

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
OCTOBER 01, 2001

The Board of Commissioners ("the Board") of the County of Chatham, North Carolina, met in the Agricultural Auditorium Building, 45 South Street, located in Pittsboro, North Carolina, at 10:00 AM on October 01, 2001.

Present: Vice Chair Margaret Pollard; Commissioners Bob Atwater, Rick Givens, and Carl Outz; County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Paul Spruill; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Lee

Absent: Chairman Gary Phillips

The meeting was called to order by the Vice Chair at 10:00 AM.

AGENDA

The Vice Chair asked if there were additions, deletions, or corrections to the Agenda.

Commissioner Givens asked that Item #7, Consideration of a request to approve the reclassification of the Senior Central Permitting Technician, be removed from the Consent Agenda and placed on the Regular Agenda.

The County Manager asked that reclassification of the E-911 Specialist position be placed on the Regular Agenda as Item # 7B.

Commissioner Givens moved, seconded by Commissioner Outz, to approve the Agenda with the noted requests. The motion carried four (4) to zero (0).

CONSENT AGENDA

The Vice Chair asked if there were additions, deletions, or corrections to the Consent Agenda.

Commissioner Atwater asked that the Board Minutes of the September 17, 2001 Meeting be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

Commissioner Outz moved, seconded by Commissioner Givens, to approve the Consent Agenda with the noted request. The motion carried four (4) to zero (0).

1. **Minutes:** Consideration of a request for approval of Board Minutes for ~~Regular Meeting held September 17, 2001~~ and Work Session held September 04, 2001

The September 17, 2001 Board Minutes for the Regular Meeting were removed from the Consent Agenda and placed on the Regular Agenda.

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The motion carried four (4) to zero (0).

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2. **Request for Subdivision Sketch Design Approval of “Monterrane, Phase IV”:**
Consideration of approval of a request by Jesse Fearington for subdivision sketch design approval of **“Monterrane, Phase IV”**, consisting of 6 lots on approximately 31 acres off SR #1700, (Mt. Gilead Church Road), in Williams Township

As per the Planning Department and the Planning Board recommendation, sketch design approval was granted with the following conditions:

1. Utility easements to the Burnette and Corn properties be shown on the preliminary and final plats.
2. The access easement to the Haywood property also be labeled as a utility easement on the preliminary and final plat.

The motion carried four (4) to zero (0).

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3. **Request for Sketch Design Approval of “Subdivision of Sylvia Burgess Property”:**
Consideration of approval of a request by Sylvia Burgess for sketch design approval of **“Subdivision of Sylvia Burgess Property”**, consisting of 3 lots on approximately 23 acres off SR #1751 (Burgess Road) in New Hope Township

As per the Planning Department and Planning Board recommendation, sketch design approval was granted with the following conditions:

1. The preliminary/final plat shall not be submitted for review until the final septic permits have been received for Lots 2, 3, and 4.
2. No further subdivision of the property may be submitted for review for thirty-six (36) months from the date of final plat approval.

The motion carried four (4) to zero (0).

4. **Request for Subdivision Sketch Design Approval of “Ickes/Hatley Property”:**
Consideration of approval of a request by Don McCarl for subdivision sketch design approval for the **“Ickes/Hatley Property”**, consisting of 10 lots, on approximately 21 acres, off SR #1700 (Mt. Gilead Church Road), in New Hope Township

As per the Planning Department and Planning Board recommendation, sketch design approval was granted with the following conditions:

1. On the preliminary and final plats, a 50 foot wide water hazard setback shall be designated along the stream where it crossed Lot #10.
2. On the preliminary and final plats, a 20 foot wide utility easement for water line installation shall be designated along the common boundary line of Lot 8 and 9 or Lots 7 and 8 [to be decided by Public Works] to the Torma Property.

The motion carried four (4) to zero (0).

5. **Private Road Names:** Consideration of a request from citizens for the naming of private roads in Chatham County as follows:

- A. **Bland Baldwin Drive**
- B. **Country Rock Road**
- C. **Siewers Lane**

The motion carried four (4) to zero (0).

6. **Charging Off Property Taxes:** Consideration of a request for approval to charge off 1991 property taxes

The motion carried four (4) to zero (0).

