner's office has no problem, you know, with this item.

Chairman Hair recognized Commissioner Rivers.

Commissioner Rivers said, Mr. Hart —. County Attorney Hart said, yes sir. Commissioner Rivers asked, in an amendment returned there in the —, there's no provision for a refund? County Attorney Hart said, there's a couple of issues floating around in here. The Board of Assessors and Board of Assessors' attorney's here to speak and maybe clarify what I'm saying. It's my understanding their position is that after the digest is approved they don't have the authority to go back and amend the tax bill. The Tax Commissioner's situation is that once he receives the bill under the law, he's responsible for collecting it and both sides do not expressly have the clear authority in the statute to circumvent the situation. The recommendation was made by the County Attorney's office some time ago that perhaps creating a form that when we have these obvious errors, you know, obvious mistakes through no fault of anyone, that the Board of Assessors acknowledge that that is the situation, the Board of Tax Commissioners [sic] acknowledge that and make a recommendation and just put it on the Action Calendar for us to correct that with an account correction, and I think that would be a much speedier way of handling these things. Y'all do have authority under 48-5-241 and 48-5-155 —. Commissioner Odell asked, 48-5 —? County Attorney Hart said, 48-5-241 and 48-5-155 —. Commissioner Rivers said, okay. County Attorney Hart said, — to do what you're going to try to do. Commissioner Rivers said, with that I'll make a motion to approve the refund —.

Chairman Hair said, we already have that. We already have the motion and a second. We already have a motion and a second. Chairman Hair recognized Commissioner Odell. Commissioner Odell said, I'll waive my question. Chairman Hair recognized Commissioner Kicklighter.

Commissioner Kicklighter said, I think this is a great thing to approve and I call for the question.

Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes.

#### **ACTION OF THE BOARD:**

Commissioner Rayno moved that the Board authorize the refund of taxes on account of Cathie Van Wechel d/b/a Mack's 5 & 10 in the amount of \$408.05 due to an accounting error. Commissioners Rivers and Kicklighter seconded the motion and it carried unanimously.

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### **3. DISTRICT MAPS (COMMISSIONER KICKLIGHTER).**

Chairman Hair recognized Commissioner Kicklighter.

Commissioner Kicklighter said, thank you, Mr. Chairman. I would like to, and I don't know if we need a vote or not, but I'll probably put it in the form of a motion, but I'd like for the MPC to create detailed colored maps of Chatham County with all the streets included, with all of the cities and unincorporated areas distinguished by different colors. I'd like for them to get creative, come up with overlays in this little binder book, an overlay that would then show every district in Chatham County from the, you know, County districts, and then possibly come up with another overlay that would show the city district lines for the City of Savannah, an overlay that would show all of the State Representative district lines, an overlay that would then show the Senate lines, State Senate, and another that would show the Congressional lines through the area. I would also like to see the MPC come up with something of every individual County district with the colors involved and everything as I said before, but for each individual district and have this in the binder for every district also in this. And I think it's important. This County's really growing and when people call in, I think it's a great thing for all of us to have as well as the citizens to be able to go to the MPC and pick it up to understand who their representatives are and, you know, I'll put it in the form of a motion that we ask them to create a mapping system as cited.

Chairman Hair asked, do we have a second? Commissioner McMasters said, second. Chairman Hair recognized Commissioner Odell.

Commissioner Odell asked, Dean [Kicklighter], would you accept that this may take some time for the MPC to do? Commissioner Kicklighter said, absolutely. Commissioner Odell asked, and would it be suffice [sic] if we were to direct staff to contact the MPC to take a laundry list outlined by Commissioner Kicklighter —? County Manager Abolt said, Mr. Thomson is here and he is definitely hearing it. As you know, he's an outstanding administrator. What might be because this is more complex than I initially thought, I might —, I will suggest to him that he kind of come up with a mock-up so before we invest an awful lot of creative time in this, we might come up with a sample. I will get Commissioner Kicklighter to approve it —. Commissioner Odell said, and we need to come up with what this will cost, who will bear the cost —. Chairman Hair said, that was my point. Commissioner Odell said, — and we need to make a decision as to what the cost and approve those costs.

Chairman Hair said, absolutely. It's going to be very expensive to do this. It's a good idea, but we do need to do that. I was going to raise that point. Chairman Hair recognized Commissioner Rayno.

Commissioner Rayno said, printing costs —, I don't think you should print it on a physical piece of paper, largely because things change so quickly. What you probably should do is include it in our website and then people could just click on the overlays and if they change, you could make the immediate change and you wouldn't have a printing problem then.

Chairman Hair said, I think the motion is that we come back —, allow MPC to look at it and bring options back. I think that's the proper way to do it. I agree with you, Commissioner Rayno, that probably is the most appropriate way to do it.

Commissioner Kicklighter said, right, and available to the public in hard copy form for the cost of producing it would be the thing. Commissioner Rayno said, print it off at 25¢ a page. Commissioner Kicklighter said, right.

Chairman Hair said, all those in favor of the motion vote yes, opposed vote no. The motion carried unanimously. Chairman Hair said, the motion passes.

#### **ACTION OF THE BOARD:**

Commissioner Kicklighter moved that staff direct the MPC to prepare a mock-up of detailed colored maps of Chatham County with all the streets included, with all of the cities and unincorporated areas distinguished by different colors, with different overlays that would then show every district in Chatham County, district lines for the City of Savannah, State Representative district lines, State Senate lines, and Congressional lines through the area, and bring it back to the Board

for approval and for a decision regarding costs and who will bear these costs, et cetera. Commissioner McMasters seconded the motion and it carried unanimously.

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#### 4. COUNTY ETHICS POLICY (COMMISSIONER MURRAY).

Chairman Hair recognized Commissioner Murray.

Commissioner Murray said, yeah, let me start off by saying this is strictly pertaining to the policy itself. If I'm not mistaken, there are only two of us serving on the Commission that were on the Commission when the policy was put in place, that was Commissioner Rivers and myself. The only reason I put this on and bring it up for question today is numerous telephone calls from the news media and others about why we did not appoint the committee. I really don't know why we didn't appoint a committee. That was something the Commission at the time approved unanimous to go with an ethics policy. We did that. I don't think it's pointing a finger at any one person. I think Joe [Rivers] and I can certainly take part of that responsibility for not having that committee appointed, but once we adopted it we felt like everything was in place and it didn't take place. My question today is do we need to clarify this policy that we now have in place to go ahead and have that committee appointed so it will be in place and then this policy is done as far as we're concerned?

County Attorney Hart said, a lot of that's policy decision. I'll tell you some background on this. About two or three weeks ago I got a request through the County Manager's office from one of the Commissioners-Elect to look into issues about conflicts of interest and give some advise one of the Commissioners-Elect. As a result of that we did a pretty extensive memorandum on that. We looked at the State law and in the process of doing that we came across this particular ordinance. At that time we were able to resolve the issues that were asked the County Attorney's office by looking at the State law and also looking at that ordinance and staying within the confines of those two ordinances in answering the questions. Subsequent to writing that memorandum the following I sent a memo to the County Manager indicating that I had concerns about that ordinance and the manner in which it was written, and I also raised the issue that perhaps at the first of the year this —, that the Commission at that time ought to take up the question of whether they wanted to continue that ordinance or whether they wanted to bring that ordinance back into compliance with what the State law is at that time. This Commission can set whatever it chooses insofar as its own ethics policy, but there is serious questions as to whether this Commission can delegate to a third party the rights of legislative acts of this Commission, and I was very concerned about the ability of this Commission to create an investigatory body that could come in and then have subpoena power to force people to appear in front of it, and the classic example of that is this Commission could not have the right to call a citizen before it. You could ask them to come, but you certainly couldn't force them to be here. Therefore, how can you then form a volunteer committee and say we're going to subpoena you to appear in front of us? Where does the power come from? The power for the Commission comes from either the Constitution of the State of Georgia, which is in the supplemental powers provision of the State Constitution, which does not address this issue, or it arrives from the home rule issue, and under the home rule issue it says y'all can create those laws that are not contrary to the general laws of the State of Georgia. You can repeal laws that are not contrary to the general laws of the State of Georgia. But you cannot pass laws that affect a publicly elected officer, and clearly you cannot pass laws telling a judicial body to serve on a board, which a part of this ordinance does. All I'm saying to you is that this ordinance causes me grave concern as to whether you absolutely have the power. You know, what if you formed the body, what does the body do? Does the body have the authority to force people to come in and compel them to testify? That's a serious question and I think you need to give serious consideration as to whether you wish to go down that road and find out the answer to that because I would fully expect that somebody might challenge that. And certainly it needs to be clarified as to whether you can do that before you go down there, and in trying to decide whether something is constitutional or not I can always give you an opinion on that, but that's not the law. The law is decided when a judge rules on it. If you recall, several years ago we had a question involving the School Board and I gave the opinion that I thought this Board had the power to do that, and a very capable attorney for the School Board indicated that, reading the same laws I read, he came to a different conclusion and had a very logical argument on it. And when we finally clarified it, the Supreme Court of Georgia ruled in favor of this Commission, but it could very easily have written an opinion using the logic of the School Board to come up with a different conclusion.

