

**MINUTES OF REGULAR MEETING
COBB COUNTY BOARD OF COMMISSIONERS
APRIL 25, 2023
7:00 PM**

The Regular Meeting of the Cobb County Board of Commissioners was held on Tuesday, April 25, 2023 at 7:00 p.m. in the second-floor public meeting room at 100 Cherokee Street, Cobb County Building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairwoman Lisa Cupid
Commissioner JoAnn Birrell
Commissioner Keli Gambrill
Commissioner Jerica Richardson
Commissioner Monique Sheffield

CALL TO ORDER

Chairwoman Cupid called the meeting to order at 7:02 p.m.

PRESENTATIONS

By consensus of the Board the following item was moved forward in the agenda.

1. **To present a proclamation designating April 30, 2023 as *National Therapy Animal Day* in Cobb County.**

Commissioners Birrell and Gambrill presented a proclamation designating April 30, 2023, as *National Therapy Animal Day* in Cobb County.

2. **To present certificates of achievement to the Wheeler High School Boys' Basketball Team for winning the Class 7A Championship.**

Commissioner Richardson presented certificates of achievement to the Wheeler High School Boys' Basketball team for their historic win.

3. **To present a proclamation recognizing Temple Kol Emeth for its 40th anniversary.**

Commissioner Richardson presented a proclamation recognizing Temple Kol Emeth for its 40th anniversary.

4. **To present certificates of achievement to members of the Kell Longhorn boys' and girls' basketball teams for winning the state championship.**

This item was withdrawn from the agenda.

5. **To recognize LGE Credit Union for their donation in the amount of \$250,000.00 to Cobb Veterans Memorial Foundation, Inc.**

Commissioner Birrell recognized LGE Credit Union for their donation in the amount of \$250,000.00 to Cobb Veterans Memorial Foundation, Inc.

6. **To recognize a contribution from the Master Gardener Volunteers of Cobb County, Inc, to support the Cobb County Water System's Wildlife and Rain Garden Demonstration Site.**

Commissioner Birrell recognized Master Gardener Volunteers of Cobb County, Inc, for their contribution to the Cobb County Water System's Wildlife and Rain Garden Demonstration Site.

NON-AGENDA

MOTION: Motion by Cupid, second by Richardson, to approve the addition of the following non-agenda item to be added to the Presentations Tab:

- *To recognize Marsy's Law for Georgia's presentation of the Champion Award Coin in recognition of National Crime Victims' Rights week.*

VOTE: **ADOPTED 5-0** (*Statements of Commissioner Birrell and Commissioner Gambrill are attached and made a part of these minutes*)

Clerk's Note: *Commissioner Birrell and Commissioner Gambrill requested the following statements that are on file in the County Clerk's office be attached to each vote and made a part of these minutes:*

Commissioner Birrell's statement

I do not support the Home Rule Challenge of the majority of this board. It is unconstitutional and illegal. I voted against the amended map three times in 2022 (1/25/22, 10/11/22 and 10/25/22).

I have a duty to represent my constituents and will not have my vote suppressed as I was duly elected on November 8, 2022 under the state map (HB 1154) voted on by the Georgia General Assembly in February 2022 and signed into law by Governor Kemp on March 2, 2022 and certified by the Board of Elections on November 15, 2022.

Commissioner Gambrill's statement

When the Board first entered Executive Session in March 2022 to discuss the "Home Rule" challenge, I challenged the County Attorney's Office on the premise and requested outside counsel to be sought.

While the County Attorney's Office claims the Association of County Commissioners of Georgia (ACCG) provided legal advice, I too am in receipt of the documents from the ACCG regarding Home Rule, to which it clearly defines the limit of this Board's Constitutional powers as to redistricting. I also contend that the Board of Commissioners did not follow the Home Rule challenge in its entirety.

In addition, the Georgia Supreme Court has ruled that the GA Constitution limits legislative action by the Board of Commissioners to matters for which no provision has been made by general law. Furthermore, the "Home Rule" powers granted to the Board of Commissioners do not extend to any matters which the Georgia General assembly by general law has preempted, like the redistricting map here in Cobb Co. Commissioners of Wayne Co. v. Smith 240 Ga. 540 (1978); Brophy v. McCranie 264 Ga. 187 (1994).

In fact, even in Federal Court in Georgia, the court has ruled the General Assembly is the only legislative body with the power to enact redistricting legislation for the counties; therefore, where the General Assembly failed to enact reapportionment legislation for a certain county, although it was entitled to consideration as an expression of county policy, a reapportionment plan proposed by a county was not a legislatively enacted plan requiring deferential treatment and the district court was required to fashion a reapportionment plan. Bodker v. Taylor, 2002 U.S. Dist. LEXIS 27447 (N.D. Ga. June 5, 2002).

