New Business Item #16

COUNTY AGENDA REQUEST

Department:	Code Enforcement / Attorney	Presenter(s):	Kathy Hobbs/Dennis Davenport
Meeting Date:	Thursday, February 13, 2014	Type of Request:	New Business

Wording for the Agenda:

Discussion of the trend of transient / vacation lodging through short-term rentals in residential neighborhoods.

Background/History/Details:

There is an increasing trend nationally of transient/vacation lodging through short-term rentals in residential neighborhoods. Current regulations do not address this practice.

The County has received complaints of one such case involving noise, traffic and large passenger vehicles. However, given the businesses moving to Fayette County short-term rentals could become more commonplace.

What action are you seeking from the Board of Commissioners?

Staff seeks direction on how the County wants to proceed with the regulation of transient / vacation lodging through short-term rentals in residential neighborhoods.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	Yes	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

Tourist Accommodations
in residential neighborhoods

Operating in Fayette County

a similar establishment by whatever name called, where travelers, transient guests, or other persons are or may be lodged,

Internet sources used to advertise

- Homeaway.com
- Discoverourtown.com
- VRBO.com
- Flipkey.com

Just a few of the listing available

Fayetteville Vacation Rentals listed on the internet

- **<u>sleeps 26</u> - $600 Per night**

- **$400.00 weekly – Sleeps 6**

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	Nightly	Weekly	Monthly
Base rate	$85	$200	$600

- **Weekly Price:$500**
  Monthly Price:$1500 /month

Affects on Neighborhoods

- Increase in calls to Sheriff office
  - Domestic
  - Noise
- Increase wear and tear on infrastructures
  - Large vehicles traveling on roadways
  - Septic issues with overload
- Increase in safety issues
  - Traffic
  - Strangers in neighborhoods
  - Opportunity for crime
- Possible decrease in property values
- Is this a commercial operation in residential neighborhood?

Considerations

- Regulation as Specific Occupation
  - Registration/Permit
    - Application process
    - Owner verified by background Checks
    - Fees
    - Ability to audit books
  - Hotel/motel tax (Excise)
    - No current tax in Fayette County
    - 3% excise tax allowed by Ga. Law
    - Can sales tax also apply?

Hotel/Motel Excise Tax Survey

Location	Sales Tax Percentage	Lodging/Room/Occupancy tax
Peachtree City	6%	8%
Fayetteville	6%	5%(process of raising to 8%)
Newnan	7%	5%
Union City	7%	4.5% (at Best Western) exemption allowed by ordinance
		5% by ordinance

How would you like us to proceed?

- Comments
- Questions

ARTICLE 3

EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMMODATIONS

January 17, 2014

48-13-50. Purpose.

It is declared to be the purpose and intent of the General Assembly that:

(1) Each county and municipality in this state shall be authorized to levy certain excise taxes as hereinafter provided in this article; and

(2) Funds made available for the purposes of promoting, attracting, stimulating, and developing conventions and tourism in the counties and municipalities and for the provision of other local government services.

48-13-50.1. Creation of special districts.

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. One such district shall exist within the geographical boundaries of each county, and the territory of each such district shall include all of the territory within the county except territory located within the boundaries of any municipality which imposes an excise tax on charges to the public for rooms, lodgings, and accommodations under this article.

48-13-50.2. Definitions.

As used in this article, the term:

(1) "Destination marketing organization" means a private sector nonprofit organization or other private entity which is exempt from federal income tax under Section 501 (c) (6) of the Internal Revenue Code of 1986 that is supported by the tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visitor assistance and support as needed.

(2) "Innkeeper" means any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations.

(3) "Private sector nonprofit organization" means a chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501 (c) (6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501 (c) of the Internal Revenue Code other than Section 501 (c) (6) may continue to contract for required expenditures with such a private group.

(4) "Promoting tourism, conventions, and trade shows" means planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows.

(5) "State authority" means an authority created by state law which serves a state-wide function, including, but not limited to, the Geo. L. Smith II Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional commissions and any organizational entities they may create, or local water and sewer authorities.