County Attorney Hart said, one of the options you might have is to go seek a declaratory judgment. One of the options you might have is to go in and repeal the ordinance. One of the options you might have is to amend the ordinance and bring it in compliance with the State law and say we just wish to enforce it to the extent of State law. One thing you do need to keep into consideration in the background of your decision and deliberations and that is this: a decision was made to appoint this person [sic], and that was by a vote of seven to one. One Commissioner was not available that day. The power under this ordinance basically is that if there is, assuming that everything is said is correct and assuming there is a finding that there is a conflict of interest, there are only two things that can be done. It comes back to this Board, y'all take a vote on whether you want a reprimand somebody and whether you want to tell them not to do it again and they should have abstained. But if the two parties had abstained, it still would have been a five to one vote. It wouldn't change the outcome. You know, I'm open to whatever policy y'all wish to follow. That's pretty much where we stand.

Chairman Hair said, Commissioner Murray and then Commissioner Odell.

Commissioner Murray said, this is exactly why I put this on the agenda because I think we need these things answered and there's been a lot of discussion about the ethics policy over the last month or so. I think, if I'm not mistaken, Pat Monahan worked pretty hard on this when we first implemented it. I don't know if the reasons you're saying right now is why you have problems with this policy and this board is the reason the board hasn't—, wasn't appointed or not. I just can't remember

what took place during that process or whether it was just dropped altogether. I do know that we adopted the policy because we felt like we needed a policy. Now whether it needs to be changed or not, that's —, I think that's probably going to be entirely up to the new Board coming on in January. I don't think we, with five of us are leaving, really should try to change that. I think they should be the ones to make those decisions at that point because, quite frankly, they could change it anyway when they came in. But I think we need some clarification and that's the only reason that I've got this on there is for clarification and what we can and can't do and what happens with the policy itself.

Chairman Hair recognized Commissioner Odell.

Commissioner Odell said, Jon [Hart], after John McMasters filed his ethics complaint under that provision I'd never looked at this ethics code except I had read the State ethics code and, considering we're all on equal footing, I have this morning filed an ethical complaint, six counts, regarding Mr. McMasters. I want you as the County Attorney to look in particular at *The Atlanta Journal v. Hill*, which is found at 257 Ga. 398, 359 SE2d 913. What this ordinance attempts to do is to appoint the Superior Court judges, the League of Women Voters, yada, yada, yada. They appoint members. That has been decided in that particular case. You cannot delegate legislative power. Because I'm just a blue collar lawyer and I don't know all about all of these sophisticated constitutional issues I would ask you to look at in the Georgia Constitution, Article III, Section 4, Paragraph 1, just for your information, and I'm certain Mr. McMasters will correct me if I'm wrong, his being an authority on the law, the official powers in question are what were delegated to the ethics panel, a private group of citizens not under oath and not accountable to anyone. The Georgia Constitution provides that the people of the State have the inherent right of regulating their internal government. This ordinance would deviate or would deprive them of that right. Let us know be fooled or deceived. Let he who is without sin cast the first stone. We need an ethics committee. We need an ethics committee, but it should be under the State ethics code. This current ethics code section is unconstitutional and I think, Jon [Hart], if we were to hire an independent person to just look at it and look at all the available case law, this is going down the tubes. Okay? And why it was never implemented, how can this body that does not have authority of subpoena power give subpoena power to someone else? County Attorney Hart said, you raise a very good question. Commissioner Odell said, we need an ethics code and it should parallel that of the State of Georgia. I really think that this is something that those of us who won the election will have to decide after January 1. We're not going to pass it, clear it before —, in the next —, let's see. I've got two days here. I'm counting down to Christmas and I'm counting down to when we have a different Commission, and I think we've got 27 days. Now, I need you as the County Attorney to tell me if we can pass an ordinance that's constitutional in the next 27 days. County Attorney Hart said, no sir, you have to have two readings at two regular meetings. Commissioner Odell said, so if those people who are going to be here, I think you all would agree that this —, we need an ethics code. No one wants to be unethical, but we also want to know what the rules are. If you're going to play with them, shouldn't we know what the rules are? We will be here. We can take this up after the first of the year. We should not allow a lame duck to grandstand, take advantage and take a last frightened discriminatory shot at a person that he has hated and use us for his vendetta against that person. I never say anything behind anybody's back that I don't look in their face and tell them and, John [McMasters], you understand I'm talking to you. Commissioner McMasters said, I do understand that. Commissioner Odell said, okay, so that we're clear. That's all I have.

Chairman Hair said, Mr. Jackson and then Commissioner McMasters. Mr. Jackson, do you have a question?

Youth Commissioner William Jackson said, yes sir. From my understanding the committee would be able to investigate whether the rulings from the Commissioners is ethical or not and they would be able to call people to maybe testify? Is that my understanding. Chairman Hair said, that's under the current policy. Youth Commissioner Jackson asked, under the current one, but the problem was you're not allowed to call people? You're not allowed to subpoena people to come —? Commissioner Odell said, the problem is you can't delegate a legislative function. We're elected and we have legislative function. We cannot advocate that function and give it to another. Neither can we give greater authority than what we have. We cannot —, we don't have subpoena power. We can't give that to someone else. You can't give what you do not have, and that's the problem with the ordinance. Do you see? Youth Commissioner said, right. So what —, what would you find the, you know, the solution to the problem? Where would you be able to find what powers you're able to give and what powers you're not able to give? So how would you come with that solution? Commissioner Odell said, it's already been determined. The State of Georgia outlines that in the various code sections. The State of Georgia has a Code of Ethics which has stood the constitutional test. It deviates from that of Chatham County so that answers —, it's resigned. Youth Commissioner said, okay, but Chatham County has got to change their ethics code to parallel —. Commissioner Odell said, that's one of the options.

Chairman Hair recognized Commissioner McMasters.

Commissioner McMasters said, thank you. The fact that we are today arguing about constitutionality of this, constitutionality of that, I'll remind my colleagues and everyone here and watching that in the last meeting on November 19<sup>th</sup> my question to the County Attorney was this: "What I want to know from you, Jon Hart, is is this ordinance in force and in effect today? Attorney Hart answers, yes sir." Now if we're going to start selectively enforcing our ordinances and our laws, I don't think that's real good idea. One of the ways that our ordinance and our laws are refined or changed and improved is by moving ahead with the things that we have that we believed at one point in time were proper and good. I welcome the scrutiny. Harris [Odell], I have nothing to hide. Commissioner Odell said, that is to be determined. McMasters said, I think I have the floor. Commissioner Odell said, you've got it. Commissioner McMasters said, okay. I think we have an ordinance that was put in place with the best of intentions. I'll submit that it may not be perfect, but I think that going ahead and following our ordinance with just the creation of this ethics board is the proper thing to do. So I'm going to put it in the form of a motion, but I fully understand that the new Commission will deal with and the County Attorney will opine on the various elements that may help to improve hopefully this ordinance, and I'd like to make a motion that we follow our ordinance today and ask the County Manager to begin helping this Board appoint a ethics board.

Chairman Hair asked, does that motion have a second? Commissioner Rayno said, second. Chairman Hair said, the motion has a second. Commissioner Rivers said, call the question. Chairman Hair said, Mr. Hart needs to respond to Commissioner McMasters' claim.

County Attorney Hart said, yeah, I'd like just one comment. The question that was asked of me last time was whether we had an ordinance that was validly passed. I answered that, "Yes." And it was because it followed our procedure, and I answered it that way for a very good reason, was when we discovered this and first looked into it, we couldn't find anything in the County Attorney's office that the thing had ever been generated through the County Attorney's office, which raised red flags. So I went to the Clerk's and said, "Let's look and see how this thing came to be. Was it something that was just adopted as a policy and somehow ended up in the code, or was it actually entered in an ordinance?" And when the Clerk first looked at it and looked it up on the microfilm, it looked like it wasn't even a valid ordinance because we couldn't find the first and second reading documents to it, so we ordered the original documents out of storage, and when that occurred, the Clerk reported back to me, "Yes, I just couldn't see it on the microfilm because it was so old, but it was passed in compliance with the Enabling Act." So, yes, it's an ordinance that was passed in compliance with your Enabling Act and stands as an ordinance, but it can be subject to being challenged, and that's all I'm saying, period.

Chairman Hair said, Commissioner Murray and then Commissioner Kicklighter. Commissioner Rivers said, call the question. Commissioner Rayno said, there was a call for the question. Chairman Hair said, you're not recognized, sir. Commissioner Murray and then Commissioner Kicklighter. Commissioner Rayno said, it was Mr. Rivers who did it. Chairman Hair said, stay in order. Commissioner Rivers said, proceed. Commissioner Rayno said, point of order though. When there's a call for the question, it's not debatable. It's not —. Chairman Hair said, the person has to be recognized in order to call the question. You were not recognized. Chairman Hair said, Commissioner Murray and then Commissioner Kicklighter and then I'll be glad to recognize you after that. Commissioner Rayno said, it's not me, it's Mr. Rivers. Chairman Hair said, I'll be glad to recognize Commissioner Rivers in his order. Chairman Hair recognized Commissioner Murray. Commissioner Odell said, call for the question, Frank [Murray].