In January, Georgia State Attorney General, Chris Carr stated that the Cobb County Commission's move to amend its electoral redistricting map is "inappropriate and not legally binding."

Per the letter dated December 22, 2022, from C. Ryan Germany, General Counsel for the Office of the Secretary of State, "you should not consider the ministerial function of filing the Amendment with our office or the publishing of the Amendment to the a comment on whether the Amendment is allowable under state law or a proper exercise of the authority by the Cobb County Commission, nor should you rely on this to attempt to establish the validity of the Amendment." "In fact" he continues "it appears that the Amendment is very likely an unauthorized exercise of authority by the Cobb County Commissioner that does not comply to Georgia Law or the State Constitution.

With the majority of this Board's actions on October 25, 2022 and the resulting filing and recording with the Office of the Secretary of State on October 26, 2022, the boundaries of the districts from which county commissioners were elected in Districts 1 and 3 were changed (14) days prior to the General Election, and eight (8) days after early voting had begun using district boundaries for Districts 1 and 3 as approved by the Governor.

Furthermore, the Board of Elections certified the election of Commissioners in District 1 and 3 using the map as approved by the Governor on March 2, 2022 on November 15, 2022 and not the maps that the Board of Commissioners made effective on October 26, 2022.

In a letter dated October 3, 2022 Deputy Legislative Counsel D. Stuart Morelli, "It is practically indisputable that a county home rule resolution or ordinance changing the boundaries of the districts from which county commissioners are elected would be an action affecting the procedure for the election of the county's governing authority. O.C.G.A. 36-35-4.1, no such statutory authority exists for Georgia counties.

In January, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

Quotes by DaShanne Stokes, "Leadership by deception isn't leadership. It's fraud. Truth is hard, propaganda is cheap."

While I am here representing my constituents and fulfilling my duties as an elected official, I hereby request the clerk to attach this statement to each vote that is recorded herein.

7. **To present a proclamation recognizing the 35th anniversary of The Rho Zeta Omega Chapter of Alpha Kappa Alpha Sorority Inc.**

Chairwoman Cupid presented a proclamation recognizing the 35th anniversary of The Rho Zeta Omega Chapter of Alpha Kappa Alpha Sorority Inc.

8. **To recognize Marsy's Law for Georgia's presentation of the Champion Award Coin in recognition of National Crime Victims' Rights week.**

Chairwoman Cupid presented a proclamation and *Marsy's Law for Georgia's* presented a Champion Award Coin to Chairwoman Cupid and District Attorney Flynn Broad in recognition of National Crime Victims' Rights week and the Cobb County Family Advocacy Center.

PUBLIC COMMENT

1. Davita Carter addressed the Board regarding the water supply at apartment.
2. Sharon Burrell addressed the Board regarding evictions.
3. Kevin Redmon presented a farewell video to Aliya Korco.
4. Monica Delancy addressed the Board regarding the Lake Crossing Apartment's fire.
5. Melissa Marten addressed the Board regarding Diversity, Equity and Inclusion.
6. Tyler Bigler addressed the Board regarding pedestrian access and the book *Strong Towns*.

CONSENT AGENDA

MOTION: Motion by Cupid, second by Richardson, to **approve** the following items on the Consent Agenda, *as revised*; with the exception to Consent Item 19, *which was withdrawn from the agenda*, (See Item 20 of these minutes); and **authorize** execution of the necessary documents by the appropriate County personnel.

Water System

9. **To approve an agreement with Freese and Nichols, Inc. for consulting services for FY23 Sewer Extension Designs, Program No. S1143.**

To **approve** an agreement with Freese and Nichols, Inc. in the amount of \$643,746.00 for consulting services for FY23 Sewer Extension Designs, Program No. S1143; **authorize** the corresponding budget transaction; and **further authorize** the Chairwoman to execute the necessary documents.

Funding is available in the Water System's CIP Budget as follows:

Transfer from:

Sanitary Sewer for Septic Tank Subdivisions

Preliminary Estimates	510-500-5755-8005	S2512-Z	\$643,746.00
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Transfer to:

FY23 Sewer Extension Designs

Engineering-Basic Fees	510-500-5755-8225	S1143-E	\$643,746.00
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10. **To approve an agreement with Geosyntec Consultants, Inc. for consulting services for Pearl of East Cobb Detention Pond Dam/Wall Failure Repair Design, Program No. SW2193.**

To **approve** an agreement with Geosyntec Consultants, Inc. in the amount of \$141,800.00 for consulting services for Pearl of East Cobb Detention Pond Dam/Wall Failure Repair Design, Program No. SW2193; **authorize** the corresponding budget transaction; and **further authorize** the Chairwoman to execute the necessary documents.

