

**MINUTES
STATE TRANSPORTATION BOARD**

**DEPARTMENT OF TRANSPORTATION
600 West Peachtree Street
Atlanta, Georgia 30308**

April 21, 2011

9:00 a.m.

BOARD MEMBERS IN ATTENDANCE:

Rudy Bowen, Chairman
Johnny Floyd, Vice Chairman
Jay Shaw
Sam Wellborn
Emory McClinton
Brandon Beach
Jim Cole
Emily Dunn
Don Grantham
Jeff Lewis

BOARD MEMBERS ABSENT:

Dana Lemon
Robert Brown
Bobby Parham

DOT STAFF IN ATTENDANCE:

Vance Smith, Commissioner
Gerald Ross, Deputy Commissioner/Chief Engineer
Elizabeth Osmon
Kate Pfirman
Sandra Burgess
Matt Cline

Chairman Rudy Bowen opened the meeting at 9:05 a.m.

Don Grantham gave the invocation.

Chairman Bowen asked for a motion to approve the minutes from the March 2011 meetings. Jay Shaw made a motion to approve the minutes from the March 2011 meetings, seconded by Sam Wellborn and unanimously approved.*

Genetha Rice-Singleton, Program Control Administrator, presented the projects proposed for the May 2011 Letting for approval. Chairman Bowen asked for a motion to approve. Sam Wellborn made a motion to approve the projects proposed for the May 2011 Letting, seconded by Brandon Beach and unanimously approved.*

Todd Long, Director of Planning, presented the revisions to Construction Work Program for May 2011. Todd Long also gave an update on the Reinvestment Act, which included local government project recommendations.

Matt Cline, General Counsel, gave a legal update, which included seven closed cases; five new civil actions filed; five tort claims and 6 new ante-litem notices filed.

Commissioner Vance Smith gave his monthly report, which included responses to Board members' requests from the previous meeting*; state fund collections; total employment figure ending March 31, 2011, is 4,697. There was some discussion regarding the minimum staff level for maintenance and equipment. Chairman Bowen requested that the Commissioner provide a plan within the next 60 days to implement the minimum staff level for maintenance and equipment needs. Emory McClinton requested that DOT staff continue to monitor the process on whether to continue outsourcing for service or use employees.

Commissioner Smith also requested that Richard Sawyer, Chief Acquisition Officer, give an update on the sale of portable asphalt plants, which included the plants description; reason for the sale; plant production decline (tons); sales process; advertisement and bid and sales results. Jay Shaw requested that DOT staff provide the information on the proceeds from the sale of plants and where the funds will be used.*

Commissioner Vance Smith also requested that the Board approve the following Comprehensive Zoning Resolution. Chairman Bowen asked for a motion to approve the following Comprehensive Zoning Resolution. Emily Dunn made a motion to approve the following Comprehensive Zoning Resolution, seconded by Johnny Floyd, Jeff Lewis abstained and the motion passed with nine yeas.

Resolution

WHEREAS, the State Transportation Board did, in regular session on November 18, 1971, adopted a policy on outdoor advertising an

WHEREAS, said policy adopted by the State Transportation Board contained a Schedule "A" pertaining to cities and counties in Georgia which maintained comprehensive zoning plans; and

WHEREAS, the State Transportation Board has directed its staff to make necessary recommendations in order that Schedule "A" of the said Outdoor Advertising Policy may be kept current with current changing conditions in cities and counties regarding comprehensive zoning plans; and

WHEREAS, the State Transportation Board did, in regular session on December 18, 1975, adopt a Resolution which said the Board would review all comprehensive zoning plans submitted for initial approval or for renewal approval, to ascertain and determine if said zoning plans can be certified for purposes of outdoor advertising consistent with State/Federal Law or the Federal/State Agreement; and

WHEREAS, the Department of Transportation has determined that the following recommendation is appropriate regarding comprehensive zoning plans:

<u>City/County</u>	<u>Comprehensive Zoning</u>	<u>Recommendation</u>
County of Forsyth	Amend Comprehensive Zoning	Recommend Approval County Comprehensive Zoning

NOW THEREFORE, be resolved that the State Transportation Board, in regular session this date, does hereby amend Schedule "A" of the Department of Transportation Outdoor Advertising Policy by including the above named recommendations.