Commissioner Murray said, I was very careful in my opening remarks to state that what I was talking about was strictly the ethics policy and where we were, how we got there and where we are today with it. That was 14 years ago this policy was implemented. We're being told right now that the policy —, we do not have the authority to appoint this committee and after listening to the discussion on it, I believe that we do not have the —, we can appoint it, but it won't have any standing whatsoever. And if anything happens to go to court over it, that it would probably be thrown out. There are a lot of judges out there right now —, no, most of the judges are gone, I think, but a lot of attorneys. I also stated that we as a Commission, there are five of us will not be back in January, need to leave this up to the new Commission coming on. I firmly believe that that's what needs to happen. I don't want to get mixed up in what the discussions are on the ethics complaints, and obviously there are complaints from two different Commissioners and other Commissioners now. I may even be brought into one of them before it's over. I don't know, all of us may, but that's all right. But I don't think we need to be discussing the complaints that are out there right now. We need to be discussing the policy itself and what we can and can't do with this policy, and that's where I hoped we would go with it and not to get into the personal things one way or the other or who did what. I would just like to see us address those. I don't think we have the authority to appoint the committee that would be a committee that could actually do anything to begin with. So why go through this process if there's another way to deal with it.

Chairman Hair said, Commissioner Kicklighter and then Commissioner Rivers.

Commissioner Kicklighter said, thanks, Mr. Chairman. Jonathan Hart, our County Attorney —. County Attorney Hart said, yes sir. Commissioner Kicklighter asked, is it your opinion that parts of this ordinance, a part or possibly parts of this ordinance is illegal? County Attorney Hart said, yes sir, I believe some of that ordinance is clearly unconstitutional. Commissioner Kicklighter said, okay. Well, I have good news for all the good ethical people in Chatham County. I spoke with Chairman-Elect Pete Liakakis this morning and I thought he had a pretty good idea. It's his desire to take a good look at the ethical —, ethics policy coming up in January by appointing a committee to come up with the best possible solution to have great ethics here in Chatham County with the Commission, and by jumping ahead today I just think that it's possibly —, now that I've heard the —, before I got here and heard that, I was for fine with the —, I was absolutely here, want to vote if that came up to support whatever ethical policy's in place because I believe we have to have something, but if it's illegal, then there's no need to vote something through that's illegal right now when we have a incoming brand new Commission that the Chairman-Elect has already expressed the desire to appoint the committee to move forward and make sure that this policy is the best that it can possibly be. So based on the attorney's opinion that the ordinance is possibly legally flawed and the Chairman-Elect's desire to appoint a committee to study and improve the ordinance, I just think that it's the best thing for us to leave this alone now until January and we'll get a great policy in place that's not illegal.

Chairman Hair said, okay, we have a motion and a second. Chairman Hair recognized Commissioner Rivers. Commissioner Kicklighter said, I call for the question.

Commissioner Rivers said, Mr. Chairman, before I call the question Ms. Gusby had her hand raised, so I'll allow her —. Chairman Hair said, I'm sorry, Ms. Gusby. Chairman Hair recognized Youth Commissioner Gusby.

Youth Commissioner Jasmine Gusby asked, can you please clarify the policy? Chairman Hair asked, the motion —, the motion or the policy? Youth Commissioner Gusby said, the policy. Chairman Hair said, the motion is to follow the existing ordinance and go ahead and appoint the committee. That's the motion and it has a second.

Commissioner Rivers said, I call the question. Chairman Hair said, call the question. All those in favor of that motion vote yes, opposed vote no. Commissioners Rayno and Commissioner McMasters voted in favor of the motion. Chairman Hair and Commissioners Rivers, Murray, Odell, Gellatly, Kicklighter and Thomas voted in opposition. The motion **failed** by a vote of seven to two. Chairman Hair said, the motion fails.

#### **ACTION OF THE BOARD:**

Commissioner McMasters moved that the Board follow the Ethics Ordinance and create an Ethics Board with the understanding that the new Commission in 2005 will deal with and the County Attorney will opine on the various elements to improve the Ethics Ordinance. Commissioner Rayno seconded the motion. Commissioners Rayno and Commissioner McMasters voted in favor of the motion. Chairman Hair and Commissioners Rivers, Murray, Odell, Gellatly, Kicklighter and Thomas voted in opposition. The motion **failed** by a vote of seven to two.

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#### **UPDATE ON STEPHENSON AVENUE**

Chairman Hair said, now we'll have an update on Stephenson Avenue. Chairman Hair recognized Commissioner Rayno.

Commissioner Rayno said, yes, there's been a lot of discussion about the November 30<sup>th</sup> deadline, Stephenson Avenue, the company has not reached that. I'd like for the County Engineer to discuss what actions are being taken and also I'd like an explanation as to why we're using the same company to do the Middleground Road widening. If you could comment. Actually, you tried to stop that from happening.

County Manager Abolt said, if I may, Commissioner Rayno, too, I would also give the Chairman the opportunity at some time in the conversation to relate a very productive, at least in my estimation, conversation he and Chairman-Elect Liakakis had with Transportation Commissioner Linnenkohl.

County Engineer Al Bungard said, I guess as we all know now that APAC did not meet the schedule they provided us and that was to complete by November 30<sup>th</sup>. When it first came out, I think one of you asked me could it be done and my answer was yes. Two days later I said I'm not holding my breath, and they just didn't complete it. We've asked for a new schedule. My staff estimates that we aren't going to see substantial completion until February. The work that's going on there right now, if they —, as I've said before, often they tell me they're going to do something and they just don't do it for some reason. But I will tell you also that GDOT is providing a [inaudible] construction management, filing daily reports because I fully expect to be in sort of litigation on this. Out there today if they're doing what they said, they should be putting what we call the binder course, the first layer of asphalt, on the south side from Waters down to Hodgson. The subcontractor, who I believe even though it's APAC's responsibility, did not pursue the work [inaudible] was working on storm drainage work between Hodgson and Abercorn around the dealership and they should be putting down some asphalt in the next day or so along the northern side up around Habersham, which we tried to get them to do a long time ago simply because of the maintenance headache with the rock. The good news is, you know, they're working, but we should have been at this point a long time ago. The construction we're dealing with now was inevitable. It had to happen at some point. It should have happened a lot long ago. Liquidated damages as of today are three times \$450 and I'm still holding the full retainage because under the contract as long as they're behind schedule that's the only sort of punitive part you could ever put in is the retainage. As an incentive the contractor says I have the prerogative to reduce the retainage from 5% to 2-1/2 if they're 50% complete or on schedule. They are not on schedule so I'm holding the full 10% retainage. That's —, I'm also holding that because if they continue to be late that's where the money's coming from in the retainage. I deduct \$450 a day from the progress payments. Did that answer your question, sir?

Commissioner Rayno said, yeah. What about the Middleground Road project? I know you've had reservations about them taking that project and why did we move forward and let them have that? County Engineer Bungard said, when we saw they were the low bidders, when the GDOT contract review board sent us the contract, I made several phone calls to Atlanta and the first thing —, I think I went through this once before I was told, that there were some discrepancies in the bid, particularly in unit prices. For instance, APAC had unit prices for piping material [inaudible] two to three times the second low bidder, Douglas Asphalt, and the third low bidder, R. B. Baker. Despite —, then I was told like on a Thursday or Friday that they understood our concerns, that they would probably —, were looking at rejecting all bids. When I came to work on Monday morning they had awarded the contract despite our reservations. The answer I got was they're sort of doing a good job pretty well, you know, pretty much elsewhere in the State. My answer was that's not been our experience here and I had —, speaking on behalf of the City of Savannah and staying in touch with them and they've had similar experiences. Commissioner Rayno asked, so it was GDOT who awarded the Middleground Road contract —. County Engineer Bungard said, GDOT. That's a GDOT contract. Commissioner Rayno said, — and not Chatham County, not the Chatham County Commission, not the staff. County Engineer Bungard said, no. Commissioner Rayno said, GDOT. County Engineer Bungard said, GDOT. Commissioner Rayno said, I hope the press understands that when they write Middleground Road when they have backups there six months from now and they don't blame the County Commission.

Chairman Hair said, Commissioner Rayno, I can add to what Mr. Bungard has said. I was at the meeting, as the Manager said. We had a very productive meeting with the Commissioner and also the District Commissioner Gary —, District Engineer Gary Priester was there as well. We did bring in Chairman-Elect Liakakis. He was in the meeting the full time and, you know, the Commissioner, as he has done so many times in the eight years I've been in office, he was most

gracious in trying to help us with Stephenson. He committed that he would personally call, and he had his assistant with him and told him to make sure that I call APAC, but as Mr. Bungard said, he's going to help us on this project, but statewide they have a very good record, and he gave examples of 95 widening, paving right now. They're doing a job right next to another contractor named Douglas Asphalt and Mr. Priester, who has that —, that's in his district as well, he said that overall they're doing a very good job statewide, but that still did not preclude Mr. Linnenkohl from offering to help us and intervening on a personal basis, which he volunteered to do after we asked him for assistance, and I just think that —, I've said this several times since I've been in office —, but we have been very, very fortunate to have an excellent working relationship with GDOT and, you know, we —, and you were not attempting to throw stones, but I'm just saying —. Commissioner Rayno said, yes, I was. Chairman Hair said, well, okay, you were attempting to throw stones, but I think that it's inappropriate to throw stones at GDOT because they have been our partners and they have helped us and we have —, and I can say this without equivocation —, we have millions of dollars in projects in Chatham County that we would not have had, had it not been for the relationship we've had with GDOT over the eight years, and I think that they are helping us solve the problem. It's one of those unfortunate things, but they did agree to help us and I think it was a very productive meeting. That was just one of, you know, 20 or 30 issues that we discussed, I mean —, but he did and he offered to help us on a number of other projects, on our LARP projects and a number of other things, and I think that relationship will continue under Chairman-Elect Liakakis. Okay, Commissioner Murray first and then Dr. Thomas.