Funding is available in the Water System's CIP Budget as follows:

Transfer from:

Stormwater Multi-Year Budget

Drainage Contract R&M Service	510-500-5758-6496	SW9999-Z	\$141,800.00
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Transfer to:

Pearl of East Cobb Detention Pond Dam/Wall Failure Repair Design

Engineering-Basic Fees	510-500-5758-8225	SW2193-E	\$141,800.00
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11. **To approve a work order under the FY23 Stormwater Management Unit Price Contract with Wade Coots Company, Inc. for 1564 East Bank Drive, Program No. SW2222.**

To **approve** a work order under the FY23 Stormwater Management Unit Price Contract with Wade Coots Company, Inc., in the amount of \$60,544.00, for 1564 East Bank Drive, Program No. SW2222; **authorize** the corresponding budget transaction; and **further authorize** the Chairwoman to execute the necessary documents.

Funding is available in the Water System's CIP Budget as follows:

Transfer from:

Stormwater Multi-Year Budget

Drainage Contract R&M Service	510-500-5758-6496	SW9999-Z	\$60,544.00
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Transfer to:

1564 East Bank Drive

Drainage Contract R&M Service	510-500-5758-6496	SW2222-C	\$60,544.00
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12. To convey by quitclaim deed to the underlying property owner any County rights associated with a sanitary sewer easement for an abandoned sanitary sewer located in Land Lot 975 of the 17th District per the Deed and Plat, but shown in Land Lot 974 in the County's GIS.

To convey by quitclaim deed to the underlying property owner, 3246 Cochise Dr, LLC, any County rights associated with a sanitary easement for an abandoned sanitary sewer located in Land Lot 975 of the 17th District per the Deed and Plat, but shown in Land Lot 974 in the County's GIS; and **authorize** the Chairwoman to execute the necessary documents.

Public Services Agency

PARKS

13. To approve the Fifth Amendment to the Cobblestone Golf Course Management Agreement with Affiniti Golf Partners, LLC to allow additional time to facilitate negotiations for a new management agreement, and to obtain the required consent of the U.S. Army Corps of Engineers.

To **approve** the Fifth Amendment to Cobblestone Golf Course Management Agreement with Affiniti Golf Partners, LLC. for a term as set forth in the Amendment, but in no event later than December 31, 2023, unless otherwise earlier terminated or further amended as provided in the Amendment; **authorize** the corresponding budget transactions; and **further authorize** the Chairwoman to execute the necessary documents.

Support Services Agency

Information Services

14. To approve a lease with Dell Financial Services LLC (DFS) from an existing Master Lease Agreement (MLA), to replace up to 443 computers in the third quarter of FY 23 for Phase 8 Lease 057-058 of the PC Replacement Project.

To **approve** a lease with Dell Financial Services LLC from an existing Master Lease Agreement, in an amount not to exceed \$596,477.00 (49 months of lease payments in FY 23 - FY 27) to finance the replacement of up to 443 computers in the third quarter of FY 23 for Phase 8 Lease 057-058; **authorize** the corresponding budget transactions; and **further authorize** the Chairwoman to execute the necessary documents.

Funding for the FY 23 lease payments is available in the Capital Replacement Fund 380, PC Replacements Project, Unit 4580, as follows:

380-035-4580-6532	(Equipment Lease)	\$36,519.00
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15. **To authorize the Purchasing Director to purchase Mobile Data Computers (MDCs) and accessories greater than \$100,000.00 for the Cobb County Sheriff's Office, under provisions of the National Cooperative Purchasing Alliance (NCPA) with PCN Strategies, Inc.**

To **authorize** the Purchasing Director to purchase MDCs and accessories for the Cobb County Sheriff's Office, in an amount not to exceed \$292,371.24, under provisions of the National Cooperative Purchasing Alliance 01-97 with PCN Strategies, Inc.; and **further authorize** the corresponding budget transactions.

Funding is available as follows:

380-035-4514-6258	(Fund 380 Information Services)	\$292,371.24
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Property Management

16. **To authorize purchase of roofing material for the Cobb & Douglas Public Health Headquarters, a capital improvement project.**

To **authorize** purchase of roofing material from Garland/DBS, Inc, in the amount of \$418,675.58 for the Cobb & Douglas Public Health Headquarters, located at 1650 County Services Pkwy, Marietta, a capital improvement project; and **further authorize** the corresponding budget transactions.

