COUNTY AGENDA REQUEST

Department:	Legal	Presenter(s):	Interim Attorney Dennis Davenport
Meeting Date:	Thursday, August 15, 2013	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Resolution 2013-17 calling a referendum to seek authorization to permit and regulate Sunday Sales of Distilled Spirits or Alcoholic Beverages for Beverage Purposes by the drink; to promote the public health, safety and welfare, and for other purposes.

Background/History/Details:

O.C.G.A. Sec. 3-3-7(j) is the state law provision that authorizes the County to permit the sale of alcoholic beverages on Sundays for on-premises consumption, and it requires that the County is to first hold a referendum. If Sunday sales are approved by the voters of the County, the governing authority may then permit Sunday sales.

Fayette County has not held a referendum pursuant to O.C.G.A. Sec. 3-3-7(j), and therefore is unable to permit Sunday alcohol sales for on-premises consumption until such a referendum is held.

In order to permit the sale of alcoholic beverages for on-premises consumption on Sundays, the Board of Commissioners must adopt a resolution, conditioned upon approval in a referendum, to authorize the sale of alcoholic beverages for consumption on premises. This resolution should be adopted in the month of August 2013.

A copy of a memo entitled Sunday Alcohol Sales- On Premises Consumption (Attachment A) and Resolution 2013-17 (Attachment B) follow for additional review.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Resolution 2013-17 calling a referendum to seek authorization to permit and regulate Sunday Sales of Distilled Spirits or Alcoholic Beverages for Beverage Purposes by the drink; to promote the public health, safety and welfare, and for other purposes.

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?*	No	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:

MEMORANDUM

TO: **FAYETTE COUNTY**

FROM: **INTERIM COUNTY ATTORNEY**

RE: **SUNDAY ALCOHOL SALES – ON PREMISES CONSUMPTION**

DATE: **JULY 19, 2013**

- Recently, while reviewing the County's Code of Ordinances as it pertains to alcoholic beverages, our office was made aware that in 2012, the Code was amended to permit Sunday sales of alcohol for on-premises consumption. Furthermore, it appears that licenses for Sunday sales have been issued for the present calendar year to multiple businesses operating in unincorporated Fayette County.

- O.C.G.A. § 3-3-7(j), which is the state law provision that authorizes the County to permit the sale of alcoholic beverages on Sundays for on-premises consumption, requires that the County first hold a referendum. If Sunday sales are approved by the voters of the County, the governing authority may then permit Sunday sales.

- The County has not held a referendum pursuant to O.C.G.A. § 3-3-7(j) and therefore is unable to permit Sunday alcohol sales for on-premises consumption until such a referendum is held.

- In order to permit the sale of alcoholic beverages for on-premises consumption on Sundays, the Board of Commissioners must adopt a resolution, conditioned on approval in a referendum, to authorize the sale of alcoholic beverages for consumption on premises.

    - This resolution should be adopted in the month of August, 2013.

- The election superintendent for the County must issue a call for the election not less than 10 nor more than 60 days after the date on which the Board of Commissioners adopt the resolution mentioned above.

- The date and purpose of the election must run in the official organ of the County once a week for 2 weeks immediately preceding the date of the election.

    - The ad should run the week of October 21, 2013 and the week of October 28, 2013.

- The question shall appear on the ballot as follows:

[ ] YES [ ] NO	Shall the governing authority of Fayette County be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink?

STATE OF GEORGIA

FAYETTE COUNTY

RESOLUTION

NO. 2013-17

A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR FAYETTE COUNTY; TO CALL A REFERENDUM TO SEEK AUTHORIZATION TO PERMIT AND REGULATE SUNDAY SALES OF DISTILLED SPIRITS OR ALCOHOLIC BEVERAGES FOR BEVERAGE PURPOSES BY THE DRINK; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners for Fayette County, Georgia (the "County") is the duly elected governing authority for the County; and

WHEREAS, pursuant to O.C.G.A. § 3-3-7(j)(1) the Board of Commissioners may regulate the Sunday sale of alcoholic beverages by the drink if approved in a referendum called pursuant to O.C.G.A. § 3-3-7(j)(2); and

WHEREAS, the Board of Commissioners desire its election superintendent to call a referendum pursuant to O.C.G.A. § 3-3-7(j)(2) regarding the sale of alcoholic beverages for consumption on the premises where sold on Sundays from 12:30 PM until 12:00 midnight; and

WHEREAS, conditioned upon approval of the referendum, the Board of Commissioners may pass an ordinance, pursuant to O.C.G.A. § 3-3-7(j)(1), allowing the sale of alcoholic beverages for consumption on the premises on Sundays from 12:30 PM until 12:00 midnight in any licensed establishment which derives at least fifty (50%) percent of its total annual gross

sales from the sale of prepared meals or food in all the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least fifty (50%) percent of its total annual gross income from the rental of rooms for overnight lodging; and

WHEREAS, the Board of Commissioners hereby find that it is in the best interests of Fayette County to, by referendum, submit to the voters the following question: *"Shall the governing authority of Fayette County, Georgia, be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink?"*

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1.

RESOLVED that pursuant to O.C.G.A. § 3-3-7(j)(2), Fayette County, Georgia, seeks authorization to exercise the powers contained in O.C.G.A. § 3-3-7(j)(1) by calling a referendum.

2.

FURTHER RESOLVED that the governing authority of Fayette County hereby directs the Election Superintendent to call a referendum election for the purpose of determining whether the powers authorized by O.C.G.A. § 3-3-7(j)(1) may be exercised.

3.

FURTHER RESOLVED that this referendum be conducted pursuant to O.C.G.A. § 3-3-7(j)(2) to present to the voters of the County the following:

"Shall the governing authority of Fayette County, Georgia, be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink?"

4.

FURTHER RESOLVED that this Resolution shall serve as notice to the Election Superintendent for Fayette County of the call for the referendum, a copy hereof shall be immediately forwarded to the Election Superintendent.

5.

FURTHER RESOLVED that it shall be the duty of the Election Superintendent to issue the call and set the date for the referendum election as the date of the municipal election to be held on November 5, 2013 as established by the State, for the purpose of submitting the question on whether the governing authority of Fayette County, Georgia, shall be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink.

6.

FURTHER RESOLVED that the Election Superintendent shall cause the date and purpose of the referendum to be published in the newspapers serving as the official organs of Fayette County once a week for two weeks immediately preceding the date of the election.

SO RESOLVED this ____ day of _____, 2013.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY, GEORGIA

By:_____
Steve Brown, Chairman

(SEAL)

ATTEST:

_____
Floyd Jones, County Clerk

Approved as to form:

_____
Interim County Attorney