Commissioner Murray said, All [Bungard], you had mentioned that you felt like there'd probably be litigation over Stephenson. County Engineer Bungard said, well, I'm just reading between the lines from the tone of the memorandums I'm getting. They're —, typically it's not unusual for a contractor to dispute liquidated damages. Commissioner Murray said, the only reason I'm asking that question is if there is, would the County end up having to pay that or, if the County wins it, do they have to pay it. County Attorney Hart said, I'd have to look at the contract and I'd like to discuss that in Executive Session, but —. Commissioner Murray said, all right. The other question I have, we've got a \$450 per day fine or fee on there. Is that set by State law or is that something that we set when we do the contract or how is that done? That amount. County Engineer Bungard said, that is set in the contract. Under construction law you must estimate up front the reasonable cost or the compensatory damages. They cannot be punitive or a penalty. If you were to charge, let's say, \$2,000 a day or try to, if you were to take that to court, then you would have to prove it. The burden of proof would be on us that that was our cost of providing [inaudible] supervision.

Chairman Hair recognized County Attorney Hart.

County Attorney Hart said, there's a little bit of twist to that. Mr. Bungard is fairly close to being accurate on it with all of that statement except that your contract can have language in it that says it's hard —, difficult to estimate what the cost of damages will be and are incalculable, therefore the parties agree that this monetary amount, \$1,500, will stand to estimate the reasonable costs and both parties agree it's meant not to be as a punitive nature or a penalty, and those type of provisions have withstood pretty serious legal challenge. The big problem that you have with these punitive elements when you inject them into contracts, or liquidated damage provisions —, excuse me, they're never punitive —, is the bigger the liquidated damage amount, \$1,000 a day, \$2,000 a day, when you send your bids out, your bids come back and everybody factors that in. They'll look in and say, oh, gee, what happens. I could be 90 days late on this and I'm looking at 90,000 —, you know, \$1,000 a day, that's \$90,000 potential loss there. So you'll start seeing that trigger. So it's constantly a balancing act of having a high enough punitive amount to get their attention, but not so high as to start impacting your cost on every contract that you let out because the majority of our road projects, I think Truman right now is ahead of where it should be, we don't have that problem.

Commissioner Murray said, my point is though you can't just arbitrarily go put a figure in there and say —. County Attorney Hart said, correct. Commissioner Murray said, — we're going to charge you this. County Engineer Bungard said, it cannot be arbitrary.

Chairman Hair recognized Commissioner Thomas.

Commissioner Thomas said, that was exactly the same question that I wanted to find out.

Chairman Hair said, okay. All right, does that satisfy your [inaudible], Commissioner Rayno. Commissioner Rayno said, yes. Thank you very much. Chairman Hair said, okay. Thank you.

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**ORDER OF BUSINESS**

Item IX-2 was taken out of order and was heard at this point on the agenda.

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**CHATHAM AREA TRANSIT AUTHORITY**

[NOTE: The CAT meeting was delayed on the agenda and was heard following Item IX, Items for Individual Action and immediately prior to Item X, Action Calendar.]

County Attorney Hart said, we need a motion to recess. Commissioner Rivers said, so moved. Commissioner Kicklighter said, second. The motion carried the motion carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.] The Board recessed as the County Commission at 10:45 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 10:55 a.m.

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### **VIII. TABLED/POSTPONED ITEMS**

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

None.

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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: TRANSFER OF \$220,000 FROM THE ISLANDS EXPRESSWAY/CAUSTON BLUFF HIGH LEVEL BRIDGE TO THE INTERCHANGE AT US80 AND JIMMY DELOACH PARKWAY PROJECT IN THE SPLOST IV FUND; A SPECIAL SERVICE DISTRICT CONTINGENCY TRANSFER OF \$104,660 FOR PURCHASE OF PROPERTY; AND A CAPITAL IMPROVEMENT PROGRAM SSD CONTINGENCY TRANSFER OF \$34,340 FOR PURCHASE OF PROPERTY.**

Chairman Hair said, I'll entertain a motion.

Commissioner Kicklighter said, I'll make a motion to approve. Commissioner Thomas said, second. Chairman Hair said, okay, second. Chairman Hair recognized County Manager Abolt.

County Manager Abolt said, Dr. Hair, Dr. Thomas and gentlemen, you asked in the pre-meeting that we clarify a couple of things. One, assurance we'd be making written form, which I'll make public for the viewing audience that this does not affect the time schedule, which is a priority, to construct the Islands level —, Islands Expressway/Causton Bluff Bridge. Also, Mr. Bungard's available to clarify the history behind the Jimmy DeLoach Parkway and US80 Interchange for the record. County Manager Abolt recognized County Engineer Bungard.

Chairman Hair said, let's get Commissioner McMasters first, Mr. Bungard. I think we can dispense with some of that.

Commissioner McMasters said, that's half of the question from pre-meeting, it does not affect the time schedule nor the funding —. County Manager Abolt said, that's correct, sir. Commissioner McMasters said, — for that project, and that's what I wanted —. County Manager Abolt said, as contained in the memorandum from Mr. Bungard and Ms. Cramer on the 29<sup>th</sup> of November in your packet. Commissioner McMasters said, thank you.

Chairman Hair said, and, Mr. Bungard, if you will publicly explain for Mr. Kicklighter's benefit and his constituents benefit what the issues are with the interchange at Jimmy DeLoach.

County Engineer Bungard said, the Jimmy DeLoach Parkway, just a brief history, Phase One, was put on the Sales Tax II, 1993-98 as I recall. It was before my time, but it was not in the CUTS Transportation Plan I don't believe, and that was constructed, the County paid for that as a developmental highway. Then added to the plan was Jimmy DeLoach Parkway, Phase Two, which takes it —, which is now we're going through the environmental process from Interstates —, US80 down to Interstate 16. The interchange at US80 and Jimmy DeLoach Parkway was never part of either the CUTS TIP or the long-range transportation plan. They just didn't see the need. I thought the need was there. We talked to the CUTS. It was still not part of the long-range transportation plan even when the Sales Tax IV came about. Mayor Rozier showed up here and asked that y'all add it to, you know, Sales Tax IV. That's why it's on there now. This contract has developed what we call a concept report to figure out how best to go about that and it is now in the transportation —, long-range transportation plan passed by the CUTS Policy Committee on September 22<sup>nd</sup>. Just got it this last week. This is now part of that plan. Once we get far enough along, then we'll go back to the CUTS Policy to the Department of Transportation and say we'd like to get this moved up or put in the program where it belongs, you know, to get it funded.

Chairman Hair asked, Mr. Bungard, have you shared with Mr. Kicklighter all those potential options that you shared with us the other day with the Commissioner. You know, he might want to just for his gratification look at those. Mr. Bungard

said, not a problem. I've got it in my computer on PowerPoint and I'd be glad to show it to you. Chairman Hair said, Commissioner Kicklighter, you'll have to go upstairs to the fourth floor to our I-Max theater in the County Engineer's office. You can just see it, you know. It will be better than going to the movies. Mr. Jackson and then Mr. Pierce.

Youth Commissioner Jackson asked, would the transfer from —, the \$220,000 from the Islands Expressway to the Jimmy DeLoach, would that affect the Islands Expressway? Chairman Hair said, no. As just stated, it will not affect in any way, it will not delay it one day at all. It's just the project's ready to go. Chairman Hair said, Mr. Pierce, and then Commissioner Kicklighter after Mr. Pierce.

Mr. John Saxon [Piccolo] Pierce said, I want to —, I want to ask a question. If you have a tax increase and before you can choose that by the tax [inaudible] law, you've got to have evidence, and the evidence you can get all the people you want, but if you ain't got the evidence, you're in bad shape. And I can choose y'all —, like Odell and all of them there, they're in bad shape because they ain't got no evidence because we pull them out, the election, we're going to turn evidence against that. And that's wrong. Evidence —, the election starts —, Billy Hair, I know, if he hadn't lost the election he wouldn't say nothing, but he lost the election, and then he [inaudible] evidence. Be sure, be sure [inaudible]. Be sure you get the evidence. May God bless you.

Chairman Hair said, thank you, Mr. Pierce. Now, Commissioner Kicklighter.

Commissioner Kicklighter said, thank you. I just wanted Mr. Bungard to explain to the public because I've had some questions about the time line on putting the overpass in and I just wanted the public and especially out there in West Chatham County to be aware that that was not at all in the original plans. That —, the funding came through the last SPLOST in which we all came up with, and the staff's doing a real good job and just bear with us and we'll get the thing out there, and I call for the question.

Chairman Hair said, I don't think we have a motion and second. Do we, Ms. Tillman? Ms. Tillman, do we have a motion and a second? The Clerk said, yes, we do. Chairman Hair said, okay, we do. Okay, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.] Chairman Hair said, the motion passes. Thank you.