Funding is available in the Property Management Capital Improvement budget as follows:

381-110-PM03-8111-PM2301-A	(Roofing installations)	\$418,675.58
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Public Safety Agency

Police Department

17. **To authorize the acceptance of the FY2024 award of the Highway Enforcement of Aggressive Traffic grant from the Governor's Office of Highway Safety for the DUI Task Force.**

To **authorize** the acceptance of the FY2024 award of the Highway Enforcement of Aggressive Traffic grant, in an amount not to exceed \$37,895.04, from the Governor's Office of Highway Safety; **authorize** the corresponding budget transactions; and **further authorize** the Chairwoman to execute the necessary documents

Increase Revenue	270-130-GR72-4476	(Office of Highway Safety)	\$37,895.04
Increase Expenditure	270-130-GR72-VAR	(Salaries and Fringe)	\$34,295.04
Increase Expenditure	270-130-GR72-6168	(Gas-Diesel Fuel)	\$ 3,000.00
Increase Expenditure	270-130-GR72-6400	(Travel-Training)	\$ 600.00

Fire and Emergency Services

18. **To approve a resolution adopting a personnel fee schedule for special fire services prepared and presented by the Fire Chief.**

To **approve** a resolution adopting a personnel fee schedule for special fire services prepared and presented by the Fire Chief; and **authorize** the Chairwoman to execute any necessary documents. A copy of said resolution is attached and made a part of these minutes.

Funding will be recorded in the Fire department's professional services budget as follows:

Increase Revenue:	230-130-1000-4566	(Miscellaneous County Services)
Increase Expenditure:	230-130-1000-6326	(Professional Services)

Community Development

19. **To review a summary of the appeal hearing conducted by the License Review Board on April 13, 2023, for Jamaican Jerk Biz, LLC d/b/a Jamaican Jerk.**

To **affirm** the decision of the License Review Board, following the review of the summary of the appeal hearing on April 13, 2023, to **approve** the liquor, beer, wine, and Sunday sales pouring license for Jamaican Jerk Biz, LLC d/b/a Jamaican Jerk, 1400 Veterans Memorial Hwy., Ste. 116, Mableton, GA 30126, Brian Burnett, licensee.

Human Resources

20. **Withdrawal of request to approve the revision of the Compensation Policy, Education Incentive Pay Policy, Nepotism Policy, No Harassment and No Discrimination Policy, Parental Leave Policy, Performance Appraisal Policy, and Progressive Discipline Procedures; and approve the adoption of the Americans with Disabilities Act (ADA) Policy.**

This item was withdrawn from the agenda.

Risk Management

21. To approve all interfund transfers for claims and safety equipment purchases to allow Risk Management to reimburse the appropriate departments.

To **approve** all interfund transfers for claims and safety equipment purchases; and **authorize** Risk Management to reimburse the appropriate department.

Property Management - 22-01466

Decrease Expenditure:	710-055-8011-6605	Property Loss	\$2,695.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$2,695.00
Increase Revenue:	010-110-3640-4960	Interfund Revenue	\$2,695.00
Increase Expenditure:	010-110-3640-6605	Property Loss	\$2,695.00

Parks - 23-00359

Decrease Expenditure:	710-055-8011-6605	Property Loss	\$23,512.15
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$23,512.15
Increase Revenue:	010-105-3200-4960	Interfund Revenue	\$23,512.15
Increase Expenditure:	010-105-3200-6494	Building R&M	\$23,512.15

Fire - 21-01047

Decrease Expenditure:	710-055-8011-6605	Property Loss	\$132,794.46
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$132,794.46
Increase Revenue:	230-130-1000-4960	Interfund Revenue	\$132,794.46
Increase Expenditure:	230-130-1000-6494	Building R&M	\$132,794.46

Property Management - 23-00094

Decrease Expenditure:	710-055-8011-6605	Property Loss	\$21,183.40
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$21,183.40
Increase Revenue:	010-110-3640-4960	Interfund Revenue	\$21,183.40
Increase Expenditure:	010-110-3640-6605	Property Loss	\$21,183.40

Property Management - 23-00342

Decrease Expenditure:	710-055-8011-6605	Property Loss	\$18,707.55
Increase Expenditure:	710-055-8011-6494	Interfund Expense	\$18,707.55
Increase Revenue:	010-110-3640-4960	Interfund Revenue	\$18,707.55
Increase Expenditure:	010-110-3640-6605	Property Loss	\$18,707.55