7. ~~**Reclassification of Senior Central Permitting Technician:** Consideration of a request to approve the reclassification of the Senior Central Permitting Technician from a Grade 11 to a Grade 14~~

This item was removed from the Consent Agenda and placed on the Regular Agenda.

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Alan Segó, 11930 Siler City-Glendon Road, Siler City, NC, stated that he was in the process of building a home in the Bear Creek area; that he and his mother-in-law paid an \$18,000 cost to extend the water main 1,100 feet; that at this point, the water main has been tied to the end run that was originally purchased extending down Wilson Road, serving other customers; that he asks that tap-on fees be waived as he is in immediate need of a water meter; and that he would like for the Board to take into consideration the \$18,000 he originally spent to run the water main without charging him an additional tap-on fee.

Dina Brown, 264 Meadow View Drive, Pittsboro, NC, stated that she is one of the many people whose homes are along the existing CP&L power line that runs through Abeyance, Meadow View, Haley's Meadows, and other developments; that even though the proposed power line may not be under the Board's jurisdiction, she has been told by the State Utilities Commissioner that it is vital to get the County Commissioners' support of negotiations with CP&L over the proposed line; that their goal is to peacefully negotiate a route that has the least amount of impact on the lives of the least amount of people; that two other routes avoid passing near homes; that they ask that these routes be considered as the best routes before a second line is put in through their neighborhoods; that their main concern is the serious health risk posed by the electrical magnetic field emissions from these lines; that the second line will devalue their properties, as it will come as close as 50 feet to some homes and may reduce the resale value up to 50%; that CP&L has not maintained the current easement in the proper manner; that they cut trees that are not in the path of the easement, do not clean up the mess and that they use people's yards for access; and that they have received conflicting answers to their questions when they attend CP&L public input meetings. She asked that the Board join in their negotiations with CP&L to arrive at the best, least populated route for the newly proposed power line.

Steven Brown, 264 Meadow View Drive, Pittsboro, NC, stated that he lives 250 feet from the

existing power line; that CP&L says that there are no links between electrical magnetic fields (EMF) and cancer and that they have spent millions of dollars on research; that on the face of it, it looks good and is accurate, but he feels it is misleading; that he, as a PhD candidate, does a lot with scientific studies; that there are two kinds of studies: 1) Cause and Effect – it can be repeated and duplicated; 2) Statistical Association – too much of a coincidence for it to happen; that there is too much statistical association that say that people who live near the power lines develop cancer, have too much childhood leukemia, that there are too many spontaneous abortions; that CP&L always says that they spent millions of dollars on research; that this is true, but that there are too many folks developing cancer, not to know that there is hidden evidence that these things do exist.

David LeGrys, 111 Pokeberry Lane, Pittsboro, NC, stated that in an article on June 11, 2001 in the *News and Observer*, there was an interesting article about Johnston County relating to towers; that their Board of Commissioners approved four towers; that they added four towers to the existing 70; that they decided a moratorium on towers was in order; that they asked if they really needed that many towers or if they could put existing towers to a better use; that fortunately, Chatham's ordinance on towers has charted a different path; that there are approximately thirty towers in place; that they are ideally placed; that co-locations have been maximized; that an excellent job has been done working with industry; that companies have worked with Chatham to ideally locate the towers and taking turns in being on the top location in trying to make it work; that the SBA tower being considered is ideally placed and exactly follows the ordinance; that the ordinance has been refined based on the year's experiences; that there have been quite a few changes made to the ordinance this year; that working with US Cellular was not very productive; that one of the towers which they asked the Board to approve on US #64 East had a number of problems; that the current tower was evaluated in the February work session; that at that time, US Cellular relayed that they were so sure that the tower would work, they did not consider another site; that they then provided the Planning Board with another engineering report at 240 feet and said that the tower failed; that even though the tower report recommended that the existing tower be rebuilt, US Cellular refused to ask the owner to do so; that their application was for 199 feet, and when the engineer was contacted as to the availability of other space, he indicated that that might be a possibility; that US Cellular was asked to reevaluate it; that they refused to do so; that at the Planning Board meeting, they said that it would cost \$250,000 to build the tower on Hwy. #64 East and an additional \$50,000 to reevaluate the existing tower for the other height availability; that he called the engineers back and asked if there were other locations; that he was told that instead of costing \$50,000, it would cost \$900 to reevaluate the tower; that it could be achieved in a couple of days; that there is no reason that it could not have been researched; that he finds it remarkable that a company would refuse to spend \$900 to save a quarter of a million dollars; that he finds it remarkable that they would come to the Board and say that it was unfair to ask them to put elements on towers on Hwy. #64 West due to the cost and then not try to save a quarter of a million dollars in this case; that he finds it remarkable that the Chatham County Communication Towers Ordinance that was so carefully-written could be accused of not requiring the right thing to be done; that the ordinance tells the vendors that if they work with the County, the County will work with them; and that it promises the people of Chatham that they will not allow towers to be built that are not required; that the ordinance has been reworked and reviewed with the Planning Board and staff; that the County Attorney is currently in the process of reviewing them; that he would like the Board to consider each paragraph and each sentence so that the same problems experienced this year will not be experienced in the years to come; that he would be happy to join the Board in a work session to explain any changes; that the ordinance needs to be in place as companies are considering now what they need to do next year; and that he feels the need to say to the vendors that the County wants to work with them, but that the County expects them to do the right thing.