#### **ACTION OF THE BOARD:**

Commissioner Kicklighter moved to approve the following: Transfer of \$220,000 from the Islands Expressway/Causton Bluff High Level Bridge to the Interchange at US80 and Jimmy DeLoach Parkway Project in the SPLOST IV fund; a Special Service District Contingency transfer of \$104,660 for purchase of property; and a Capital Improvement Program (CIP) Special Service District (SSD) Contingency transfer of \$34,340 for purchase of property. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]

**AGENDA ITEM:** IX-1  
**AGENDA DATE:** December 3, 2004

**DATE:** November 24, 2004  
**TO:** Board of Commissioners  
**THRU:** R.E. Abolt, County Manager  
**FROM:** Linda Cramer, Finance Director

#### **ISSUE:**

To request approval of a transfer of \$220,000 from the Islands Expressway/Causton Bluff High Level Bridge to the Interchange at US80 and Jimmy DeLoach Parkway Project in the SPLOST IV fund; a Special Service District Contingency transfer of \$104,660 for purchase of property; and a Capital Improvement Program SSD Contingency transfer of \$34,340 for purchase of property.

#### **BACKGROUND:**

Board approval is required for budget amendments and transfers between organizational units.

#### **FACTS AND FINDINGS:**

- (1) The County Engineer has requested a transfer of \$220,000 from the Islands Expressway/Causton Bluff High Level Bridge to the Interchange at US80 and Jimmy DeLoach Parkway Project in the SPLOST IV fund. A memo is attached.
- (2) The Board of Commissioners is considering the purchase of property. Funding in the amount of \$139,000 is needed. The Capital Improvement Program SSD Contingency has an available balance of \$34,340. The balance of \$104,660 will come from an appropriation of Special Service District Contingency to transfer out to the CIP fund. Copies of correspondence are attached.

- (3) The Capital Improvement Program fund will be amended to recognize the transfer in from the Special Service District fund.

**FUNDING:**

Funds are available in the SPLOST IV fund, the Special Service District Contingency, and the Capital Improvement Program SSD Contingency.

**ALTERNATIVES:**

- 1) That the Board approve the following:

**SPECIAL PURPOSE LOCAL OPTION SALES TAX IV FUND**

A transfer of \$220,000 from the Islands Expressway/Causton Bluff High Level Bridge to the Interchange at US80 and Jimmy DeLoach Parkway Project.

**SPECIAL SERVICE DISTRICT FUND**

A contingency transfer of \$104,660 to transfer out to the CIP Fund for purchase of property.

**CAPITAL IMPROVEMENT PROGRAM FUND**

- a) a SSD contingency transfer of \$34,340 for purchase of property
- b) a budget amendment to recognize the \$104,660 transfer in from the Special Service District Fund for purchase of property.
- 2) Amend or deny the request.

**POLICY ANALYSIS:**

State law grants the Board authority to transfer funds within the budget during the year as it deems necessary.

**RECOMMENDATION:**

That the Board approve Alternative 1.

Prepared by: Read DeHaven

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**2. REQUEST BOARD ADOPT A STAFFING AND FUNDING STRATEGY FOR THE PUBLIC DEFENDER'S OFFICE FOR FY2005.**

Chairman Hair said, we will now go into the funding for the Public Defender's office, and I appreciate the patience of the judges. We'll move that up to now. Come on up, Mr. Edwards. Maybe I can sort of preclude some of the discussion by bringing you up to date on what we discussed in the pre-meeting, Mr. Edwards. Mr. Michael Edwards said, thank you, sir. Chairman Hair said, I think there's going to be unanimous support to support your funding, your six months funding through June 30<sup>th</sup>. There are some concerns about some of the wording in some of the financial attachments, and also the fact that we can't —, we were advised by the County Attorney that we can't approve the six months of funding for July 1<sup>st</sup> to December 31<sup>st</sup>, 2005. That would be the new Commission when they did the budget, but what we —, I think we were in total agreement with, and hopefully it will satisfy your needs, is that we will fund you based on the request for the six months through June 30<sup>th</sup> of 2005, and then ask that you sit down with Mr. Hart and y'all work out the wording issues and then come back and approve that at the next meeting. Does that —, will that satisfy?

County Manager Abolt said, Mr. Chairman, technically, from Mr. Edwards, you're approving Alternate 2. Chairman Hair said, okay, Alternate 2. Okay, but is that —, does that satisfy your needs?

Mr. Michael Edwards said, well, Mr. Chairman, it —, we're in agreement with that process. I would ask, and I understand that staff has made a recommendation for approval of Alternate 2. We believe that Alternate 1 presents a more, frankly, a more cost-effective method of resolving some of the financial concerns that the Commission may have. I understand that, you know, I've spoken with staff a number of times and we continue to have those discussions, but —. Chairman Hair said, so you're saying if we —, what's the difference in the funding? I don't have my book in front of me. County Manager Abolt said, it's \$30,000, sir, but again there are issues beyond the numbers that are related in Mr. —. Chairman Hair said, well, if we approve the funding though and not approve the wording, that would still —, and we're only talking, Mr. Edwards, a two-week period. We —, hopefully, y'all can get together between now and the 17<sup>th</sup> meeting and we can come back —. I mean, I don't have a problem approving the extra \$30,000 personally. I mean, I think Alternative 1 would, you know, suit me okay, but approve the funding but not approve the wording.

Chairman Hair recognized Commissioner Odell.

Commissioner Odell said, Michael [Edwards], we have no option. We have to do the Public Defender, and we have to provide funding for the Public Defender. The reason we elected Option 2, based on staff recommendation, is that that gives you sufficient funds to start operation. The first of the year we're going to have to revisit this anyway. We're going to have to do it. What we've done is we cannot obligate future Commissioners. However, we can take it to the end of our fiscal year, which will be through June 30<sup>th</sup>. It's not that you're not going to get funded completely. It's not an option. You cannot arrest people and not provide them attorneys and violate their constitutional right. Okay? Well, not yet you can't. So —. Mr. Edwards said, you're going to have an office full of gatekeepers very shortly. Commissioner Odell said, and we need that and the community needs that, but we have to go for those reasons with Option 2.

Chairman Hair said, I'll entertain a motion to approve Option —. Commissioner Odell said, I'll make the motion. Commissioner Thomas said, second. Chairman Hair said, motion and second. Any discussion? Judges, do y'all want to comment at all? I want to give you certainly the option to do that. Judge Abbot, since you're here.

Judge Louisa Abbot said, if as I understand it you plan to revisit whether or not Option 1 may in fact be more cost effective overall for the County —. Chairman Hair said, absolutely. Judge Abbot said, — and I don't want to get into the issue of the numbers because that's not why I'm here. I'm just here to make sure that the lawyers standing in front of me on January 2<sup>nd</sup> representing folks —.

Chairman Hair said, I think that Commissioner Odell represents the group that will be back will —, has pretty much committed to doing that. Is that what I'm hearing? For that end of the table.

Judge Abbot said, with that understanding I think then that we don't need to probably go into why Option 1 may ultimately be the one that you would prefer and that the new Commission —.

Chairman Hair said, I think that if you just bring it back January will be fine. Okay? Mr. Edwards said, [inaudible] do that. Chairman Hair said, we're just trying to make sure the wording's right and, you know, follow the advice of the attorney.

Commissioner Odell said, Option 2. Chairman Hair asked, do we have a second? The Clerk said, yes. Commissioner Kicklighter said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. Chairman Hair and Commissioners Rivers, McMasters, Murray, Odell, Gellatly, Kicklighter and Thomas voted in favor of the motion. Commissioner Rayno voted in opposition. The motion carried by a vote of eight to one. Chairman Hair said, the motion passes. Thank you, Mr. Edwards. Thank you very much. Thanks, Judges, for y'all being here and I appreciate your patience. Judge Abbot said, thanks for moving it up on the agenda. Chairman Hair said, no problem. Thank you.

#### **ACTION OF THE BOARD:**

Commissioner Odell moved to adopt a staffing and funding strategy for the Public Defender's office for FY2005 as follows: To authorize the hiring of 9 County-funded positions for the Public Defender's office as County employees and approve the following transfers for departmental funding: (a) General Fund/M&O Contingency, \$200,000; (b) Vacant Positions Department, General Fund, \$50,000; (c) Court Administrator, Salaries & Benefits, General Fund, \$86,334; (d) Court Expenditures, Attorneys Fees, General Fund, \$246,592; (e) Juvenile Court, Attorney Fees, General Fund, \$19,250; and (f) CIP Fund, M&O Contingency, \$29,260. Commissioner Thomas seconded the motion. Chairman Hair and Commissioners Rivers, McMasters, Murray, Odell, Gellatly, Kicklighter and Thomas voted in favor of the motion. Commissioner Rayno voted in opposition. The motion carried by a vote of eight to one.

**AGENDA ITEM:** IX-2  
**AGENDA DATE:** December 3, 2004

**DATE:** November 23, 2004  
**TO:** Board of Commissioners  
**THRU:** R.E. Abolt, County Manager  
**FROM:** Linda Cramer, Finance Director

#### **ISSUE:**

To adopt a staffing and funding strategy for the Public Defender's office for FY2005.

#### **BACKGROUND:**

Board approval is required for budget amendments and transfers between organizational units. On November 19, 2004, the Board authorized funding for the Public Defender's office of \$646,834. Of this amount, \$307,000 represented a new appropriation while \$339,834 was shifted from other department budgets.

