



**REGULAR MONTHLY MEETING**

The Board of Commissioners of Spalding County, Georgia, held their Regular Monthly Meeting on Monday, April 4, 2005 in their office in the Courthouse Annex in the City of Griffin, Spalding County, Georgia, beginning at 6:00 o'clock p.m. with Vice Chairman Eddie Freeman presiding and Commissioners Cecil Davis and Johnie McDaniel present. Also present were County Manager William Wilson, County Attorney Jim Fortune and Executive Secretary Teresa Watson.

**I. OPENING (Call to Order) – Vice Chairman Eddie Freeman**

**II. INVOCATION – Dr. David Hill**

**III. PLEDGE TO FLAG – Led by Vice Chairman Eddie Freeman**

Vice Chairman Freeman welcomed Boy Scout Troop 4 from First United Methodist Church and the Leadership Griffin-Spalding candidates present at the meeting tonight.

**IV. PRESENTATIONS/PROCLAMATIONS/RECOGNITION**

1. Presentation of the 2005 Bain Proctor Award for Volunteerism.

Commissioner McDaniel read the press release announcing this year's recipient of the 2005 Bain Proctor Award for Volunteerism as Mr. Joe Harrell. Mr. Harrell accepted and voiced his appreciation not only for the award, but for the group that works diligently to restore area cemetery headstones.

2. Consider Proclamation declaring week of April 10-16, 2005 as Victims Rights Week in Spalding County.

**Proclamation**

**A PROCLAMATION HONORING THE ACCOMPLISHMENTS OF VICTIM RIGHTS ADVOCATES AND VICTIM ASSISTANCE PROGRAMS IN SPALDING COUNTY**

**WHEREAS**, President Ronald W. Reagan first declared "National Crime Victims' Rights Week" in 1981 to focus our nation's attention on the plight of crime victims, and this Silver Anniversary of National Crime Victims' Rights Week provides a national opportunity to reflect on the devastating impact of crime and terrorism on victims and our entire nation, and to strengthen our national resolve to ensure that victims' needs are identified and addressed; and

**WHEREAS**, over 32,000 federal and state laws have been passed that define and protect the rights of crime victims; 32 states have passed constitutional amendments that afford victims important participatory rights throughout the criminal and juvenile justice systems; and the crime victim assistance field has expanded from a handful of programs to include over 10,000 community- and justice system-based programs; and

**WHEREAS**, America as a nation, and we as individuals and communities, recognize that justice isn't served until crime victims are, that crime and violence in America affects us all, and victims' rights are a critical component of "justice for all"; and

**WHEREAS**, justice also isn't served until all crime victims and those hurt by crime – our mothers and fathers, sons and daughters, sisters and brothers, neighbors and

friends – are provided support and assistance in the aftermath of victimization; and

**WHEREAS**, despite impressive accomplishments over the past 25 years in crime victims' rights and services, there remain many challenges to ensure that all crime victims and survivors are treated with dignity and respect, recognized as key participants within our systems of justice, and afforded services that provide help and hope to them; and

**WHEREAS**, America as a nation recognizes that we serve justice by serving victims of crime and that by helping victims and survivors of crime, we help make our homes and neighborhoods, communities and nation stronger, safer and more secure; and

**WHEREAS**, America has joined together annually for the past 25 years to recognize the needs and rights of crime victims and survivors during National Crime Victims' Rights Week each April; and

**NOW, THEREFORE BE IT PROCLAIMED** that the Board of Commissioners of Spalding County do hereby designate the week of April 10 to April 16, 2005 to be **Crime Victims' Rights Week** in Spalding County and that our individual and collective efforts reflect the dreams we dare to have of a nation where no crime victim goes unserved and every crime victim is afforded rights and services and fair treatment by the justice system and by society.

This the 4<sup>th</sup> day of April 2005.

William P. Wilson, Jr., County Clerk (L.S)

Edward Goss, Jr., Chairman (L.S.)

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*On a motion by Commissioner McDaniel to approve the proclamation, seconded by Commissioner Davis, the vote was unanimous at 3-0 in favor.*

Vice Chairman Freeman read the proclamation and it was accepted by Linda Jeffries of the Spalding County Sheriff's Department. She voiced her appreciation and invited everyone in attendance to the annual Crime Victims Candlelight Vigil on April 12 at 7 p.m. at the First Assembly of God.

County Manager noted that Chairman Goss and Commissioner Flowers-Taylor could not be in attendance because of deaths in each of their respective families.