RECLASSIFICATIONS:

Reclassification of Senior Central Permitting Technician: Consideration of a request to approve

the reclassification of the Senior Central Permitting Technician from a Grade 11 to a Grade 14

Commissioner Outz expressed concern with regard to the proposed reclassification's increase in salary.

The County Manager explained that the reclassification was based on two things as follows: 1) Experience; and 2) Market pay in the private sector is far exceeding the County's ability to pay.

Commissioner Givens moved, seconded by Commissioner Atwater to approve the reclassification of the Senior Central Permitting Technician from Grade 11 to a Grade 14. The motion carried four (4) to zero (0).

Reclassification of E911 Specialist: Consideration of a request to approve the reclassification of E911 Specialist

Commissioner Atwater moved, seconded by Commissioner Givens, to approve the reclassification of an E911 Specialist Position to a Central Permitting Technician position, Grade 10 to a Grade 11. The motion carried four (4) to zero (0).

MINUTES CORRECTION:

September 17, 2001 Minutes: Consideration of a request from Commissioner Atwater for a correction to the September 17, 2001 Board of Commissioners' minutes

Commissioner Atwater explained that in the September 17, 2001 Board of Commissioners' Minutes, he had asked that under the "**Town of Siler City ETJ Expansion**" under the "COMMISSIONERS' REPORTS", that his comments asking the County Attorney to investigate whether or not entities that received distribution of County monies are also subject to the public meetings law and if so, recommend to the Board proper procedures to firm it up until the funds are transmitted, and that they should be a separate report under "COMMISSIONERS' REPORTS" as opposed to being placed under Siler City ETJ expansion.

Commissioner Atwater moved, seconded by Commissioner Givens, to include the above correction in the September 17, 2001 Board of Commissioners' minutes. The motion carried four (4) to zero (0).

Commissioner Atwater moved, seconded by Commissioner Givens, to approve the Minutes for Regular Meeting held September 17, 2001. The motion carried four (4) to zero (0).

PLANNING AND ZONING

Subdivision Final Approval for "Shotts Farm": Consideration of approval of a request by Louise Barnum for subdivision final approval for "**Shotts Farm**", consisting of 6 lots, on approximately 31 acres, off SR #1532 (Manns Chapel Road), in Baldwin Township

Commissioner Atwater moved, seconded by Commissioner Givens, to accept the Planning Department and Planning Board recommendation and grant final approval of the plat as submitted. The motion carried four (4) to zero (0).

Subdivision, Preliminary, and Final Approval for "The Jordan Lake Preserve Corporation": Consideration of approval of a request by the CE Group on behalf of The Jordan Lake Preserve Corporation, for subdivision, preliminary, and final approval for "**The Preserve, Phase Two**, consisting of 160 lots, being

a portion of 598 acres, off SR #1716 (Big Woods Road), in Williams Township

Commissioner Outz moved, seconded by Commissioner Atwater, to accept the Planning Department and Planning Board recommendation and grant preliminary and final approval with the following conditions:

1. The final plat shall be changed to state the correct road status of The Preserve Trail in Phase II.
2. The utility easements as specified above shall be correctly labeled.
3. Minimum setbacks for improvements as specified on the plat shall be as follows: Front yard: 40 feet; Side yard: 10 feet; Rear yard: 30 feet

The motion carried four (4) to zero (0).