#### **FACTS AND FINDINGS:**

- 1) The Georgia Public Defender Standards Council (GPDSC) HAS ASSISTED Michael Edwards, the Public Defender for the Eastern Judicial Circuit, with a budget proposal outlining the Public Defender’s funding needs for the next three years. The GPDSC budget assumes that the County will enter into a contract with the GPDSC for the salary and benefit costs of all county-funded employees in the Public Defender’s Office for a 10% administrative fee. The GPDSC budget also includes salary supplements for key public defender staff members. The County has the option of adopting the GPDSC plan or developing its own plan to staff the Public Defender’s office with County employees.
- 2) On November 24, 2004, Chatham County received a contract from the GPDSC with a revised budget attachment that showed a six month budget for the period January 1 to June 30, 2005. The total County portion of this budget is \$633,895. The GPDSC budget does not include utilities, janitorial services or FICA for four positions. These items total 426,061 and result in a revised six month County obligation of \$659,956, slightly above the amount approved by the Board on November 19, 2004. Under the Funding section of this agenda item, this is shown as Alternative One.
- 3) The GPDSC budget includes salary supplements for the Public Defender and two assistant public defenders of \$40,000 semiannually, or \$80,000 annually. The Human Resources Director has indicated that he is analyzing this request in relation to other County supplements to determine its effect.
- 4) Under a contract with the GPDSC, the County-funded positions in the Public Defender’s office would be paid by the State, be GPDSC employees, and receive pay and benefits that mirror the State-funded positions. The County would reimburse the GPDSC for salaries and benefits plus the 10% fee. In FY2005 the administrative fee will be \$31,784; by FY2007 it is estimated at \$185,400. The GPDSC will provide each contracted employee with computers and certain travel/training benefits that they value at \$8,900 for each attorney and \$6,000 for each staff member.
- 5) As an alternative, the County can treat the nine county-funded positions as county employees. This strategy does not include salary supplements as outlined in item 3 above, but the computers and travel/training benefits outlined in item 4 above have been included. Computers and software were valued at \$2,000. The County’s cost under this option is estimated to be \$631,436. Under the Funding section of this agenda item, this is shown as Alternative Two.

**FUNDING:**

Funding for the Public Defenders Office is available as follows:

<u>Source</u>	<u>Alternative One</u>	<u>Alternative Two</u>
General Fund M&O Contingency	\$200,000	\$200,000
Vacant Positions Department	50,000	50,000
Court Administrator, salaries & benefits	86,334	86,334
Court Expenditures, attorney fees	275,112	246,592
Juvenile Court, attorney fees	19,250	19,250
CIP Fund - M&O Contingency	<u>29,260</u>	<u>29,260</u>
	<u>659,956</u>	<u>631,436</u>

**ALTERNATIVES:**

- 1) That the Board conceptually approve a contract between Chatham County and the Georgia Public Defender Standards Council to facilitate the hiring of 9 county-funded positions as GPDSC employees, subject to a 10% administrative fee, and approve the following transfers for departmental funding as follows:
  - a. General Fund M&O Contingency, \$200,000,
  - b. Vacant Positions Department, General Fund, \$50,000,
  - c. Court Administrator, Salaries & Benefits, General fund, \$86,334,
  - d. Court Expenditures, Attorney Fees, General Fund, \$275,112,
  - e. Juvenile Court, Attorney Fees, General Fund, \$19,250, and
  - f. CIP FUND - M&O Contingency account, \$29,260.
- 2) That the Board authorize the hiring of 9 county-funded positions for the Public Defender’s Office as County employees and approve the following transfers for departmental funding as follows:
  - a. General Fund M&O Contingency, \$200,000,
  - b. Vacant Positions Department, General Fund, \$50,000,
  - c. Court Administrator, Salaries & Benefits, General fund, \$86,334,
  - d. Court Expenditures, Attorney Fees, General Fund, \$246,592,
  - e. Juvenile Court, Attorney Fees, General Fund, \$19,250, and

f. CIP FUND - M&O Contingency account, \$29,260.

3) Amend or deny the request.

**POLICY ANALYSIS:** State law grants the Board authority to transfer funds within the budget during the year as it deems necessary. The Superior Court Administrator and District Attorney budgets have a combination of positions that are state funded and county funded. Alternative Two is consistent with current practice in these departments.

**RECOMMENDATION:**

That the Board approve Alternative Two.

Prepared by: Read DeHaven

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**3. TRANSMITTAL OF THE 2004 COMPREHENSIVE ANNUAL FINANCIAL REPORT AND THE MANAGEMENT LETTER, RESPONSES TO THE SINGLE AUDIT FINDINGS AND THE MANAGEMENT LETTER, AS WELL AS FUND BALANCE AND STATISTICAL DATA.  
(Note: External auditors will be available for a presentation.)**

Chairman Hair said, Commissioner McMasters, do you want to continue your questions or —? Commissioner McMasters asked, on which subject? Chairman Hair said, this is the audit report. Commissioner McMasters said, the CAFR report. Chairman Hair said, right. Commissioner Rayno said, I could ask a couple of questions if he doesn't mind while he's looking. Commissioner McMasters said, go ahead. Chairman Hair said, okay, Commissioner Rayno and then Commissioner McMasters. Okay.

Commissioner Rayno said, a lot of the concerns you had in the management letter from last year have been addressed this year. Am I correct in saying that 7 out of 12 were corrected? Is that right? Ms. Linda Cramer said, yes. That's true. Yes, we have resolved a number of our findings in this audit, findings that were released as [inaudible] in '03 audit. In the '04 audit we had I believe three remaining from last year and five are new findings so I think we have 8 findings this year. Commissioner Rayno said, many of the problems that had you addressed, 7 of the 12 that you corrected were things that happened prior to your arrival, so you were actually cleaning up things that happened prior to your taking over? Ms. Cramer said, that's true, and a lot of that was really just looking at the operations of the department trying to get some processes in place, deadlines, trying to get things organized and structured, and I think we've been successful in doing that. And Derrick [Coward] can probably address that since he wrote all those findings in '03. Mr. Derrick Cowart said, yes, Commissioner Rayno, they've done an excellent job, Linda [Cramer] and her staff, in addressing the major findings and she [inaudible] was very proud to see it happen, of course. Commissioner Rayno said, on some of the repeated ones, like the de-centralized cash collection points, we've discussed those in the past. A lot of those occur in the judiciary section of which the County Commission has no control over basically what they do over there, yet we take criticism for that finding all the time, and I know that I've personally approached judges about trying to approve that situation and they're not very receptive to the idea of making a change. I don't know why, but —, is that true? Is that where a lot of that occurs? Mr. Cowart said, oh, yes sir. Commissioner Rayno said, I think that's all I had. Thank you.

Vice Chairman Thomas recognized Commissioner McMasters.

Commissioner McMasters said, thank you. One of the departments that we do have control over is the Department of Building and Regulatory Services [sic], and according to the information supplied from your firm it says: "Condition and Background." It says: "Audit tests revealed charges for certain building permits were not calculated in accordance with the County's Revenue Ordinance...." Additionally, MPC fees were not always supported by appropriate calculation worksheets and revenue misclassifications were not communicated to the appropriate personnel for correction. This is the same department that managed to have over 250 homes built and sold without the benefit of a Certificate of Occupancy and we were told in this discussion over a year and a half ago that software was the answer, and we approved that software and have purchased that software. Relative to that software, one question that I had routinely asked was when would Parks and Recreation, another department that we have total control over, be able to give us a budget, a line item budget for each facility. Today, Russ [Abolt], do we have that —, can we produce —? County Manager Abolt said, you're mixing two things. First of all, when you read the findings in the audit, you must also receive staff's response, and staff's response on the issue of Building Safety are right on target. We acknowledge [inaudible]. We acknowledge the fix is at hand and that will solve this problem going forward. Now you shift gears into Parks and Recreation and as we promised you, next year when we have a full year of experience, we'll be able to give you actual historical costs. So we are not doing anything other than what we were asked to do and we're doing it on schedule. Commissioner McMasters said, I disagree that it's on schedule. County Manager Abolt said, I don't. Commissioner McMasters said, well, that's my right to. County Manager Abolt said, yes sir. Commissioner McMasters said, so I agree that it is. I can go back and show you the minutes when it was promised to happen and it has not happened. Are you confident, Russ [Abolt], that all homes now receive Certificate of Occupancies when they're sold? County Manager Abolt said, yes sir, and you know the exception, if we find those, we cut the power off. Commissioner McMasters said, thank you.

Vice Chairman Thomas asked, do we need a motion or anything? An unidentified gentleman said, no. Vice Chairman Thomas said, thank you. Commissioner Kicklighter said, we need a motion. County Manager Abolt said, no, this is for information sir, ma'am,. Vice Chairman Thomas said, okay, this is for information.

**ACTION OF THE BOARD:**

The Board received as information the 2004 Comprehensive Annual Financial Report (CAFR) and the Management Letter, responses to the Single Audit Findings and the Management Letter, as well as fund balance and statistical data.

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[NOTE: The CAT meeting was held at this point on the agenda.]

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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, that takes us to the Action Calendar. We are pulling 5-B, 5-D, and 5-F, and then I'll —, I'll entertain a motion to approve the balance of the Action Calendar. Commissioner Rivers said, so moved. Chairman Hair asked, second? Commissioner Thomas said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.] Chairman Hair said, the motion passes.