Resolved this 21st day of April, 2011.

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Jim Cole gave a report from the Legislative Committee.* There was no action taken at the meeting.

Brandon Beach gave a report from the Public Private (P3) Committee.* There was no action taken at the meeting.

Jay Shaw gave a report from the Finance Committee.* Jay Shaw stated that the Finance Committee unanimously approved to recommend to the full Board to approve the following Bond Resolution. Chairman Bowen asked for a motion to waive the 10 Day Rule to approve the following Bond Resolution. Jay Shaw made a motion to approve the following Bond Resolution, seconded by Brandon Beach and unanimously approved. Chairman Bowen asked for a motion to approve the following Bond Resolution. Jay Shaw made a motion to approve the following Bond Resolution, seconded by Don Grantham and unanimously approved.

Resolution

I. **WHEREAS**, the State Transportation Board (the "Board") is charged with the general control and supervision of the Department of Transportation (the "Department") of the State of Georgia (the "State"), including, but not limited to, the approval of all long-range plans and programs of the Department, in accordance with O.C.G.A. § 32-2-21;

II. WHEREAS FURTHER, the Department was created as a department of the State in accordance with O.C.G.A. §§ 32-2-1 and 32-2-2;

III. WHEREAS FURTHER, the Constitution of the State of Georgia (the “Georgia Constitution”), Article VII, Section IV, Paragraph I (c), and the Georgia State Financing and Investment Commission Act, O.C.G.A. §§ 50-17-20 through 50-17-30 (the “GSFIC Act”), provide that certain general obligation debt (as defined by O.C.G.A. § 50-17-21 (5) and hereinafter “General Obligation Bonds”) may be incurred for the benefit of the State, its agencies, departments, and institutions, and those State authorities created and activated prior to November 8, 1960;

IV. WHEREAS FURTHER, pursuant to Paragraphs I through III of Section IV of Article VII of the Georgia Constitution, the General Appropriations Act for fiscal year 2008-2009 (Ga. L. 2008, Volume One, Book Two Appendix, commencing at p. 1 of 229, Act No. 705, 2008 Regular Session, H.B. 990) was enacted by the General Assembly and signed by the Governor on May 14, 2008, so as to make the following appropriation, designated “General Obligation Debt Sinking Fund: General Obligation Bonds – New,” to the State of Georgia General Obligation Debt Sinking Fund, as provided by the Georgia Constitution, Article VII, Section IV, Paragraph III:

A. [Bond # 104] From State Motor Fuel Funds, \$896,700 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$10,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months;

V. WHEREAS FURTHER, pursuant to Paragraphs I through III of Section IV of Article VII of the Georgia Constitution, the General Appropriations Act for fiscal year 2009-2010 (Ga. L. 2009, Volume One, Book Two Appendix, commencing at p. 1 of 330, Act No. 345, 2009 Regular Session, H.B. 119) was enacted by the General Assembly and signed by the Governor on May 11, 2009, so as to make the following appropriations, designated “General Obligation Debt Sinking Fund – New,” to the State of Georgia General Obligation Debt Sinking Fund, as provided by the Georgia Constitution, Article VII, Section IV, Paragraph III:

A. [Bond 397.231] From State General Funds, \$317,800 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$3,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of 240 months;

B. [Bond 397.233] From State General Funds, \$381,360 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$4,200,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of 240 months;