Request by SBA for Monopole Communications Tower: Consideration of a request by SBA for a Light Industrial Conditional Use District with a Conditional Use Permit for a 195 foot monopole telecommunications tower on property owned by Franklin and Betty Bayes, located off SR #1755 (Clyde Farrell Road), in Williams Township

County Planning Director Keith Megginson reported on the SBA tower proposed on Clyde Farrell Road off of Hwy. 751. He stated that the consultants had done a second balloon test so the homeowners would know it was happening; that no homeowners appeared before the Planning Board to object to the tower the second time it came back before the board; and that it was the unanimous recommendation of the Planning Board to approve the monopole tower.

Commissioner Givens asked Dave LeGrys, Planning Board member about the balloon test without leaves on the trees. Mr. LeGrys stated that the county ordinance did not require a balloon test; that the company just did it to show the residents what it would look like; that normally those are done for the historical society folks; and that in his opinion, it was about as good as it gets and stated it definitely meets our ordinance.

He further stated that residents were generally relieved by the balloon test and would not recommend a wintertime balloon test; that obviously you are going to see more but if you would like the Planning Board to add that test to the ordinance then we will be happy to do so. He stated that they had agreed to move the tower slightly north; that it was ideally placed; that it was as good a tree buffer as a tower approved further south on Hwy 751 in terms of the tree buffer; that it meets the ordinance as currently written; that because of its location on the periphery of the tower on the Jordan Lake watershed, the company made a conscious decision that the tower not be 250 feet tall and lighted; and that in this case it meets the ordinance. He explained that the ordinance contained what the industry needed to do in order to get approval and SBA has done precisely that.

Commissioner Atwater moved, seconded by Commissioner Outz, to ask SBA to postpone this issue until November or December until the leaves have fallen off the trees.

Gray Styers, attorney for SBA, stated that the County ordinance did not require a balloon test; that the only balloon test done was for historic preservation; that the balloon test with leaves on the trees demonstrated that nowhere was the tower visible above the tree line; that the tower would not be lit; that no residents would be within 400 feet; that Cingular wants coverage along Highway #751; and that a delay of two or three months is nothing more than a delay. He further stated that he declined going through further

notification of another test to prove what is already known; that it would be an exercise in futility; and that he requested the Board vote at this meeting on the evidence before it as to whether SBA had met the ordinance or not.

Commissioner Atwater stated the Board was not as concerned that the height of the tower exceeds the height of the trees; that was well established; that the citizens should have the opportunity to be satisfied completely; and that he wanted to make every effort to see they are accommodated.

Mr. Styers stated that to the company this was seen as a moving target; that towers need to be built through the year; that if this was imposed on SBA, it should be imposed on any company; and that the reality is the Master Site Plan was approved in February or March and a search ring was approved. He further stated that to require a company not to build a tower until after they do a balloon test after the leaves are off the trees is to require companies to wait from the time they submit a Master Site Plan in January of one year and go through the process in the spring and then the next winter before they can go into construction; and that in a fast moving industry such as wireless telecommunications that type of process that has worked well for the Board to have companies come in during January would make no sense.

Commissioner Atwater repeated his point that his request was a good neighbor/citizenship issue relative to the conditional use process.

Commissioner Givens asked the County Attorney about legal repercussions the County might face from requiring another balloon test.

County Attorney Bob Gunn stated that the courts have given counties the authority to regulate land use, which this is; that it does so by the adoption of ordinances; that those ordinances give the public, companies included, directions and guidelines to go by; and that he was not aware of any litigation that involve cell towers but that courts have said when subdivision regulations are adopted that tell what the requirements are, that if folks come in and comply with that, they are entitled to approval. He further stated that there may be a problem with treating everyone alike; and that treating this one instance different than instances in the past the County may be open to charges of equal protection violation. He further explained the public hearing was part of the process of determining information.