(6) "Tourism product development" means the expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include:

(A) Lodging for the public for no longer than 30 consecutive days to the same customer;

(B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents;

(C) Meeting, convention, exhibit, and public assembly facilities;

(D) Sports stadiums, arenas, and complexes;

(E) Golf courses associated with a resort development that are open to the general public on a contract or fee basis;

(F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways;

(G) Amusement centers, amusement parks, theme parks, or amusement piers;

(H) Hunting preserves, trapping preserves, or fishing preserves or lakes;

(I) Visitor information and welcome centers;

(J) Wayfinding signage;

(K) Permanent, nonmigrating carnivals or fairs;

(L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing;

(M) Boar rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools;

(N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens;

(O) Parks, trails, and other recreational facilities; or

(P) Performing arts facilities.

48-13-51. County and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows.

(a) (1) (A) The governing authority of each municipality in this state may levy and collect an excise tax upon the furnishings for value to the public of any room or rooms, lodgings, or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value. Within the territorial limits of the special district located within the county, each county in this state may levy and collect an excise tax upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to, the county for operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value. The provisions of this Code section shall control over provisions of any local ordinance or resolution to the contrary enacted pursuant to Code Section 48-13-53 and in effect prior to July 1, 1998. Any such ordinance shall not be deemed repealed by this Code section but shall be administered in conformity with this Code section.

(B) (i) The excise tax shall be imposed on any person or legal entity licensed by or required to pay a business or occupation tax to the governing authority imposing the tax for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value of any room, lodging, or accommodation. Every person or entity subject to a tax levied as provided in this Code section shall, except as provided in this Code section, be liable for the tax at the applicable rate on the lodging charges actually collected or, if the amount of taxes collected from the hotel or motel guest is in excess of the total amount that should have been collected, the total amount actually collected must be remitted.

(ii) Any tax levied as provided in this Code section is also imposed upon every person or entity who is a hotel or motel guest and who receives a room, lodging, or accommodation that is subject to the tax levied under this Code section. Every such guest subject to the tax levied under this Code section shall pay the tax to the person or entity providing the room, lodging, or accommodation. The tax shall be a debt of the person obtaining the room, lodging, or accommodation to the person or entity providing such room, lodging, or accommodation until it is paid and shall be recoverable at law by the person or entity providing such room, lodging, or accommodation in the same manner as authorized for the recovery of other debts. The person or entity collecting the tax from the hotel or motel guest shall remit the tax to the governing authority imposing the tax, and the tax remitted shall be a credit against the tax imposed by division (i) of this subparagraph on the person or entity providing the room, lodging, or accommodation.

(C) Reserved.

(D) Except as provided in paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), and (5.3) of this subsection, no tax levied pursuant to this Code section shall be levied or collected at a rate exceeding 3 percent of the charge to the public for the furnishings.

(2) A county or municipality levying a tax as provided in paragraph (1) of this subsection shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of promoting tourism, conventions, and trade shows a percentage of the total taxes collected under this Code section which is not less than the percentage of such tax collections expended for such purposes during the immediately preceding fiscal year. In addition, if during such immediately preceding fiscal year any portion of such tax receipts was expended for such purposes through a grant to or a contract or contracts with the state, a department of state government, a state authority, or a private sector nonprofit organization, then in each fiscal year beginning on or after July 1, 1987, at least the same percentage shall be expended through a contract or contracts with one or more such entities for the purpose of promoting tourism, conventions, and trade shows. The expenditure requirements of this paragraph shall cease to apply to a county or municipality which levies a tax at a rate in excess of 3 percent, as authorized under paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), and (5.3) of this subsection; and in such case the expenditure requirements of such paragraph of this subsection pursuant to which such tax is levied shall apply instead.

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(2.2) (A) Notwithstanding any other provision of this Code section to the contrary, as used in this paragraph, the term:

(i) "Charitable trust" shall have the meaning given such term in subsection (d) of Code Section 48-13-55.

(ii) "Development authority" shall mean a development authority created pursuant to Chapter 62 of Title 36, the "Development Authorities Law."

(iii) "Facility" or "facilities" shall mean any of the buildings, structures, and facilities described in division (ii) of subparagraph of (D) of this paragraph.

(iv) "Functionally related business" shall have the meaning given such term in subsection (d) of Code Section 48-13-55.