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Property Management - 23-00327

Decrease Expenditure:	710-055-8011-6605	Property Loss	\$11,653.61
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$11,653.61
Increase Revenue:	010-110-3640-4960	Interfund Revenue	\$11,653.61
Increase Expenditure:	010-110-3640-6605	Property Loss	\$11,653.61

Police - Total Loss - Vehicle # 4908

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$2,817.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$2,817.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$2,817.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$2,817.00

Police - Total Loss - Vehicle # 7936

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$23,120.47
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$23,120.47
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$23,120.47
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$23,120.47

Police - Total Loss - Vehicle # 7595

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$14,706.16
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$14,706.16
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$14,706.16
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$14,706.16

Police - Total Loss - Vehicle # 7940

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$24,055.91
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$24,055.91
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$24,055.91
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$24,055.91

Police - Total Loss - Vehicle # 7336

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$6,450.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$6,450.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$6,450.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$6,450.00

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Police - Total Loss - Vehicle # 7407

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$7,925.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$7,925.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$7,925.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$7,925.00

Police - Total Loss - Vehicle # 6921

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$8,750.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$8,750.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$8,750.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$8,750.00

Police - Total Loss - Vehicle # 10095

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$26,200.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$26,200.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$26,200.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$26,200.00

Police - Total Loss - Vehicle # 9554

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$21,225.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$21,225.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$21,225.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$21,225.00

Police - Total Loss - Vehicle # 7230

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$3,725.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$3,725.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$3,725.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$3,725.00

Police - Total Loss - Vehicle # 7996

Decrease Expenditure:	710-055-8011-6441	Collision & Comp	\$30,425.00
Increase Expenditure:	710-055-8011-6594	Interfund Expense	\$30,425.00
Increase Revenue:	010-130-2100-4960	Interfund Revenue	\$30,425.00
Increase Expenditure:	010-130-2100-8605	Autos, Vans, Trucks	\$30,425.00

Finance

22. To adopt a resolution adopting all budget amendments set forth in agenda items on this date.

To **adopt** a resolution adopting all budget amendments set forth in agenda items on this date. A copy of said resolution is attached and made a part of these minutes.

CobbWorks

23. To approve a Workforce Innovation and Opportunity Act grant award from the Technical College System of Georgia for CobbWorks, Inc. to provide education, training, and employment services for Dislocated Workers as an Adult Program.

To **approve** a Workforce Innovation and Opportunity Act grant award in the amount of \$700,000.00 from the Technical College System of Georgia for CobbWorks, Inc., local Workforce Development Board, to provide training and employment services for dislocated workers as an Adult Program; **authorize** corresponding budget transactions; and **further, authorize** the Chairwoman to execute the necessary documents.

Funding for this Workforce Innovation and Opportunity Act grant will be appropriated in the WIOA Fund as follows:

Increase Revenue:

276-120-WF23-4430-WF23TR-P	Federal Grant Revenue	\$700,000.00
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Increase Expenditures:

276-120-WF23-WF23TR-P-vary	Admin	\$630,000.00
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276-120-WF23-WF23TR-A-vary		\$70,000.00
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Total Grant:		\$700,000.00
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24. To approve the second amendment to the current Memorandum of Understanding between Cobb County, WorkSource Cobb, and its One-Stop partners based upon requirements of the Workforce Innovation and Opportunity Act.

To **approve** a second amendment to the current Memorandum of Understanding for the following partners: the AARP Foundation, Chattahoochee Technical College, Cobb Adult Education Center, Cobb County Community Development Block Grant Program, Georgia Department of Labor, Georgia Vocational Rehabilitation Agency, and CobbWorks, Inc; **approve** the Memorandum of Understanding for Adams and Associates; and **authorize** the Chairwoman to execute the necessary documents.

Infrastructure Budget PY22

Facility Costs	\$121,967.00
Technology Costs	\$20,000.00
Total	\$141,967.00

County Clerk

25. To approve minutes.

To **approve** the minutes from the following meetings:

- April 10, 2023 - Agenda Work Session
- April 11, 2023 - BOC Regular Meeting
- April 18, 2023 - BOC Zoning Hearing.

CONSENT VOTE: **ADOPTED 5-0** (*Statements of Commissioner Birrell and Commissioner Gambrill are attached and made a part of these minutes*)

Chairwoman Cupid left the meeting at 7:58 p.m. Vice Chair Richardson led the remainder of the meeting

REGULAR AGENDA

Deputy County Manager

26. Withdrawal of request to approve Change Order #1 to the Statement of Work with Accenture LLP to develop a strategic plan for Cobb County Government.