VI. WHEREAS FURTHER, pursuant to Paragraphs I through III of Section IV of Article VII of the Georgia Constitution, the General Appropriations Act for fiscal year 2010-2011 (Ga. L. 2010, Volume One, Book Two Appendix, commencing at p. 1 of 164, Act No. 684, 2010 Regular Session, H.B. 948) was enacted by the General Assembly and signed by the Governor on June 4, 2010, so as to make the following appropriations, designated "General Obligation Debt Sinking Fund: GO Bonds New – Bond Financing Appropriated," to the State of Georgia General Obligation Debt Sinking Fund, as provided by the Georgia Constitution, Article VII, Section IV, Paragraph III:

A. [Bond # 95] From State Motor Fuel Funds, \$17,440,000 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$200,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months;

B. [Bond # 96] From State General Funds, \$130,800 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months;

VII. WHEREAS FURTHER, pursuant to Paragraphs I through III of Section IV of Article VII of the Georgia Constitution, the General Appropriations Act for fiscal year 2011-2012 (Act No. _____, 2011 Regular Session, H.B. 78) was enacted by the General Assembly and is pending signature by the Governor, so as to make the following appropriations, designated "General Obligation Debt Sinking Fund – New," to the State of Georgia General Obligation Debt Sinking Fund, as provided by the Georgia Constitution, Article VII, Section IV, Paragraph III:

A. [Bond # 379.231] From State General Funds, \$513,600 is specifically appropriated for the purpose of financing projects and facilities for the Department of

Transportation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$6,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of 240 months;

VIII. WHEREAS FURTHER, with respect to the appropriation set forth in Article IV. above, the State previously has issued:

A. \$0 in General Obligation Bonds of the \$10,500,000 amount authorized in the appropriation set forth in Article IV.A. above, and there remains a total aggregate principal amount of \$10,500,000 of unissued General Obligation Bonds relating to such appropriation;

IX. WHEREAS FURTHER, with respect to the appropriations set forth in Article V. above, the State previously has issued:

A. \$1,600,000 in General Obligation Bonds of the \$3,500,000 amount authorized in the appropriation set forth in Article V.A. above, and there remains a total aggregate principal amount of \$1,900,000 of unissued General Obligation Bonds relating to such appropriation;

B. \$1,200,000 in General Obligation Bonds of the \$4,200,000 amount authorized in the appropriation set forth in Article V.B. above, and there remains a total aggregate principal amount of \$3,000,000 of unissued General Obligation Bonds relating to such appropriation;

X. WHEREAS FURTHER, with respect to the appropriations set forth in Article VI. above, the State previously has issued:

A. \$0 in General Obligation Bonds of the \$200,000,000 amount authorized in the appropriation set forth in Article VI.A. above, and there remains a total aggregate principal amount of \$200,000,000 of unissued General Obligation Bonds relating to such appropriation;

B. \$0 in General Obligation Bonds of the \$1,500,000 amount authorized in the appropriation set forth in Article VI.B. above, and there remains a total aggregate principal amount of \$1,500,000 of unissued General Obligation Bonds relating to such appropriation;

XI. WHEREAS FURTHER, with respect to the appropriation set forth in Article VII. above, the State previously has issued:

A. \$0 in General Obligation Bonds of the \$6,000,000 amount authorized in the appropriation set forth in Article VII.A. above, and there remains a total aggregate principal amount of \$6,000,000 of unissued General Obligation Bonds relating to such appropriation;

XII. WHEREAS FURTHER, the Board finds an immediate need for the aggregate principal amount of the General Obligation Bonds authorized in the appropriation set forth in Article IV. above for the purpose of financing some or all of the projects and facilities referenced in the appropriation set forth in Article IV. above, as follows:

A. \$10,500,000 of the unissued \$10,500,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article IV.A. above;

XIII. WHEREAS FURTHER, the Board finds an immediate need for the aggregate principal amount of the General Obligation Bonds authorized in the appropriations set forth in Article V. above for the purpose of financing some or all of the projects and facilities referenced in the appropriations set forth in Article V. above, as follows:

A. \$1,900,000 of the unissued \$1,900,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article V.A. above;

B. \$3,000,000 of the unissued \$3,000,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article V.B. above;

XIV. WHEREAS FURTHER, the Board finds an immediate need for the aggregate principal amount of the General Obligation Bonds authorized in the appropriations set forth in Article VI. above for the purpose of financing some or all of the projects and facilities referenced in the appropriations set forth in Article VI. above, as follows:

A. \$100,000,000 of the unissued \$200,000,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article VI.A. above;

B. \$1,500,000 of the unissued \$1,500,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article VI.B. above;

XV. WHEREAS FURTHER, the Board finds an immediate need for the aggregate principal amount of the General Obligation Bonds authorized in the appropriation set forth in Article VII. above for the

purpose of financing some or all of the projects and facilities referenced in the appropriation set forth in Article VII. above, as follows:

- A. \$1,500,000 of the unissued \$1,500,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article VII.A. above;

XVI. WHEREAS FURTHER, the Board therefore desires to request the issuance of State of Georgia General Obligation Bonds in the aggregate principal amount of \$118,400,000 for the purpose of financing some or all of the projects and facilities referenced in the appropriations set forth in Articles IV., V., VI. and VII. above (the "Projects"); and

XVII. WHEREAS FURTHER, the Board is aware of the provisions and requirements of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and the regulations issued thereunder respecting arbitrage bonds and private activity bonds, and is aware that the Projects must proceed with due diligence and be timely completed following receipt of the proceeds derived from the sale of State of Georgia General Obligation Bonds,

NOW, THEREFORE, BE IT RESOLVED BY THE STATE TRANSPORTATION BOARD THAT:

SECTION 1.

The Board hereby approves and authorizes the Projects.

SECTION 2.

The Board hereby recommends to the Georgia State Financing and Investment Commission that it undertake to issue \$118,400,000 in aggregate principal amount of State of Georgia General Obligation Bonds, the instruments of which shall have maturities not in excess of two hundred and forty (240) months, for the purpose of financing some or all of the Projects.

SECTION 3.

The Board hereby determines and agrees that:

- (a) the final plans for the Projects are sufficiently complete such that substantial binding obligations to a third party or parties (as defined in the regulations issued under the Tax Code), involving the expenditure of at least five percent (5%) of the proceeds of the General Obligation Bonds herein requested, to commence or acquire the Projects will be incurred within six (6) months after the issuance of such General Obligation Bonds; and

- (b) eighty-five percent (85%) of the spendable proceeds of the General Obligation Bonds herein requested will be expended within three (3) years after the issuance of such General Obligation Bonds; and

- (c) the original proceeds of the General Obligation Bonds herein requested, and anticipated investment proceeds (net of interest on such General Obligation Bonds during the estimated period of construction), will not exceed the amount necessary for the governmental purposes of financing the Projects; and
- (d) during the time the General Obligation Bonds herein requested are outstanding, the Board will not take, or omit to take, any action which would cause such General Obligation Bonds to be deemed arbitrage bonds under the Tax Code; and
- (e) the Board will not use the proceeds of the General Obligation Bonds herein requested, or the Projects financed with such General Obligation Bonds, for any non-governmental purpose, or any purpose that would give rise to "private business use", as defined by the Tax Code; and
- (f) the term of the General Obligation Bonds related to the Projects will not be longer than 120% of the reasonably expected economic life of the Projects financed thereunder; and
- (g) no proceeds of the General Obligation Bonds related to the Projects will be used for reimbursement of any Project expenditures which were made before the anticipated delivery date of such General Obligation Bonds, except in situations where, prior to any such expenditure, the Board obtains a declaration of "Official Intent" (as defined by the Tax Code) from the Georgia State Financing and Investment Commission, or the Board is otherwise advised in writing by the Georgia State Financing and Investment Commission that such reimbursement will be permitted, it being the intention of the Board to comply in all respects with Section 1.150-2 of the regulations under the Tax Code; and
- (h) all of the expenditures of proceeds from the General Obligation Bonds herein requested for the Projects will constitute capital expenditures (as defined in Section 1.150-1(b) of the regulations under the Tax Code); and
- (i) with respect to the Projects, all of the proceeds from the General Obligation Bonds herein requested for such Project will be allocated to Project expenditures no later than the earlier of: (i) eighteen (18) months after the date such Project is placed in service, or (ii) five (5) years after the issuance of such General Obligation Bonds; any unallocated General Obligation Bond proceeds remaining after the earlier of such dates shall be transferred to the Georgia State Financing and Investment Commission and used to redeem outstanding tax-exempt General Obligation Bonds of the applicable issue.