**V. PRESENTATION OF FINANCIAL STATEMENTS – N/A**

**VI. CITIZENS COMMENTS – N/A**

**VII. PUBLIC COMMENT – N/A**

**VIII. MINUTES**

1. Consider approval of Minutes of March 21, 2005 Extraordinary Session and March 24, 2005 Zoning Public Hearing.

*Commissioner Davis made a motion to approve the minutes of both meetings, seconded by Commissioner McDaniel, and the motion carried by a 3-0 unanimous vote.*

**IX. CONSENT AGENDA**

1. Consider approval on second reading the Illicit Discharge and Connection Stormwater Ordinance.

**Illicit Discharge and Connection Stormwater Ordinance<sup>1</sup>  
SPALDING COUNTY  
ORDINANCE NO. 2005-02**

**SECTION 1. PURPOSE/INTENT.**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Spalding County through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the county separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the county separate storm sewer system (MS4) by stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the county separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

## **SECTION 2. DEFINITIONS.**

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the director of the county agency designated to enforce this ordinance.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in June 2004, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section X of this ordinance.

Illicit Connections: An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Person: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes;

sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater: means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 3. APPLICABILITY.**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.**

The Community Development Department shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

### **SECTION 5. SEVERABILITY.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

### **SECTION 6. ULTIMATE RESPONSIBILITY.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **SECTION 7. DISCHARGE PROHIBITIONS.**

#### Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the county storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

(2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### **SECTION 8. SUSPENSION OF MS4 ACCESS.**

#### Suspension due to Illicit Discharges in Emergency Situations

The Community Development Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

#### Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

### **SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Community Development Department prior to the allowing of discharges to the MS4.

### **SECTION 10. MONITORING OF DISCHARGES.**

#### 1. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

#### 2. Access to Facilities.

(1) The Community Development Department shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(3) Facility operators shall allow the Community Development Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Community Development Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Community Development Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Community Development Department and shall not be replaced. The costs of clearing such access shall be borne by the operator/owner.

(6) Unreasonable delays in allowing the Community Development Department access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(7) If the Community Development Department has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

#### **SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The Community Development Department will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the county storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the county separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

#### **SECTION 12. WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### **SECTION 13. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Community Development Department within three business days of the phone notice. If the discharge of prohibited

materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**SECTION 14. ENFORCEMENT.**

1. Notice of Violation.

Whenever the Community Development Department finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**SECTION 15. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the county authority or their designee shall be final.

**SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the county authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**SECTION 17. COST OF ABATEMENT OF THE VIOLATION.**

Within fifteen (15) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within days. If the amount due is not paid within a timely manner as determined by the decision of the county authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the county by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of twelve percent (12%) per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

**SECTION 18. INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**SECTION 19. COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**SECTION 20. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**SECTION 21. CRIMINAL PROSECUTION.**

Any such violation, upon conviction thereof, as prescribed by the laws of Georgia, shall be punished by the laws of Georgia, shall be punished by a fine or imprisonment, or both, not to exceed the maximum fine or the maximum imprisonment, or both, as prescribed by the pertinent laws of Georgia and as more particularly set out in section 1-1007 of this Code, which such section is incorporated herein and made a part hereof by reference.  
(Ord. No. 90-11, § 1, 3-20-90)

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**SECTION 22. REMEDIES NOT EXCLUSIVE.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**SECTION 23. ADOPTION OF ORDINANCE.**

This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Approved on first reading this 21<sup>st</sup> day of March 2005.

Approved on second reading this 4<sup>th</sup> day of April 2005.

William P. Wilson, Jr., County Clerk (L.S.)

Edward Goss, Jr., Chairman (L.S.)

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<sup>1</sup>USEPA. 2002. *Model Ordinances to Protect Local Resources: Illicit Discharges*. <http://www.epa.gov/owow/nps/ordinance/discharges.htm>

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*A motion was made by Commissioner McDaniel to approve the Ordinance on second reading, seconded by Commissioner Davis. Motion carried by a unanimous 3-0 vote.*

**X. OLD BUSINESS**

1. Consider second reading of Amendments to the Official Zoning map of the following:
  - A. **Application #04-31Z:** R R Browning Enterprises, Inc., d/b/a Bo Ray Construction, Owner – 100 Teamon Circle – 1.90 acres – AR-1 to R-5, Conditional.