**ACTION OF THE BOARD:**

Commissioner Rivers moved that the Action Calendar be approved in its entirety with the exception of Items 5-B, 5-D and 5-F. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was 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 NOVEMBER 19, 2004, AS MAILED.**

**ACTION OF THE BOARD:**

Commissioner Rivers moved to approve the minutes for the pre-meeting and regular meeting of November 19, 2004, as mailed. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]

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**2. CLAIMS VS. CHATHAM COUNTY FOR THE PERIOD NOVEMBER 10 THROUGH NOVEMBER 23, 2004.**

**ACTION OF THE BOARD:**

Commissioner Rivers moved that the Finance Director is authorized to pay claims for the period November 10, 2004, through November 23, 2004, in the amount of \$4,767,889. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]

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**3. REQUEST FROM THE DEVELOPER, PENN MYRICK, TO RECORD THE SUBDIVISION PLAT FOR PETER’S QUAY, PHASE 2. [DISTRICT 4.]**

**ACTION OF THE BOARD:**

Commissioner Rivers moved to approve the request from the developer, Penn Myrick, to record the subdivision plat for Peter’s Quay, Phase 2. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]

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**4. REQUEST BOARD ADOPT A RESOLUTION FOR PURPOSES OF CREATING A SPECIAL SERVICE DISTRICT FOR THE PURPOSE OF CHATHAM COUNTY TO PROVIDE A STREET LIGHTING PROJECT WITHIN PLANTERS COMMON SUBDIVISION. [DISTRICT 3.]**

Chairman Hair asked, who asked to pull that? Commissioner McMasters said, I did. Chairman Hair said, okay, Commissioner McMasters.

Commissioner McMasters said, I just want to take the opportunity to thank the residents of Planters Common for their patience in dealing with this subject and particularly Ms. Williams, who could not be here today, but hopefully will see this re-broadcast. If it weren’t for their commitment to improving the quality of life in their immediate neighborhood and working patiently with staff, this enhancement for this neighborhood with the street lighting would not have been possible. So, I commend the citizens and residents within and nearby Planters Common for sticking to it and insisting that the County help them and assist them in improving the quality of life in their neighborhood, and in this case they have been successful.

Chairman Hair said, okay. We actually have approved that under the —, because I didn’t pull it. So it’s been approved.

**ACTION OF THE BOARD:**

Commissioner Rivers moved to adopt a resolution for purposes of creating a special service district for the purpose of Chatham County to provide a street lighting project within Planters Common subdivision. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]

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**5. 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.)**

<b>ITEM</b>	<b>DEPT.</b>	<b>SOURCE</b>	<b>AMOUNT</b>	<b>FUNDING</b>
A. Annual building lease	C.N.T.	Melaver, Inc.	\$84,065	General Fund/M&O - C.N.T.
B. Change Order No. 8 to the contract to Truman Parkway Phase 5 for additional work	SPLOST	Jordan, Jones and Goulding and Stevenson and Palmer	\$628,801	SPLOST (1985-1993) - Truman Parkway Phase 5
C. Telephone switch	Public Defender	Integrated Network Solutions (sole source)	\$12,400	General Fund/M&O - Public Defender (pending Board approval of funding)
D. Two year lease with option for three additional years for office space for Public Defender’s office	Public Defender	Sadler Enterprises	\$127,282	General Fund/M&O - Public Defender (pending Board approval of funding)
E. Change Order No. 5 to the contract for the construction for the Technology and Engineering (TEC) Campus Road for additional construction services	Engineering	Triangle Construction Company	\$30,399.81	SEDA

ITEM	DEPT.	SOURCE	AMOUNT	FUNDING
F. Annual contract with automatic renewal options for four (4) additional one year terms for Bond Counsel Services	Finance	Oliver, Maner and Gray, LLP	Negotiated based on the size and complexity of each bond issue	Bond Issue Proceeds

**As to Items 5-A through 5-E:**

Commissioner Rivers moved to approve Items 5-A through 5-E, except Items 5-B and 5-D. Commissioner Thomas - seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]

**As to Item 5-B:**

**Change Order No. 8 to the contract to Truman Parkway, Phase 5, for additional work; SPLOST; Jordan, Jones and Goulding and Stevenson and Palmer; \$628,801; SPLOST (1985-1993) - Truman Parkway, Phase 5.**

Chairman Hair recognized Commissioner McMasters.

Commissioner McMasters said, I just wanted to point out that this is Change Order No 8 and it's for \$628,000 and that the project now involves three bridges, one over the Vernon River approximately a mile long, one over Whitfield Avenue and one over White Bluff Road, and the original contract was awarded in December of 1993 and it's original amount was \$552,000 and it's now \$5,476,812. That's the only thing I wanted to point out.

Chairman Hair said, I'll entertain a motion to approve. Commissioner Thomas said, move for approval. Chairman Hair asked, second? I need a second. Commissioner Rayno said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. Chairman Hair and Commissioners Rayno, Rivers, Murray, Gellatly, Kicklighter and Thomas voted in favor of the motion. Commissioner McMasters voted in opposition. The motion carried by a vote of seven to one. [NOTE: Commissioner Odell was not present when this vote was taken.] Chairman Hair said, the motion passes.

**As to Item 5-D:**

**Two year lease with option for three additional years for office space for Public Defender's office; Public Defender; Sadler Enterprises; \$127,282; General Fund/M&O - Public Defender (pending Board approval of funding).**

Chairman Hair said, I'll call on Commissioner Rayno to request recusal.

Commissioner Rayno said, I'm requesting recusal because of past business dealings with this [inaudible].

Chairman Hair asked, do I have a motion to recuse him. Commissioner Murray said, so moved. Chairman Hair asked, second? Commissioner Thomas said, second. Chairman Hair said, all those in favor of recusal vote yes, opposed voted no. The motion carried unanimously. [NOTE: Commissioner Rayno was recused from voting; Commissioners Odell and Kicklighter were not present when this vote was taken.]

Chairman Hair said, now I'll entertain a motion to approve the item. Commissioner Rivers said, so moved. Chairman Hair asked, second? Commissioner Thomas said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion and it carried unanimously. [NOTE: Commissioner Rayno was recused from voting; Commissioners Odell and Kicklighter were not present when this vote was taken.]

**As to Item 5-F:**

**Annual contract with automatic renewal options for four (4) additional one year terms for Bond Counsel Services; Finance; Oliver, Maner and Gray, LLP; Negotiated based on the size and complexity of each bond issue; Bond Issue Proceeds.**

Chairman Hair said, Commissioner Odell pulled that item and he's not here. Does anybody else have any questions on that item? Nobody else has any questions?

Commissioner Rayno said, I went out and looked, he's not there. Commissioner McMasters said, I have a question on it. Chairman Hair said, okay. Okay, ask your question.

Commissioner McMasters said, I believe in this item it said that the County Review Committee didn't see a need to conduct interviews with the —. Chairman Hair asked, Mr. Monahan, do you want to respond to that? Mr. Monahan said, I can answer that question. That's true. Commissioner McMasters asked, could you elaborate on that? Mr. Monahan said, well, the four or five respondents, four respondents all provided complete packages as far as their experience and qualifications, particularly in handling bond issues similar to the type that the was County interested in. So just sitting down and meeting with them to go through that further wouldn't have —, I don't think would have provided any additional benefit. Commissioner McMasters asked, is there an annual dollar amount that you project the value of this to be? Mr. Monahan said, no sir. It's actually done on a bond issue. One of the requirements we do put in the contract is that this firm must

provide up to 10 hours of free legal services to the County on an bond questions as well as Oliver, Maner & Gray has always been helpful in providing other services perhaps when Mr. Hart's not available. The most recent one that comes to mind is the firm probably spent maybe 20 or 30 hours in actually writing and developing the 2003-2008 SPLOST resolution because of the unusual number of projects that the Board added. So that is a free service and that's not reflected in any billing that the County receives from Oliver, Maner & Gray, but otherwise to answer your question specifically, bond counsels receive payment per bond issue and if, for example, the County goes three years without any bond issuance, then the bond counsel receives nothing.

County Attorney Hart said, and I'd like to comment on that just from the standpoint that, if you'll recall, on the last bond issue we refinanced and inquired the Henderson Golf Course and the Mighty Eighth, it took money off the general revenue docket and we were able to take it out in SPLOST. That was a relatively tricky and new —, new provision of all the steps you had to go to, and it required four or five meetings for us to develop a means by which to obtain that and those were several hours apiece. Never once did they ever raise the question of, well, are we being compensated for this?

Commissioner McMasters asked, how much did the County pay them for that particular bond issue? County Attorney Hart said, I don't know. I have no idea. Mr. Monahan said, I did not process that invoice. I'm assuming the County Attorney's office did. County Attorney Hart said, no, it came —, it probably came out of the bond proceeds. Mr. Monahan said, it came out of the bond proceeds, but there still was an invoice. Commissioner McMasters said, I understand that, but approximately how much did the firm make on that? County Attorney Hart said, I have no idea. I mean, it's in the bond documents. Chairman Hair said, we'll get that. Mr. Monahan said, we can get that probably in a couple of minutes if you would like. Commissioner McMasters asked, generally, a rough idea? Isn't that a percentage of the bond issue, can we do that now? Mr. Monahan said, I'm trying to think. I think —, I mean, I might be a little bit off, but I remember one I did it was somewhere in the neighborhood of \$2.2 million and I believe the total fee was \$80,000 for all legal services, including the co-counsel on it. That's what I recall just off the top of my head. That's been a while since I did that one.