This item was withdrawn from the agenda. Commissioner Richardson announced plans to hold an upcoming public hearing and for the Commissioners to communicate with their districts.

Transportation

27. To approve issuance of a "Notice of Quiet Zone Establishment" letter to Norfolk Southern Railway Company and the Georgia Department of Transportation for the Nickajack Road crossing of Norfolk Southern Railway Company.

Motion by Sheffield, second by Birrell, to **approve** issuance of a "Notice of Quiet Zone Establishment" letter to Norfolk Southern Railway Company and the Georgia Department of Transportation for the Nickajack Road crossing of Norfolk Southern Railway Company; and **further authorize** the Chairwomen to execute the necessary documents.

VOTE: **ADOPTED 4-0**, Chairwoman Cupid not present (*Statements of Commissioner Birrell and Commissioner Gambrill are attached and made a part of these minutes*)

28. To ratify previous action by the County Manager authorizing emergency drainage repairs on Chadwick Road, and approve Project No. B2286 to the 2021 Countywide Unit Price Contract with D & H Construction Company, Inc., for said repairs, CCDOT Contract No. 002131.

Motion by Birrell, second by Richardson, to **ratify** previous action by the County Manager authorizing emergency drainage repairs on Chadwick Road, in response to a sinkhole; **approve** Project No. B2286 to the 2021 Countywide Unit Price Contract with D & H Construction Company, Inc., in an amount not to exceed \$316,889.00, for said repairs, CCDOT Contract No. 002131; **authorize** the corresponding budget transactions; and **further authorize** the Chairwoman to execute the necessary documents.

Available in the 2022 SPLOST Transportation Improvements Program Fund, with the following budget transfer:

Transfer from:	348-050-B220-B220-8005-B2201-A	Preliminary Estimate	\$281,889.00
Transfer to:	348-050-B220-B220-8762-B2286-C	Turnkey Construction	\$281,889.00

The 2022 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 14, 2020, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Drainage System.

Chadwick Road is an eligible project/program under the Drainage System Component of the 2022 SPLOST Transportation Improvements (2022 Cobb SPLOST Renewal, pp. 1, 14). SPLOST funding for drainage system improvements will provide for the repair and replacement of existing drainage facilities within the county right-of-way.

SPLOST Component Summary as of April 5, 2023: Drainage System

Budget:	\$10,086,879.47	Encumbered/Expended:	\$5,743,621.66
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Available in the Water System DOT Projects – Relocate Lines Adopted CIP Budget, with the following budget transfers:

Transfer from:	DOT Projects - Relocate Lines		
	510-500-5756-8005-W4069-Z	Preliminary Estimate	\$37,200.00
Transfer to:	Chadwick Road Drainage - Utility Allow.		
	510-500-5756-6496-W5076-C	Drainage Contract R&M Svc.	\$35,000.00
	510-500-5756-8265-W5076-M	Materials and Supplies	\$ 1,500.00
	510-500-5756-8810-W5076-T	Contingency	\$ 700.00
		Total:	\$37,200.00

VOTE: **ADOPTED 4-0**, Chairwoman Cupid not present (*Statements of Commissioner Birrell and Commissioner Gambrill are attached and made a part of these minutes*)

Public Safety Agency

Fire and Emergency Services

29. To authorize the transfer of cost savings in the 2011 SPLOST funds, from project EPS31 Paving Stations to project EPS30 Extrication Equipment.

Motion by Richardson, second by Birrell, to **authorize** the transfer of 2011 SPLOST funds from project EPS31 Station Paving to project EPS30 Extrication Equipment; and **further authorize** the corresponding budget transactions.

Funding will be available in the 2011 SPLOST Fund Extrication Equipment project, with the following budget transfer:

Decrease Expenditure	345-130-E102-8135-E102-EPS31-C	Paving	\$34,050.20
Increase Expenditure	345-130-E102-8480-E102-EPS30-O	Safety Equip	\$34,050.20

VOTE: **ADOPTED 4-0**, Chairwoman Cupid not present (*Statements of Commissioner Birrell and Commissioner Gambrill are attached and made a part of these minutes*)

PUBLIC COMMENT

1. Mindy Seger addressed the Board regarding County Government Month.
2. Donald Barth addressed the Board regarding Master Gardner's plant sale and redistricting.
3. Craig Harfoot addressed the Board regarding miscellaneous matters.

ADJOURNMENT

The meeting was adjourned at 9:10 p.m.