APPLICATION OF RR BROWNING ENTERPRINSES, INC.  
DBA BO RAY CONSTRUCTION  
FOR REZONING CERTAIN PROPERTY  
LOCATED WITHIN SPALDING COUNTY, GEORGIA;

REZONING APPLICATION 04-31Z

RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA  
AND  
THE OFFICIAL ZONING MAP OF SPALDING COUNTY, GEORGIA

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations;

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and therein adopted the Official Zoning Map of Spalding County, Georgia, in Article 23, Section 2301, et. seq.;

WHEREAS, under the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia the within described property is currently classified under the zoning classification entitled “AR-1, Agricultural and Residential;”

WHEREAS, RR Browning Enterprises, Inc. D/B/A Bo Ray Construction, applicant, applied for a change in zoning classification to be applied to the within described property to “R-5, Single Family Residential;”

WHEREAS, such application was filed with Spalding County, Georgia on December 20, 2004;

WHEREAS, such application was reviewed by the Spalding County Planning Commission, and a hearing on the application was conducted by the Board of Commissioners of Spalding County, Georgia on March 24, 2005, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia that the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia shall be and are hereby amended as follows:

Section 1: The Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia designating the boundaries of the several types or classes of zoning districts shall be, and is hereby amended so as to change the zoning classification applicable to the following described property:

All that tract or parcel of land lying and being in Land Lot 202 of the Third Land District of original Henry, now Spalding County, Georgia, being known as Lot 16 of a Subdivision for Meeks Realty Co. and being more particularly described as follows:

Commence at the common corner of Land Lots 201, 202, 215 & 216 in the above said district; thence N 04°44'45" W 401.33' to the Point of Beginning; thence from said point of beginning N 89°54'27" W 412.39' to a point; thence N 00°30'56" W 200.00' to a point; thence S 89°54'27" E 414.60' to a point; thence S 00°10'08" E 199.99' to a point and the Point of Beginning.

Said Lot 16 containing 1.90 acres and is subject to any easements and restrictions of record.

From “AR-1, Agricultural and Residential” to “R-5, Single Family Residential” District.

Section 2: Pursuant to the authority granted to it by virtue of the Zoning Ordinance of Spalding County, Georgia, Section 414 (L) and upon a determination by the Board of Commissioners of Spalding County, Georgia that application of certain conditions on the

amendment benefit the public and promote the best interests of the general welfare of the people, the following conditions shall be imposed upon the amendment to the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia, as follows:

1. There shall be created no more than a maximum of three lots on the two combined tracts referenced in both Application #04-31Z and Application #04-32Z collectively.
2. Homes shall each be a minimum of 1350 square feet heated with a two-car garage.

Section 3:

(a) Pursuant to the requirements of the Zoning Ordinance of Spalding County, Georgia, section 2302 (B), the Official Zoning Map of Spalding County, Georgia shall be amended to reflect the change made hereby to read as follows:

On April 4, 2005, by official action of the Board of Commissioners of Spalding County, Georgia, the following change was made in the Official Zoning Map, Spalding County: All that tract or parcel of land lying and being in Land Lot 202 of the Third Land District of original Henry County, now Spalding County, Georgia, being known as Lot 16 of a Subdivision for Meeks Realty Co. consisting of 1.90 acres located on Teamon Road, zoned R-5, Conditional.

(b) The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment of the Official Zoning Map of Spalding County, Georgia.

(c) The Zoning Administrator is authorized and directed to enter such notice of the amendment of the Official Zoning Map of Spalding County, GA thereon.

Section 4: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 5: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

*A motion to approve with conditions originally noted was made by Commissioner Davis, seconded by Commissioner McDaniel, and passed by a unanimous 3-0 vote.*

- B. **Application #04-32Z:** R R Browning Enterprises, Inc., d/b/a Bo Ray Construction, Owner – 106 Teamon Circle – 1.90 acres – AR-1 to R-5, Conditional.

APPLICATION OF RR BROWNING ENTERPRINSES, INC.  
DBA BO RAY CONSTRUCTION  
FOR REZONING CERTAIN PROPERTY  
LOCATED WITHIN SPALDING COUNTY, GEORGIA;

REZONING APPLICATION 04-32Z

RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA  
AND  
THE OFFICIAL ZONING MAP OF SPALDING COUNTY, GEORGIA

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations;

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and therein adopted the Official Zoning Map of Spalding County, Georgia, in Article 23, Section 2301, et. seq.;

WHEREAS, under the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia the within described property is currently classified under the zoning classification entitled “AR-1, Agricultural and Residential;”

WHEREAS, RR Browning Enterprises, Inc. D/B/A Bo Ray Construction, applicant, applied for a change in zoning classification to be applied to the within described property to “R-5, Single Family Residential;”

WHEREAS, such application was filed with Spalding County, Georgia on December 20, 2004;

WHEREAS, such application was reviewed by the Spalding County Planning Commission, and a hearing on the application was conducted by the Board of Commissioners of Spalding County, Georgia on March 24, 2005, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia that the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia shall be and are hereby amended as follows:

Section 1: The Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia designating the boundaries of the several types or classes of zoning districts shall be, and is hereby amended so as to change the zoning classification applicable to the following described property:

All that tract or parcel of land lying and being in Land Lot 202 of the Third Land District of original Henry, now Spalding County, Georgia, being known as Lot 17 of a subdivision for Meeks Realty Co. and being more particularly described as follows:

Commence at the common corner of Land Lots 201, 202, 215 & 216 in the above said district; thence N 04°44'45" W 401.33' to a point thence N 00°10'08" W 199.99' to a point and the Point of Beginning; thence from said Point of Beginning N 89°54'27" W 414.60' to a point; thence N 00°30'56" W 200.00' to a point; thence S 89°54'32" E 414.81' to a point; thence S 00°10'08" E 200.00' to a point and the Point of Beginning.