Planning Director Keith Megginson stated that he saw two concerns present; that one was what would the tower look like with the leaves off the trees; and that the other was the timing that it may be two months before that was happening. He stated that in another case an applicant had submitted a computer-generated picture of what the tower would look like from different views of different sites.

Mr. Styers stated that he respected the neighbors but that his client would not agree to another balloon test, nor would he advise his client to agree; that this proposal needs to be approved; and that his company has met all requirements and had done everything they were asked to do. He further stated that Mr. Megginson's suggestion would not work because that only works when the tower is visible above the tree line, and in this case it is not; that the computer generation would not show anything but the trees; and that Cingular wants this site on air by the end of the year to get it in the county's cycle.

He stated that he was concerned about the calls that had been made; that those concerns and evidence need to be made at public hearings and not ex parte, outside the public hearing context; that his client could not do anything more than it had already; that the Board had the discretion to delay; that he would have to consult what the legal ramifications are; that his company had tried to bend over backwards to make this proposal comply with the ordinance; and that he requested the commissioners to vote on this matter today.

Commissioner Givens asked if he could make a motion to postpone this until he got his heart right. Mr. Gunn replied that he did not believe there was a deadline for action built in to the ordinance. Commissioner Atwater repeated his request to give these people an opportunity to voice concern; that he would like for the citizens to be happy; and that they wanted to be satisfied on the visibility matter.

County Manager Charlie Horne suggested that due to the absence of Commissioner Phillips, that the Board delay a vote until all Board members could be present.

Commissioner Atwater withdrew his previous motion.

Commissioner Givens moved, seconded by Commissioner Atwater, that the decision be delayed until the Chairman is present, that further investigation of the ordinance and legal ramifications be investigated, and to request Mr. Styers and SBA to consider another balloon test after the leaves are off the trees. The motion carried four (4) to zero (0).

Chatham County 2001 CDBG Scattered Site Housing Adoption of Required Resolutions and Policies: Consideration of a request to adopt required Chatham County 2001 CDBG Scattered Site Housing Resolutions and Policies

Commissioner Givens moved, seconded by Commissioner Atwater, to adopt the required 2001 CDBG Scattered Site Housing Resolution and Polices as follows:

1. Chatham County Resolution for signatory form and check signatures for CDBG with the following people authorized to sign forms and checks: Charlie Horne, Vicki McConnell, Paul Spruill, Keith Megginson
2. Chatham County Community Development Code of Conduct
3. Chatham County Anti-displacement and Relocation Assistance Plan
4. Chatham County Equal Employment and Procurement Plan
5. Section 3 Plan for Employment Opportunities for Businesses and Lower Income Persons
Chatham County 2001 CDBG
6. Chatham County Procurement Policy for Community Development Block Grant Program
7. Chatham County Grant Project Ordinance
8. Fair Housing Resolution of Chatham County North Carolina
9. Complaint Procedure
10. Citizen Participation Plan

The motion carried four (4) to zero (0). Copies are attached hereto and by reference made a part hereof.

TAX DEPARTMENT

Relief of Discovery Penalty for ORC Plastics, Inc.: Consideration of a request for approval of relief of discovery penalty on business personal property for ORC Plastics, Inc.

Commissioner Atwater moved, seconded by Commissioner Givens, to deny the request for relief of the discovery penalty on business personal property for ORC Plastics, Inc. The motion carried four (4) to zero (0). A copy of the letter is attached hereto and by reference made a part hereof.

BOARDS AND COMMITTEES

Board of Health – Veterinarian Seat Appointment: Consideration of a request to appoint a

member to the Board of Health – Veterinarian Seat

Commissioner Atwater moved, seconded by Commissioner Outz, to appoint Dr. Craig Corry, 12014 Iredell, Chapel Hill, NC, to fill the Veterinarian Seat on the Chatham County Board of Health, from July 1, 2001 through June 30, 2004. The motion carried four (4) to zero (0).

Community Child Protection Team Appointment: Consideration of a request to appoint a member to the Community Child Protection Team

Commissioner Atwater moved, seconded by Commissioner Outz, to appoint Jacqueline Goldston, 2128-B Alston Chapel Road, Pittsboro, NC, to the Community Child Protection Team. The motion carried four (4) to zero (0).