Angela Cunningham
Deputy County Clerk
Cobb County Board of Commissioners

Commissioner Birrell's statement

I do not support the Home Rule Challenge of the majority of this board. It is unconstitutional and illegal. I voted against the amended map three times in 2022 (1/25/22, 10/11/22 and 10/25/22).

I have a duty to represent my constituents and will not have my vote suppressed as I was duly elected on November 8, 2022 under the state map (HB 1154) voted on by the Georgia General Assembly in February 2022 and signed into law by Governor Kemp on March 2, 2022 and certified by the Board of Elections on November 15, 2022.

Commissioner Gambrill's statement

When the Board first entered Executive Session in March 2022 to discuss the "Home Rule" challenge, I challenged the County Attorney's Office on the premise and requested outside counsel to be sought.

While the County Attorney's Office claims the Association of County Commissioners of Georgia (ACCG) provided legal advice, I too am in receipt of the documents from the ACCG regarding Home Rule, to which it clearly defines the limit of this Board's Constitutional powers as to redistricting. I also contend that the Board of Commissioners did not follow the Home Rule challenge in its entirety.

In addition, the Georgia Supreme Court has ruled that the GA Constitution limits legislative action by the Board of Commissioners to matters for which no provision has been made by general law. Furthermore, the "Home Rule" powers granted to the Board of Commissioners do not extend to any matters which the Georgia General assembly by general law has preempted, like the redistricting map here in Cobb Co. Commissioners of Wayne Co. v. Smith 240 Ga. 540 (1978); Brophy v. McCranie 264 Ga. 187 (1994).

In fact, even in Federal Court in Georgia, the court has ruled the General Assembly is the only legislative body with the power to enact redistricting legislation for the counties; therefore, where the General Assembly failed to enact reapportionment legislation for a certain county, although it was entitled to consideration as an expression of county policy, a reapportionment plan proposed by a county was not a legislatively enacted plan requiring deferential treatment and the district court was required to fashion a reapportionment plan. Bodker v. Taylor, 2002 U.S. Dist. LEXIS 27447 (N.D. Ga. June 5, 2002). In January, Georgia State Attorney General, Chris Carr stated that the Cobb County Commission's move to amend its electoral redistricting map is "inappropriate and not legally binding."

Per the letter dated December 22, 2022, from C. Ryan Germany, General Counsel for the Office of the Secretary of State, "you should not consider the ministerial function of filing the Amendment with our office or the publishing of the Amendment to the a comment on whether the Amendment is allowable under state law or a proper exercise of the authority by the Cobb County Commission, nor should you rely on this to attempt to establish the validity of the Amendment." "In fact" he continues "it appears that the Amendment is very likely an unauthorized exercise of authority by the Cobb County Commissioner that does not comply to Georgia Law or the State Constitution.

With the majority of this Board's actions on October 25, 2022 and the resulting filing and recording with the Office of the Secretary of State on October 26, 2022, the boundaries of the districts from which county commissioners were elected in Districts 1 and 3 were changed (14) days prior to the General Election, and eight (8) days after early voting had begun using district boundaries for Districts 1 and 3 as approved by the Governor.

Furthermore, the Board of Elections certified the election of Commissioners in District 1 and 3 using the map as approved by the Governor on March 2, 2022 on November 15, 2022 and not the maps that the Board of Commissioners made effective on October 26, 2022.

In a letter dated October 3, 2022 Deputy Legislative Counsel D. Stuart Morelli, "It is practically indisputable that a county home rule resolution or ordinance changing the boundaries of the districts from which county commissioners are elected would be an action affecting the procedure for the election of the county's governing authority. O.C.G.A. 36-35-4.1, no such statutory authority exists for Georgia counties.

In January, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

Quotes by DaShanne Stokes, "Leadership by deception isn't leadership. It's fraud. Truth is hard, propaganda is cheap."

While I am here representing my constituents and fulfilling my duties as an elected official, I hereby request the clerk to attach this statement to each vote that is recorded herein.

A RESOLUTION**Approving a Fee Schedule for Special Fire Services.**

WHEREAS, the Cobb County Board of Commissioners recognize the importance of providing special fire services including but not limited to fire watch, fire standby, the cleanup of hazardous materials, lift assist, and the equipment, supplies, and/or personnel affiliated with special fire services to Cobb County residents, businesses, and visitors; and

WHEREAS, the Cobb County Fire & Emergency Services is responsible for providing special fire services; and

WHEREAS, the Official Code of Cobb County Section 54-62 provides for the assessment and collection of fees for special fire services performed by the Cobb County Fire & Emergency Services; and

WHEREAS, Code Section 54-62 provides for recovery of the cost of special fire services from the party requesting or requiring the services; and