Said Lot 17 containing 1.90 acres and is subject to any easements and restrictions of record.

From “AR-1, Agricultural and Residential” to “R-5, Single Family Residential” District.

Section 2: Pursuant to the authority granted to it by virtue of the Zoning Ordinance of Spalding County, Georgia, Section 414 (L) and upon a determination by the Board of Commissioners of Spalding County, Georgia that application of certain conditions on the amendment benefit the public and promote the best interests of the general welfare of the people, the following conditions shall be imposed upon the amendment to the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia, as follows:

1. There shall be created no more than a maximum of three lots on the two combined tracts referenced in both Application #04-31Z and Application #04-32Z collectively.
2. Homes shall each be a minimum of 1350 square feet heated with a two-car garage.

Section 3:

(a) Pursuant to the requirements of the Zoning Ordinance of Spalding County, Georgia, section 2302 (B), the Official Zoning Map of Spalding County, Georgia shall be amended to reflect the change made hereby to read as follows:

On April 4, 2005, by official action of the Board of Commissioners of Spalding County, Georgia, the following change was made in the Official Zoning Map, Spalding County: All that tract or parcel of land lying and being in Land Lot 202 of the Third Land District of original Henry County, now Spalding County, Georgia, being known as Lot 17 of a Subdivision for Meeks Realty Co. consisting of 1.90 acres located on Teamon Road, zoned R-5, Conditional.

(b) The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment of the Official Zoning Map of Spalding County, Georgia.

(c) The Zoning Administrator is authorized and directed to enter such notice of the amendment of the Official Zoning Map of Spalding County, GA thereon.

Section 4: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 5: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

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*A motion to approve with conditions originally noted was made by Commissioner Davis, seconded by Commissioner McDaniel, and passed by a unanimous 3-0 vote.*

- C. **Application #05-01Z:** Roger D. Rainey, Owner – Mimosa Road – 3.87 acres – AR-1 to R-2, Conditional.

APPLICATION OF ROGER D. RAINEY  
FOR REZONING CERTAIN PROPERTY  
LOCATED WITHIN SPALDING COUNTY, GEORGIA;

REZONING APPLICATION 05-01Z

RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA  
AND  
THE OFFICIAL ZONING MAP OF SPALDING COUNTY, GEORGIA

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations;

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and therein adopted the Official Zoning Map of Spalding County, Georgia, in Article 23, Section 2301, et. seq.;

WHEREAS, under the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia the within described property is currently classified under the zoning classification entitled “AR-1, Agricultural and Residential;”

WHEREAS, Roger D. Rainey, applicant, applied for a change in zoning classification to be applied to the within described property to “R-2, Single Family Residential;”

WHEREAS, such application was filed with Spalding County, Georgia on January 10, 2005;

WHEREAS, such application was reviewed by the Spalding County Planning Commission, and a hearing on the application was conducted by the Board of Commissioners of Spalding County, Georgia on March 24, 2005, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia that the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia shall be and are hereby amended as follows:

Section 1: The Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia designating the boundaries of the several types or classes of zoning districts shall be, and is hereby amended so as to change the zoning classification applicable to the following described property:

All that tract or parcel of land lying and being in Land Lot 43 of the Second District of originally Henry now Spalding County, Georgia, being more particularly described as follows:

BEGINNING at an iron pin located on the South margin of Mimosa Road which lies 660.13' West of the intersection of the South margin of Mimosa Road and the centerline of Jackson Road. Thence S 08°16'37" W 303.14' to an iron pin; thence S 01°02'12" W 30.32' to an iron pin; thence N 89°31'16" W 491.21' to an iron pin; thence N 00°15'18" E 330.94' to an iron pin located on the South margin of Mimosa Road; thence S 89°23'37" E 469.86 along the South margin of Mimosa Road to a point; thence S 89°47'36" E 64.07' along the South margin of Mimosa Road to an iron pin and the POINT OF BEGINNING.

From "AR-1, Agricultural and Residential" to "R-2, Single Family Residential" District.