Cape Fear River Assembly Appointments: Consideration of a request to appoint members to the Cape Fear River Assembly

Commissioner Pollard moved, seconded by Commissioner Givens, to appoint Jim LeTendre, 734 Sunny Slope Road, Bear Creek, NC, to the Cape Fear River Assembly. The motion carried four (4) to zero (0).

Adult Care Home Committee Appointment: Consideration of a request to appoint a member to the Adult Care Home Committee

This appointment was deferred until a later date.

Industrial Facilities and Pollution Control Financing Authority Appointment: Consideration of a request to appoint a member to the Industrial Facilities and Pollution Control Financing Authority

Commissioner Atwater moved, seconded by Commissioner Givens, to appoint Joe Trageser, PO Box 133, Pittsboro, NC, to the Industrial Facilities and Pollution Control Financing Authority. The motion carried four (4) to zero (0).

BOARD OF COMMISSIONERS' MATTERS

- **Southwest Chatham Recreation Ordinance:** Consideration of a request to approve the Southwest Chatham Recreation Ordinance

After considerable discussion, Commissioner Atwater moved, seconded by Commissioner Givens, to accept the ordinance that a maximum effort be made to get grant support to seek grant funding. The motion carried three (3) to one (1) with Commissioner Outz dissenting.

Commissioner Outz moved to waive the fee that the County charges for water hookup. This item was deferred to a later date.

MANAGER' S REPORTS

Travel and Tourism:

- County Manager Charlie Horne explained that the Travel and Tourism Office requested changing the

marketing contract for tourism from the Chamber of Commerce to the Council on Aging because of staffing issues. The Travel and Tourism Advisory Board recommended that \$2,400 be issued to the Chamber of Commerce for transition funding.

Commissioner Atwater moved, seconded by Commissioner Givens, to accept the contract and transfer \$2,400 from Travel and Tourism to the Chamber of Commerce. The motion carried four (4) to zero (0).

COMMISSIONERS' REPORTS

Collection Centers:

Commissioner Outz stated that he had received some complaints regarding security guards at the collection centers taking items that people bring in that other people would like.

The County Manager stated that he would look into the matter.

Emerson Cook Road:

Commissioner Outz stated that a citizen had contacted him regarding the paving of Emerson Cook Road. He asked that a letter be written to the Department of Transportation on behalf of the 23 households on the road requesting the paving of the road. By consensus, the Board supported this request.

Farrington Road and Lystra Church Road Intersection:

Commissioner Atwater thanked fellow Commissioners for their support on his trip to Aberdeen to the Department of Transportation, Division of Highways, district meeting. He stated that the DOT study of the hazardous intersection led to greater safety protection at Bells Church; that due to tremendous backup due of school traffic on Lystra Road, it met federal regulations for consideration during peak hours; and that without the support of the Board of Commissioners, this could not have happened.

Decision Making:

Commissioner Givens stated that often times decisions made by the Board do not satisfy everyone; that a majority wins and the minority loses; and that it is not always an easy decision, but that one must be made.

WNCA Radio Comments:

Commissioner Givens stated that Barry Hayes, of WNCA Radio, talked on his radio program about Commissioner expenses. He stated that Mr. Hayes eluded to the Commissioners wasting citizens' money; that he does not think anyone has abused that privilege; that he wanted it stated publicly; and that unless he knew what he was talking about, he should not make comments.

CLOSED SESSION

Commissioner Givens moved, seconded by Commissioner Outz, to go out of Regular Session and convene in Closed Session for the purpose of discussing personnel. The motion carried four (4) to zero (0).

REGULAR SESSION

Commissioner Atwater moved, seconded by Commissioner Givens, to go out of Closed Session and reconvene in Regular Session. The motion carried four (4) to zero (0).

LUNCH

Commissioner Atwater moved, seconded by Commissioner Givens, to recess the meeting for lunch. The motion carried four (4) to zero (0), and the meeting was recessed at 11:58 AM.

Gary Phillips, Chairman

ATTEST:

Sandra B. Lee, Clerk to the Board
Chatham County Board of Commissioners