(v) "Fund" or "funding" shall include the cost and expense of all things necessary for the construction and operation of a facility or facilities, including, but not limited to, the study, operation, marketing, acquisition, construction, financing, (including the payment of principal of and interest on any obligation of a development authority to finance such facility or facilities or refund any obligation of a development authority previously issued to finance such facility or facilities), development, extension, enlargement, or improvement of land, waters, property, streets, highways, buildings, structures, equipment, or facilities and the repayment of any obligation incurred in connection therewith.

(vi) "Obligation" shall mean bonds, notes, or any instrument creating an obligation to pay or reserve moneys, having an initial term of not more than 35 years.

(vii) "Related entity" shall mean, with respect to a charitable trust, a functionally related business of such charitable trust, or any for profit or not for profit entity owned by or under common ownership with such charitable trust or owned by or under common ownership with a functionally related business of such charitable trust or otherwise affiliated with such charitable trust in a manner approved by the development authority.

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(C) The proceeds of the taxes collected under this paragraph shall be expended pursuant to a contract or a memorandum of understanding between the county or municipality, the private sector nonprofit organization, and the charitable trust, and such proceeds may be expended by or for the benefit of the county or municipality, the private sector nonprofit organization, or the charitable trust and related entities thereof for the purposes described in subparagraph (D) of this paragraph, provided that the expenditure of the proceeds of the tax levied on a charitable trust or a functionally related business thereof shall meet the requirements of Code Section 48-13-55.

(D) The proceeds of the taxes collected under this paragraph may be expended for any or all of the following purposes:

(i) Promoting tourism, conventions, and trade shows;

(ii) Promoting, attracting, stimulating, and developing conventions and tourism pursuant to Code Section 48-13-55; or

(iii) Funding, supporting, acquiring, constructing, renovating, improving, and equipping buildings, structures, infrastructure, and facilities which have the effect of promoting, attracting, stimulating, and developing conventions and tourism, including, but not limited to, a hotel facility and infrastructure and utility projects, provided that during any period during which there remains outstanding any obligation issued to fund a facility as contemplated by this paragraph, secured in whole or in part by a pledge of a tax authorized under this Code section, the powers of the county or municipality to impose and distribute the tax imposed by this paragraph shall not be diminished or impaired by the state and no county or municipality levying the tax imposed by this paragraph shall cease to levy the tax in any manner that will impair the interest and rights of the holder of any such obligation. This proviso shall be for the benefit of the holder of any such obligation and, upon the issuance of any such obligation by a development authority, shall constitute a contract with the holder of such obligation.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, a county (within the territorial limits of the special district located within the county) or a municipality may levy a tax under this Code section at a rate of 5 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to the amount by which the total taxes collected under this Code section exceed the taxes which would be collected at a rate of 3 percent for the purpose of: (A) promoting tourism, conventions, and trade shows[.] Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities[.]

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(3.4) Notwithstanding the provisions of paragraph (1) of this subsection, a county (within the territorial limits of the special district located within the county) or municipality may levy a tax under this Code section at a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to the amount by which the total taxes collected under this Code section exceed the taxes which would be allocated at a rate of 3 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for

convention and trade show purposes or any other similar or related purposes; (C) …; (D) …; (E) …; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities …. In addition to the amounts otherwise required to be expended under this paragraph, a county or municipality levying a tax pursuant to this paragraph shall further expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to 16 2/3 percent of the total taxes collected at the rate of 6 percent for promoting tourism, conventions, and trade shows. Amounts so expended shall be expended only through a contract or contracts with the state, a department of the state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities.

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(3.7) (A) Notwithstanding any other provision of this subsection, a county … or municipality may levy a tax under this Code section at a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to the amount by which the total taxes collected under this Code section exceed the taxes which would be collected at a rate of 3 percent for the purpose of:

(i) Promoting tourism, conventions, and trade shows[.]

(B) Amounts expended pursuant to subparagraph (A) … shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities ….

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(9) (A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection shall prior to the imposition of the tax … and prior to each fiscal year thereafter in which the tax is imposed adopt a budget plan specifying how the proceeds of the tax shall be expended. Prior to the adoption of such budget plan the county or municipality shall obtain from the authorized entity with which it proposes to contract to meet the expenditure requirements of this Code section a budget for expenditures to be made by such organization; and such budget shall be made a part of the county or municipal budget plan.