Section 2: Pursuant to the authority granted to it by virtue of the Zoning Ordinance of Spalding County, Georgia, Section 414 (L) and upon a determination by the Board of Commissioners of Spalding County, Georgia that application of certain conditions on the amendment benefit the public and promote the best interests of the general welfare of the people, the following conditions shall be imposed upon the amendment to the Zoning Ordinance of Spalding County, Georgia and the Official Zoning Map of Spalding County, Georgia, as follows:

1. Each home shall have a two-car garage;
2. Each home shall incorporate a minimum 30% masonry façade; and
3. All porches and/or stoops shall be finished in character with the home's design.

Section 3:

(a) Pursuant to the requirements of the Zoning Ordinance of Spalding County, Georgia, section 2302 (B), the Official Zoning Map of Spalding County, Georgia shall be amended to reflect the change made hereby to read as follows:

On April 4, 2005, by official action of the Board of Commissioners of Spalding County, Georgia, the following change was made in the Official Zoning Map, Spalding County: All that tract or parcel of land lying and being in Land Lot 43 of the Second Land District of originally Henry County, now Spalding County, Georgia, consisting of 3.87 acres located on Mimosa Road, zoned R-2, Conditional.

(b) The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment of the Official Zoning Map of Spalding County, Georgia.

(c) The Zoning Administrator is authorized and directed to enter such notice of the amendment of the Official Zoning Map of Spalding County, GA thereon.

Section 4: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 5: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

*A motion to approve with conditions originally noted was made by Commissioner Davis, seconded by Commissioner Freeman, and passed by a 2-1 vote with Commissioner McDaniel voting in opposition.*

2. Consider second reading of Amendment to the Official Zoning Ordinance of the following:

**Amendment to UDO #A-05-03:** R-3 Multiple Family District – Section 905:AA – Amend required development standards for planned apartment communities.

RE: *Text Amendment #A-05-03*

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations;

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and therein adopted the Official Zoning Map of Spalding County, Georgia, in Article 23, Section 2301, et. seq.;

WHEREAS, the Board of Commissioners of Spalding County has determined that it is in the best interests of the citizens of Spalding County for certain text revisions and amendments to be made to the Zoning Ordinance of Spalding County;

WHEREAS, such text amendments to the Zoning Ordinance of Spalding County were reviewed by the Spalding County Planning Commission, and a hearing on the text amendments to the Zoning Ordinance of Spalding County was conducted by the Board of Commissioners of Spalding County, Georgia on March 24, 2005 pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 9, "R-3 Multiple Family District:" 905(A)

Section 2: The following provision shall be added to the Zoning Ordinance of Spalding County to Article 9, "R-3 Multiple Family District to appear as Section 905(A):

**Section 905: Development Standards for R-3 Districts.** In addition to the development standards contained in Article IV of this Ordinance, the following standards are required within R-3 districts:

**A. Minimum Heated Floor**

**Area Per Dwelling Unit:**

For manufactured homes: 1000 square feet

For apartment homes:

- one bedroom units: 850 square feet
- two bedroom units: 1000 square feet
- three bedroom units: 1250 square feet

Section 3: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 9, "R-3 Multiple Family District:" 905(Z)(10)

Section 4: The following provision shall be added to the Zoning Ordinance of Spalding County to Article 9, "R-3 Multiple Family District to appear as Section 905(Z)(10):

**Section 905: Development Standards for R-3 Districts.**

**Z. Design Standards for all R-3 Developments:**

10. Recreation Area or Open Space: A minimum of 400 square feet for each dwelling unit, either in one large recreation area or in several separate areas shall be provided. This land area must be suitable for recreational use and contain equipment appropriate for residents of the proposed development.

Section 5: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 9, "R-3 Multiple Family District:" 905(AA)

Section 6: The following provision shall be added to the Zoning Ordinance of Spalding County to Article 9, "R-3 Multiple Family District to appear as Section 905(AA):

**Section 905: Development Standards for R-3 Districts:**

AA. The following required development standards apply only to **Planned Apartment Communities:**

1. Maximum Density: Eight (8) units per net developable acre.
2. Maximum Lot Coverage by Building: Twenty-five (25) per cent.
3. Landscaping: Each development shall comply with the following criteria:
  - a. the Spalding County Landscape and Tree Preservation Ordinance, Zoning Ordinance, Appendix K;
  - b. a minimum of one 2" caliper canopy tree shall be required for every 2000 square feet of impervious surface;
  - c. a minimum of one 2" caliper understory tree (less than 50 feet in height when full grown) shall be required for every 2000 square feet of impervious surface;
  - d. a minimum of one 2 gallon shrub shall be required for every 500 square feet of impervious surface; and
  - e. sod shall be required in front of all buildings and surrounding all amenity areas.
4. Architectural Criteria: Each building within the development shall be constructed with:

- a. at least 25% of the exterior front facade with ornamental brick, stone or stucco accents;
  - b. recessed staircases and stairwells;
  - c. construction framing on 16" centers for wall studs;
  - d. exterior vinyl siding of a minimum .44 mil thickness;
  - e. decorative gables and vents;
  - f. minimum roof pitch with an increase of 5 feet in height for horizontal run of 12 feet;
  - g. balconies, patios or sunrooms/screened porches;
  - h. fireplaces;
  - i. washer/drying connections in each dwelling unit;
5. Amenities, Lighting and Other Design Criteria: The development shall be constructed with the following:
- a. a clubhouse which shall include a fitness center and conference/meeting room;
  - b. a pool and tennis court area, which shall be enclosed by decorative fencing;
  - c. a playground area which complies with the construction and design criteria set forth in Spalding County's Design Guideline for Spalding County Parks, Chapter 3, Playground Equipment, Intermediate Play Structure;
  - d. parking garages to provide covered parking for at least one vehicle per residential dwelling unit;
  - e. a landscaped entry boulevard with decorative signage;
  - f. sidewalks interconnecting between residential buildings, the clubhouse and each amenity or recreational area; and
  - g. decorative exterior lighting fixtures throughout (See: outdoor lighting, [georgiapower.com/multiDecorativeFixtures](http://georgiapower.com/multiDecorativeFixtures))
6. Dwellings: Developments shall be primarily limited to one and two bedroom dwelling units, provided that a maximum of 10% of total number of dwelling units may be three bedroom dwelling units;
7. Public Water and Sewer Required: Each development must be served by public water and sewer.

Section 7: The foregoing amendments to the Zoning Ordinance of Spalding County shall become effective immediately upon adoption of this resolution.

Section 8: All Ordinances or resolutions in conflict herewith shall be and are hereby, repealed.

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*A motion to approve was made by Commissioner McDaniel, seconded by Commissioner Davis and passed by a unanimous 3-0 vote.*

## **XI. NEW BUSINESS**

1. Consider agreement with McIntosh Trail Regional Development Center for jointly funded Transportation Planner for the remainder of FY 2005.

Mr. Robert Hiatt with McIntosh Trail RDC introduced Anthony Dukes, the new Urban Transportation Planner. Mr. Dukes is a native of Griffin, a graduate of Georgia State University, and was employed previously in South Bend, Indiana.

*Commissioner Davis made a motion to approve the agreement, Commissioner McDaniel seconded, and the motion carried by a unanimous 3-0 vote.*

2. Consider approval of recommended Returned Check Policy.

### **RETURNED CHECK POLICY**

Any person issuing a check to Spalding County which is returned by the customer's bank for any reason must recover that check from Spalding County by presenting cash or money order for the face amount of the check. A service fee of 5% of the amount of the check or \$30.00, whichever is greater, will be charged to the customer and must also be paid by cash or money order at the time the check is recovered. The check will be held at the Spalding County Commissioners Office, Room 104, Courthouse Annex, 119 East Solomon Street, Griffin, GA 30223 and must be recovered by the customer within ten (10) days after the check has been returned and the customer notified of the return.

Unless the check is paid in full within the specified time above, the dishonored check and all other available information will be submitted to the Magistrate for criminal prosecution.

Any person issuing a second check to Spalding County that is returned, for any reason, will not be allowed to issue **any further checks** to Spalding County, but will be required to conduct business on a **cash only basis**. There will be no exceptions.

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*A motion to approve the Returned Check Policy was made by Commissioner McDaniel, seconded by Commissioner Davis, and the motion carried by a unanimous 3-0 vote.*

3. Consider on first reading an Ordinance amending Chapter 4. Noise Abatement and Control, Section 11-4002 of the Spalding County Code of Ordinances.

*Commissioner Davis made a motion to approve the Ordinance on first reading, seconded by Commissioner McDaniel, and the motion carried by a unanimous 3-0 vote.*

4. Consider request from the City of Griffin to share in funding July 4<sup>th</sup> fireworks display.  
This \$5500 toward the fireworks display is budgeted and paid each year from the hotel/motel tax.

***Commissioner McDaniel motion to approve the City's request, seconded by Commissioner Davis, and the motion carried by a unanimous 3-0 vote.***

5. Consider appointment of Joy Kelly to the McIntosh Trail Community Services Board as recommended by the Spalding County Board of Health.