Chairman Hair recognized Commissioner Odell.

Commissioner Odell said, I had asked this to be pulled and Tom and I —, Tom Gray and I talked outside and he cleared up any issue. My concern was that I don't want people to make money off or through this County and then at any point sue this County. You can't play both sides of the fence and I was mistaken in believing that [Jim] Gerard had sued us over something in Dean's [Kicklighter] district, but he had not, and Tom [Gray] cleared that up. That's one point. The blue chip firm as far as bonds in this region is Oliver, Maner & Gray and mainly Tom Gray, and their fees I would say, if you compare it with some of the bonding firms out of Atlanta, i.e. Hutton and Williams is an excellent firm also and probably be lower than the rates in metropolitan Atlanta and Macon. That was my concern. My concern was that we we're going to in the coming years be looking at a project that Rayno and I talked about as far as mental health, mental retardation and substance abuse in this area, and we're going to float a bond in that regard. We tend to live as separate people, but funding from this comes from all of the people, and that is people who look like me, brown skinned, big nose, and I want to make certain that if we do bond work, even though it's Oliver, Maner and Gray, and they have a minority present, that they consider being diverse or diversity, and I want to make certain so that it does not violate any ethics that it cannot be a minority firm who's been within a hundred yards of being in the same building with me for the last 25 years. I want to make that abundantly clear. You don't know what to say, do you, Pat [Monahan]? Mr. Monahan said, I could be in a spot that may have been more information than I needed to hear, but I do appreciate you —, let me point, Oliver, Maner & Gray did present one of their, I guess, associate partners at this point is a minority female, so she is part of their project team. I understand —. Commissioner Odell said, I want this to be abundantly clear. Any time that there's a large sum of money in which our people pay taxes, we are fed upon. We are not the ones who participate in the project. That is wrong. It cannot continue to be tolerated, and hiring a junior associate doesn't satisfy that provision. There are attorneys out here who've been practicing for 13 years who've never had an opportunity to do business with the County. I have said —, I would —, and I have no power to control this, I would like to see them associate minority firms who've been out there who can do assistance or do this kind of work. You know, I'm amazed and appalled. I've practiced here for 25 years and the only firms that associate me on this kind of work are out of the city or out of D.C. our out of New York. Now, my only point is I don't have a problem with segregation. I do have a problem with our people participating in the funding, but not participating in the benefit.

Chairman Hair recognized Commissioner Rivers.

Commissioner Odell asked, and can the people quote me correctly on that?

Commissioner Rivers said, I think if we go back, the Commissioners some time ago, constant —, and the first participant was Maner, Oliver & Gray [sic], and I don't think that there was sufficient enough work and experience gained there. When we went out on the next bond issue or the next time we engaged Mr. Gray's firm, I was under the impression that we had set a policy that would always make it inclusive that minorities participate in bonds and that they come away with some meaningful business and some meaningful mentoring. Now if that isn't happening, then we need to look at that a little closer. We need to include that in Mr. James' observations because as Mr. Odell —, Commissioner Odell said, we must have inclusion in all of these bond issues and it was our intention long ago, when Deanie Frazier was here and we went to the Minority Participation [inaudible], that we be inclusive in those bond issues. So, Mr. Manager, if that's not happening, then we need to monitor that a little bit and make sure that we are getting what we need to get.

Chairman Hair said, Commissioner McMasters and then Dr. Thomas.

Commissioner McMasters said, I just want to on the subject of ethics, I want to make it abundantly clear that, you know, hypothetically if my colleague Commissioner Odell had, you know, pressed this issue to the point with someone that, you know, money exchanged hands, this County does not have the will nor the ordinance evidently to investigate itself. Thank you.

Chairman Hair recognized Commissioner Thomas.

Commissioner Thomas said, thank you. I just want to concur with my colleagues, Commissioners Odell and Rivers, on that point. We spent over \$100,000 some time ago, and I served as Chairperson of that minority and diversity chairperson for the County looking at inclusion for various assignments whenever we have large contractors coming into Chatham County that they would try to be as inclusive as possible, and we did spend over \$100,000 for that and we did make a commitment, and I, too, would like to see us go back to that and try to follow through on that because it's very, very important that persons who are helping to participate in the taxes and all these other things that they should have an opportunity to also participate in receiving some of the wealth that's being shared around.

Chairman Hair said, I think that's a great idea, Mr. Abolt, and y'all so well note it as far as future —. County Manager Abolt said, yes sir, we understand.

Chairman Hair said, all right, I need a motion to —. Do we have a motion and a second, I don't think we do, do we, Sybil [Tillman]? The Clerk said, no, sir. Chairman Hair said, okay, I need a motion to approve. Commissioner Rivers said, so moved. Chairman Hair asked, second? Commissioner Thomas said, second. Chairman Hair said, all those in favor vote yes, opposed vote no. The motion carried unanimously. [NOTE: Commissioner Kicklighter was not present when this vote was taken.] Chairman Hair said, the motion passes. Thank you for being here, Mr. Gray.

**ACTION OF THE BOARD:**

1. Commissioner Rivers moved to approve Items 5-A through 5-E, except Items 5-B and 5-D. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Odell was not present when this vote was taken.]
2. Commissioner Thomas moved to approve Item 5-B. Commissioner Rayno seconded the motion. Chairman Hair said, all those in favor vote yes, opposed vote no. Chairman Hair and Commissioners Rayno, Rivers, Murray, Gellatly, Kicklighter and Thomas voted in favor of the motion. Commissioner McMasters voted in opposition. The motion carried by a vote of seven to one. [NOTE: Commissioner Odell was not present when this vote was taken.]
3. Commissioner Murray moved that Commissioner Rayno be recused from Item 5-D because of a past business relationship. Commissioner Thomas seconded the motion and it carried the motion carried unanimously. [NOTE: Commissioner Rayno was recused from voting; Commissioners Odell and Kicklighter were not present when this vote was taken.]
4. Commissioner Rivers moved to approve Item 5-D. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Rayno was recused from voting; Commissioners Odell and Kicklighter were not present when this vote was taken.]
5. Commissioner Rivers moved to approve Item 5-F. Commissioner Thomas seconded the motion and it carried unanimously. [NOTE: Commissioner Kicklighter was 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 THE STREET LIGHTING ORDINANCE OF CHATHAM COUNTY FOR THE PURPOSES OF PROVIDING IMPROVED NOTICE AND OPPORTUNITY TO BE HEARD BY PROPERTY OWNERS WITHIN A PROPOSED STREET LIGHTING DISTRICT AND A PROCEDURE FOR PROVIDING SUCH NOTICE. [UNINCORPORATED AREA.]**

**ACTION OF THE BOARD:**

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

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**XII. SECOND READINGS**

None.

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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 (SEE ATTACHED).****ACTION OF THE BOARD:**

A written report was received as information.

**AGENDA ITEM: XIII-2**  
**DATE: December 3, 2004**

List of Purchasing Items between \$2,500 and \$9,999  
That Do Not Require Board Approval

<b><u>ITEM</u></b>	<b><u>DEPT.</u></b>	<b><u>SOURCE</u></b>	<b><u>AMOUNT</u></b>	<b><u>FUNDING</u></b>
Design second water source for the Soccer Complex	SPLOST	Jordan, Jones and Goulding, Inc.	\$7,650	SPLOST (1993-1998) - Soccer Complex
Office furniture for Judge Coolidge	State Court Judge	Mason's, Inc.	\$5,712	General Fund/M&O - State Court Judge
Annual fire alarm maintenance	Juvenile Court	Simplex Grinnell L.P.	\$6,742	General Fund/M&O - Juvenile Court
Environmental assessment for Department of Community Affairs/Trade Center (Parcel 7)	SPLOST	Thomas & Hutton Engineering, Co	\$9,000	SPLOST (1993-1998) - DCA/Trade Center

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**3. INFORMATION REGARDING THE 2004 CHATHAM COUNTY EMPLOYEE RECOGNITION RECEPTION TO BE HELD ON DECEMBER 14, 2004.**

County Manager Abolt said, please do note on Information, an event that all members of the Board have shown a very high interest in, on the 14<sup>th</sup> of December at approximately 11:45 will be the employee recognition function, second floor of the Civic Center.

Chairman Hair said, thank you.

**ACTION OF THE BOARD:**

A written report was received as information.

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**EXECUTIVE SESSION**

Upon motion being made by Commissioner Rivers, seconded by Commissioner Thomas and unanimously approved, the Board recessed at 11:08 a.m., to go into Executive Session for the purpose of discussing litigation and land acquisition. [NOTE: Commissioners Odell and Kicklighter were not present when this vote was taken.]

Following adjournment of the Executive Session, the meeting of the Board of Commissioners was reconvened at 11:17 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 Murray moved to authorize the Chairman to execute an affidavit that the Executive Session was held in compliance with the Open Meetings Law. Commissioner Rivers seconded the motion and it carried unanimously. [NOTE: Commissioners Odell and Kicklighter were not present when this vote was taken.]

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**ADJOURNMENT**

There being no further business to be brought before the Board, Chairman Hair declared the meeting adjourned at 11:18 p.m.

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APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004

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

\_\_\_\_\_  
SYBIL E. TILLMAN, COUNTY CLERK