SECTION 4.

With respect to any Board project previously financed with proceeds of State of Georgia General Obligation Bonds issued by the State with the intent that (i) the interest on such bonds be excludable from

gross income for federal income tax purposes pursuant to Section 103 of the Tax Code or (ii) such bonds at the time of their issuance were designated by the State as Build America Bonds under section 54AA of the Tax Code (a "Prior Bond Project"), and where any Prior Bond Project bonds remain outstanding (including any refunding bonds), the Board certifies that such Prior Bond Project is not now being used for any private business use within the meaning of pertinent provisions of the Tax Code, except for those specific instances in which the Board has identified to the Georgia State Financing and Investment Commission a change in use of the Prior Bond Project(s) and (a) provision was made so as to properly retire, redeem or defease any and all then-remaining outstanding bonds for the Prior Bond Project(s) concurrent with such change in use so as to maintain the tax-exempt or Build America Bond status of such bonds or (b) the Georgia State Financing and Investment Commission has expressly consented to permit such change in use without the aforementioned retirement, redemption or defeasance of outstanding Prior Bond Project bonds, as applicable.

SECTION 5.

The Board hereby approves, authorizes, and directs the Commissioner of Transportation (the "Commissioner") or the Chairman of the Board (the "Chairman"), to communicate a request to the Georgia State Financing and Investment Commission that said Georgia State Financing and Investment Commission undertake to issue \$118,400,000 in aggregate principal amount of State of Georgia General Obligation Bonds, the instruments of which shall have maturities not in excess of two hundred and forty (240) months, for the purpose of financing some or all of the Projects.

SECTION 6.

The Commissioner and the Chairman are hereby each authorized and directed to execute any instruments and take whatever action which may be necessary in connection with the issuance of General Obligation Bonds by the Georgia State Financing and Investment Commission, including, but not limited to, the preparation and execution of answers in connection with any legal proceeding as to the validity of any action by the Board with respect to the General Obligation Bonds issued by the Georgia State Financing and Investment Commission. The Attorney General or any Assistant Attorneys General of the State are authorized to execute Acknowledgment of Service and Waiver of Process in such legal proceedings.

This Resolution is hereby approved this 21st day of April, 2011.

Johnny Floyd gave a report from Administration Committee.* Johnny Floyd stated that the Administration Committee unanimously approved to recommend to the full Board to amend the process for the Safe Routes to School (SRTS) program for the FY 2011 projects to include the Board members in the selection process for their Districts. Chairman Bowen asked for a motion to approve amending the process to the Safe Routes to School (SRTS) program. Johnny Floyd made a motion to amend the process for the Safe Routes to School (SRTS) program for the FY 2011 projects to include the Board members in the selection process for their Districts, seconded by Emory McClinton and unanimously approved.

There being no further business, Chairman Bowen asked for a motion to adjourn. Emory MClinton made a motion to adjourn, seconded by Robert Brown and unanimously approved.

Approved:



Rudy Bowen, Chairman

Respectfully submitted:



Elizabeth Osmon, Executive Secretary

***Denotes documentation in file.**