***Commissioner Davis made a motion to appoint Joy Kelly for this three-year term as recommended by the Spalding County Board of Health, seconded by Commissioner McDaniel, and the motion carried by a unanimous 3-0 vote.***

6. Consider approval of CDBG/EIP Projects Grant Administrator, pending DCA Sole Source approval.

County Manager Wilson said the County had submitted bid requests as required by the Department of Community Affairs for grant administration for the EIP Grant for the former Coca-Cola Bottling Plant Building. Two non-responsive bids and one bid were received, and the County is requesting approval on the single bid received from Allen-Smith Consulting, pending DCA Sole Source approval. They have handled grant administration for Spalding County before.

***Commissioner McDaniel made a motion to approve Allen-Smith Consulting as CDBG/EIP Projects Grant Administrator, seconded by Commissioner Davis, and the motion passed by a unanimous 3-0 vote.***

7. Consider approval of Resolution authorizing installment sale agreement with the Association of County Commissioners of Georgia.

#### **RESOLUTION**

TO AUTHORIZE AND DIRECT THE EXECUTION BY SPALDING COUNTY, GEORGIA OF A CERTAIN INSTALLMENT SALE AGREEMENT WITH ASSOCIATION COUNTY COMMISSIONERS OF GEORGIA AND A CERTAIN AGREEMENT REGARDING ENVIRONMENTAL ACTIVITY IN CONNECTION THEREWITH; TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS AND INTENT; TO DESIGNATE SUCH INSTALLMENT SALE AGREEMENT AS A QUALIFIED TAX-EXEMPT OBLIGATION; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Spalding County (the "County") desires to enter into an installment sale agreement (the "Installment Sale Agreement") with Association County Commissioners of Georgia ("ACCG") as more fully described in the Installment Sale Agreement, as authorized by O.C.G.A. §36-60-13, in order to provide installment sale financing in the amount of \$750,000 (the "Installment Sale Amount") with respect to the Dundee Lake Park (the "Subject Property"); and

WHEREAS, ACCG will transfer certain of its interest in the Installment Sale Agreement under the terms of the Transfer Agreement (the "Transfer Agreement") by and between ACCG and Wachovia Bank, National Association (the "Bank") and will secure such assignment and the stated obligations under the Installment Sale Agreement with security title to the Subject Property pursuant to a Deed to Secure Debt from ACCG to the Bank (the "Security Deed"); and

WHEREAS, pursuant to the Installment Sale Agreement, the County shall acquire the Subject Property from ACCG subject to the lien of the Security Deed referred to below; and

WHEREAS, the Installment Sale Agreement includes interest payments at a rate of 4.74% per annum, and is renewable annually and calls for the principal and interest to be payable in 10 annual installments of approximately \$96,143.44; and

WHEREAS, to induce the Bank to fund the Installment Sale Amount under the Installment Sale Agreement, the County must enter into and deliver an Agreement Regarding Environmental Activity (the “Environmental Agreement”) in favor of ACCG; and

WHEREAS, the documents referred to in the foregoing shall be substantially in the form of the documents prepared and attached, with such other minor changes as the Mayor shall deem to be necessary.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SPALDING COUNTY, GEORGIA, AND IT IS HEREBY RESOLVED BY AUTHORITY OF THE SAME:

Section 1. The County, after investigation and following the holding of the required public hearing, has determined and hereby finds that obtaining the financing by the Installment Sale Agreement furthers the public good and general welfare and is a compelling need, and that the Installment Sale Agreement is desirable, necessary and within the lawful scope of its powers. The County further finds that the amounts to be paid for and with respect to the Subject Property are fair and reasonable, and that the Installment Sale Agreement is on favorable terms. It is the intent of this Resolution to authorize and direct the taking of such actions and the execution of such documents as may be necessary to effectuate these purposes.

Section 2. The financing substantially as contemplated above, as well as the execution, delivery and performance of the Installment Sale Agreement and the Environmental Agreement (together, the “County Documents”) are hereby authorized, ratified and approved. The execution by the Chairman and Clerk or Assistant Clerk of the Board of Commissioners of the County of the said County Documents in such form as shall be approved by the officer who executes the same, and such other documents as deemed by such officers to be necessary or desirable to effect the purposes of this Resolution is authorized, directed and approved. Such execution shall constitute conclusive evidence that the executed documents have been authorized, directed and approved by this Resolution. The aforesaid officers are further authorized to do all things necessary or appropriate to effectuate the purposes hereof.

Section 3. The Transfer Agreement and the Security Deed to be executed and delivered by ACCG to the Bank, concerning the assignment of and security for the Installment Sale Agreement, are hereby approved.

Section 4. The Installment Sale Agreement is hereby designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

Section 5. Any officer of the County is hereby authorized to sign and file or cause to be filed a completed IRS Form 8038-G (“Information Return for Governmental Bond Issues”), as required by Section 149(e) of the Code. Further, the execution of a non-arbitrage certification in order to comply with Section 148 of the Code and the applicable Treasury Regulations promulgated thereunder is hereby authorized.