WHEREAS, Code Section 54-62 allows the Fire Chief to prepare a fee schedule for special fire services performed by the Cobb County Fire & Emergency Services; and

WHEREAS, the Fire Chief has prepared a fee schedule for special fire services performed by the Cobb County Fire & Emergency Services which is attached hereto as Exhibit "A" - Special Fire Services Fee Schedule; and

WHEREAS, the Special Fire Services Fee Schedule is based upon the actual cost of providing the services, including but not limited to personnel costs, equipment costs, and administrative costs; and

WHEREAS, the Fire Chief has presented the Special Fire Services Fee Schedule to the Board of Commissioners for review; and

WHEREAS, the Cobb County Board of Commissioners has determined that the fees contained therein are reasonably related to the purposes for which they are charged.

NOW, THEREFORE, BE IT RESOLVED by the Cobb County Board of Commissioners that the Special Fire Services Fee Schedule set forth in Exhibit "A" is approved and adopted.

BE IT FURTHER RESOLVED that the Special Fire Services Fee Schedule be made available to the public on the County's website and at the Cobb County Fire & Emergency Services' offices; and

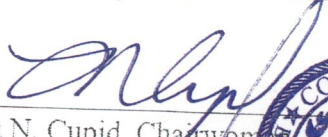
BE IT FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption by the Commissioners; however, the Special Fire Fee Schedule shall take effect on May 1, 2023.

BE IT FURTHER RESOLVED that all any resolution or parts thereof in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict.

CERTIFICATION

The undersigned duly qualified Chairwoman of the Cobb County Board of Commissioners, acting on behalf of the Cobb County Board of Commissioners, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Cobb County Board of Commissioners held on 4/25, 2023.

This 18th day of May, 2023.

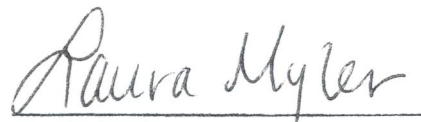

Lisa N. Cupid, Chairwoman
Cobb County Board of Commissioners



Attest:


For Pamela L. Mabry, Clerk

Approved As To Form:


COBB COUNTY ATTORNEY'S OFFICE

APPROVED
PER MINUTES OF
COBB COUNTY
BOARD OF COMMISSIONERS
4/25/23

EXHIBIT A

Special Fire Services Schedule

Service:	Cost:
Professional fire watch	\$75 per fire personnel per hour
Fire standby per fire apparatus ²	\$440 per hour (includes vehicle staffed with 3-4 fire personnel)
EMS standby personnel ²	\$75 per EMS personnel per hour
EMS standby per rescue ²	\$200 per hour (includes vehicle staffed with 2 fire personnel)
Lift assist	\$220 per half hour per fire or EMS personnel
Hazardous materials clean up	Actual Cost ³
Equipment and supplies	Actual Cost ³
Other special services ⁴	Actual Cost ³ , plus labor costs of \$75 per fire personnel per hour

¹ All costs shall be assessed and collected pursuant to the provisions in Official Code of Cobb County Section 54-62. Costs are exclusive of any fees associated with Cobb County Fire & Emergency Services permits, inspections, and/or penalties and fines.

² A three hour minimum will be assessed for all standby requests.

³ Actual costs are based upon current FEMA equipment rates which can be found on FEMA's website (www.FEMA.gov/assistance/public/toos-resources/schedule-equipment-rates).

⁴ Other special fire services will be assessed on a case-by-case basis as determined by the Fire Chief, Fire Marshal, or their designee, in accordance with Chapter 54 of the Official Code of Cobb County.

COBB COUNTY BOARD OF COMMISSIONERS

RESOLUTION

ADOPTING ALL BUDGET AMENDMENTS SET
FORTH IN AGENDA ITEMS ON THIS DATE

WHEREAS, Georgia Law, O.C.G.A. § 36-81-3 (b), requires each unit of government to operate under an annual balanced budget adopted by ordinance or resolution; and

WHEREAS, Cobb County Code 2-49 provides for revisions to the adopted budget during the year only by formal action of the commission in a regular meeting; and

WHEREAS, in official opinion date February 24, 1999, the Attorney General of the State of Georgia concluded that all amendments to the budgets of local government must be adopted by ordinance or resolution;

NOW, THEREFORE, BE IT RESOLVED the Cobb County Board of Commissioners does hereby adopt all such budget amendments as are set forth in agenda items which are adopted by the Board of Commissioners without change this date, as well as other such budget amendments as shall be specifically detailed in motions adopted by the Board of Commissioners this date.

This 25th of April 2023