

**MINUTES  
STATE TRANSPORTATION BOARD**

**LAKE BLACKSHEAR RESORT  
2459-H US Highway 280 West  
Cordele, Georgia 31015**

**May 19, 2011**

**9:00 a.m.**

**BOARD MEMBERS IN ATTENDANCE:**

Rudy Bowen, Chairman  
Johnny Floyd, Vice Chairman  
Jay Shaw  
Emory McClinton  
Robert Brown  
Emily Dunn  
Don Grantham  
Jeff Lewis  
Bobby Parham  
Dana Lemon

**BOARD MEMBERS ABSENT:**

Brandon Beach  
Jim Cole  
Sam Wellborn

**DOT STAFF IN ATTENDANCE:**

Vance Smith, Commissioner  
Gerald Ross, Deputy Commissioner/Chief Engineer  
Elizabeth Osmon  
Angela Whitworth, Acting Treasurer  
Matt Cline

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

Johnny Floyd gave the invocation and welcome remarks.

Chairman Bowen asked for a motion to approve the minutes from the April 2011 meetings. Robert Brown made a motion to approve the minutes from the April 2011 meetings, seconded by Emory McClinton and unanimously approved.\*

Gerald Ross, Chief Engineer/Deputy Commissioner, presented the projects proposed for the June 2011 Letting for approval. Chairman Bowen asked for a motion to approve. Robert Brown made a motion to approve the projects proposed for the June 2011 Letting, seconded by Johnny Floyd and unanimously approved.\*

Todd Long, Director of Planning, presented the revisions to the Construction Work Program for May 2011 for approval. Chairman Bowen asked for a motion to approve the revisions to the Construction Work Program for May 2011. Jay Shaw made a motion to approve the revisions to the Construction Work Program for May 2011, seconded by Jeff Lewis and unanimously approved.\*

Todd Long also presented the proposed revisions to the Construction Work Program for June 2011 for the June 2011 Board meeting.\* Todd Long also gave an update on the Transportation Investment Act.

Matt Cline, General Counsel, gave a legal update, which included one mediation tort claim; four new civil actions filed; five tort claims and two new ante-litem notices filed.

Commissioner Vance Smith gave his monthly report, which included state fund collections; total employment figure ending April 30, 2011, is 4,697; major projects opened to traffic and the pew-rockefeller performance report.\*

Brad Lafevers, President & CEO, Heart of Georgia Railroad & Jonathan Lafevers, President & Chief Communication Officer, Cordele Intermodal Services, Inc., gave a presentation on the Development of Cordele Inland Port.\* There was some discussion regarding the Inland Port. Chairman Bowen and Board members stated they were in full support of the Inland Port project.

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 approve the following Bond Resolution. Jay Shaw made a motion to approve the following Bond Resolution, seconded by Robert Brown 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 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 appropriation, 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;

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

**VI. WHEREAS FURTHER**, pursuant to a resolution adopted by the Board on April 21, 2011 (the “April Board Resolution”) the Board found an immediate need for \$1,500,000 of the unissued \$6,000,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article IV.A. above;

**VII. WHEREAS FURTHER**, in accordance with the April Board Resolution, on April 21, 2011, the Chairman of the State Transportation Board (the “Chairman”) submitted a request (the “April Board Request”) to the Georgia State Financing and Investment Commission that, in addition to certain other authorized General Obligation Bonds described in the April Board Resolution and in the April Board Request, the Georgia State Financing and Investment Commission undertake to issue \$1,500,000 of the

unissued \$6,000,000 aggregate principal amount of General Obligation Bonds authorized in the appropriation set forth in Article IV.A. above;

**VIII. WHEREAS FURTHER**, the Board now finds an immediate need for an additional \$4,500,000 of the unissued \$6,000,000 aggregate principal amount of the General Obligation Bonds authorized in the appropriation set forth in Article IV.A. above, for the purpose of financing some or all of the projects and facilities referenced in the appropriation set forth in Article IV.A. above;

**IX. WHEREAS FURTHER**, the Board therefore desires to request the issuance of an additional \$4,500,000 of the remaining unissued \$6,000,000 aggregate State of Georgia General Obligation Bonds for the purpose of financing some or all of the projects and facilities referenced in the appropriation set forth in Article IV. above (the "Projects");

**X. 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, in addition to the \$118,400,000 in aggregate principal amount of State of Georgia General Obligation Bonds approved and requested by the Board pursuant to the April Board Resolution and the April Board Request, the Georgia State Financing and Investment Commission undertake to issue \$4,500,000 of the remaining unissued \$6,000,000 aggregate State of Georgia General Obligation Bonds authorized in the appropriation set forth in Article IV.A. above, 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;

- (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;
- (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;
- (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;
- (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;
- (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;
- (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;
- (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);
- (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 to communicate a request to the Georgia State Financing and Investment Commission that, in addition to the \$118,400,000 in aggregate principal amount of State of Georgia General Obligation Bonds approved and requested by the Board pursuant to the April Board Resolution and the April Board Request, the Georgia State Financing and Investment Commission undertake to issue \$4,500,000 of the remaining unissued \$6,000,000 aggregate 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 adopted this 19<sup>th</sup> day of May, 2011.**

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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:**

  
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Rudy Bowen, Chairman

**Respectfully submitted:**

  
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Elizabeth Osmon, Executive Secretary

**\*Denotes documentation in file.**