Section 6. The public hearing held with respect to the Installment Sale Agreement as required by O.C.G.A. § 36-60-13 hereby is ratified and approved. The approval of the Installment Sale Agreement takes into account the results of such public hearing.

Section 7. No stipulation, obligation or agreement herein contained or contained in the Installment Sale Agreement or the Environmental Agreement or the other County Documents shall be deemed to be a stipulation, obligation or agreement of any

council member, officer, agent or employee of the County in his or her individual capacity, and no such council member, officer, director, agent or employee shall be personally liable under the terms of the Installment Sale Agreement or the Environmental Agreement or the other County Documents or be subject to personal liability or accountability by reason of the execution, delivery and performance thereof.

Section 8. From and after the execution and delivery of the Installment Sale Agreement, the Chairman and Clerk or Assistant Clerk of the Board of Commissioners each are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the execution and delivery of the Installment Sale Agreement, the Environmental Agreement, the other County Documents or any other agreement necessary to effect the transactions contemplated herein and to document compliance with the Code, and the same are hereby ratified.

Section 9. All actions and doings of the officers of the County which are in conformity with the purposes and intents of this Resolution and (including the betting of bids for the Transferred Property and the conduct of a public hearing concerning the Installment Sale Agreement) in the furtherance of the execution, delivery and performance of the Installment Sale Agreement and the Environmental Agreement and the other County Documents shall be, and the same hereby are, in all respects approved, ratified and confirmed.

Section 10. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof.

Section 11. All resolutions or parts thereof of the County which conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 12. This Resolution shall be effective immediately upon adoption.

Resolved on April 4, 2005.

#### CERTIFICATE

I, the undersigned Clerk of the Board of Commissioners of Spalding County, Georgia (the "County"), DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of the Resolution duly adopted by the Mayor and Council of the County at a meeting held on April 4, 2005, duly called and open to the public in compliance with Section 50-14-1 of the Official Code of Georgia Annotated, at which a quorum was present and acting throughout, the original of which Resolution has been duly recorded in the official Minute Book, which is in my custody and control, and that the Resolution has not been rescinded or modified and is now of full force and effect.

GIVEN under the seal of the County, this April 4, 2005.

William P. Wilson, Jr. (L.S.)  
Clerk of the Board of Commissioners

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*Commissioner Davis made a motion to approve the Resolution, which authorizes the Chairman and the Clerk to execute all necessary paperwork for the acquisition of the Dundee Lake Park project and the lease agreement from the Association of County Commissioners of Georgia for the 183-acre recreation area. The motion was seconded by Commissioner McDaniel and carried by a unanimous 3-0 vote.*

Commissioners noted the park would be an excellent addition to Spalding County Parks and Recreation, and the acquisition would be paid for through the collection of impact fees over a ten-year period.

## **XII. REPORT OF COUNTY MANAGER**

- County Manager Wilson extended sympathies to Commissioner Flowers-Taylor on the death of her brother-in-law and to Chairman Goss on the death of his father-in-law.
- Telecommunications week will be this coming week, and the 911 Center on Meriwether Street has invited commissioners to a cookout on Wednesday at 11:45 a.m.
- The ARC staff will have a meet and greet with McIntosh Trail RDC and County personnel on April 12 at 10 a.m. Commissioners are invited and encouraged to attend this get-acquainted time for Staff.
- The office of Secretary of State will conduct an investment education seminar on September 22 at Griffin Technical College at 5:30 p.m. They have invited Spalding County to act as co-host of the event and Mr. Wilson will respond positively.

## **XIII. REPORT OF COMMISSIONERS**

- Commissioner Davis had no comment.
- Commissioner McDaniel extended his sympathies to the families of Chairman Goss and Commissioner Flowers-Taylor, as well.
- Vice Chairman Freeman extended his condolences also to Commissioner Flowers-Taylor and Chairman Goss.

## **XIV. CLOSED MEETING**

1. County Manager requests a Closed Meeting to discuss potential litigation and acquisition of real estate.

*A motion was made by Commissioner McDaniel and seconded by Commissioner Davis to go into Closed Meeting at 6:25 p.m. The motion carried by a unanimous 3-0 vote.*

*A motion was made by Commissioner McDaniel and seconded by Commissioner Davis to come out of closed session at 6:35 p.m. and reconvene to Open Session. The motion carried by a unanimous 3-0 vote.*

## **XV. ADJOURNMENT**

*A motion by Commissioner McDaniel to adjourn, seconded by Commissioner Davis, carried by a unanimous 3-0 vote at 6:36 p.m.*