



CLAY COUNTY BOARD OF COMMISSIONERS

Commission Chambers, Fort Gaines, Georgia
Amended Minutes

August 3, 2010
Regular Meeting
7:00 p.m.

1) Call to Order and Opening Prayer

Chairman David Shivers called the regular meeting to order at 7:00 p.m. Commissioner Fair gave the opening prayer. Chairman David Shivers, Vice Chairman Barry Waters, and Commissioners James Davenport, Walt Killingsworth, and Radar Fair, Sr. were all in attendance as well as County Attorney Bill Mills, County Administrator Spencer Mueller, County Accounts Payable Clerk Lori McMullen, and County Clerk Adria Williams.

2) Agenda Approval

The following items were added to the agenda:

- 8e. Creation of Sub-Committee to Establish Regulations for Pre-Owned Manufactured Homes
- 8f. Resign Resolutions 10-054, 10-055, 10-056, and 10-057
- 8g. Approval of Recovery Zone Resolution
- 8h. Discussion on Nomination for ACCG Board of Managers

Motion made by Vice Chairman Waters to approve the agenda with the amendments. Motion seconded by Commissioner Fair; motion carried.

3) Annual Appointments - None

4) Presentations before the Board

- a. Ken Penuel – USACE Shoreline Management Plan
Mr. Penuel informed the Board of the Corps proposed Shoreline Management Plan Changes. The changes will severely impact the land values of lake front properties. The plan should be available by September or October. He will contact the Board with information as to when and where the public hearing will be held.

5) Minutes

- a. July 20, 2010 Regular Meeting
Motion made by Commissioner Fair to approve the July 20, 2010 regular meeting. Motion seconded by Vice Chairman Waters.
Chairman Shivers noted that the following corrections were needed:
Under line item 8f., change, "Motion made to approve Clay County Family Connection FY11 Service Agreement and authorize the County Administrator to sign by Commissioner Fair." to, "Motion made by Commissioner Fair to approve the Clay County Family Connection FY11 Service Agreement and authorize the County Administrator to sign." Under line item 8g., change, " Motion made to approve the RVRC Energy Efficiency and Conservation Block Grant Agreement and to authorize Chairman David Shivers to sign when available by Commissioner Fair." to, "Motion made by Commissioner Fair to approve the RVRC Energy Efficiency and Conservation Block Grant Agreement and to authorize Chairman David Shivers to sign." Under line item 13), change, "Vice Chairman Waters explained that the consent agenda to approve without discussion." to, "Vice Chairman Waters explained that the consent agenda is to be approved without discussion."
Vice Chairman Waters asked Commissioner Fair if he accepted the corrections to his motion. Commissioner Fair accepted. Motion carried.

6) Correspondence Requiring Action

7) Unfinished Business

- a. SW Regional Development Authority Board Member Resignation Email
Motion made by Vice Chairman Waters to approve Carolyn Copelan as the replacement member. Motion seconded by Commissioner Davenport; motion carried.
Commissioner Davenport asked if the ex-officio would have to be replaced. The by-laws will have to be reviewed before answering. The County Clerk will provide the by-laws for the authority and place item on the August 17th agenda for discussion.



CLAY COUNTY BOARD OF COMMISSIONERS

Commission Chambers, Fort Gaines, Georgia
Amended Minutes

- b. **RVRC FY11 Planning and Zoning Technical Assistance Fees**
Motion made by Vice Chairman Waters to negotiate additional reductions in the technical zoning and assistance fees. Motion seconded by Commissioner Davenport.
Chairman Shivers felt that the Board had been negotiating with RVRC enough. They've lowered the fees to \$3500 and are not coming to the meetings held by the Commission Board. He thinks the \$4500 is reasonable for the work they've been doing and that the Zoning Commission supports the Board keeping all the assistance they can get from RVRC. Vice Chairman Waters stated that RVRC voluntarily reduced the fees and that negotiations haven't been made due to a tied vote during the July 6th meeting. He would like to negotiate the fee lower. Vice Chairman Waters asked the Chairman to call question. Vice Chairman Waters and Commissioners Davenport and Killingsworth voted in favor of the motion. Commissioner Fair voted to abstain. Motion carried.
Motion made by Vice Chairman Waters for the Board to allow him to represent Clay County in negotiations with the RVRC. Motion seconded by Commissioner Davenport. Commissioner Killingsworth asked how long it will take; the issue needed to be done. Vice Chairman Waters stated he will have it ready for the August 17th meeting. Vice Chairman Waters and Commissioners Davenport and Killingsworth were in favor of the motion. Commissioner Fair voted to abstain. Motion carried.
- c. **Discussion on Bank Charges- Analysis Fees**
Chairman Shivers stated that Regions Bank had paid their business license tax for 2009 in the amount of \$3296.00. They are now current on their licensing fees. Chairman Shivers was concerned with the bank's analysis fees to the County. Vice Chairman Waters asked what the concern was. The Chairman felt that a representative from the bank should have come to explain the charges. A letter had been sent to Regions for an explanation of the charges. The County Administrator asked that he and the Accounts Payable Clerk be allowed to explain the fees. The Administrator stated that the fees go back to when the funds were in a sweep account. Abbey Bailey, Regions Bank, Fort Gaines Branch Assistant Manager believes the funds have been credited. A daily charge applies to the accounts based on the activity. It costs about \$69.00 per month to manage all of the accounts. The Accounts Payable Clerk stated that the analysis fee only comes out of one account but is charged for all accounts. Further into discussion, the Administrator recommended creating a separate payroll account and investing the funds in the money market account. The Administrator stated that they will present the Board with administrative recommendations on the best leverage for County funds. Vice Chairman Waters asked Attorney Mills for suggestions to get a response from Regions. Attorney Mills suggested sending a letter to the Regions Bank President for this area (Jimmy).
Motion made by Chairman Shivers for the County Administrator to get proposals from Regions Bank and another bank on the interest rates paid on checking accounts and the different types of accounts offered. Motion seconded by Commissioner Fair; motion carried unanimously.
- d. **Reformatted Resolution for Conditional Funding of County Agencies**
Motion made by Vice Chairman Waters to postpone due to not having a reformatted resolution. Chairman Shivers asked when the Board voted to have that done. Vice Chairman Waters stated 7/6/10. The resolution was approved; item 8i. A copy of the July 6th minutes was requested by Ken Penuel. Chairman Shivers wanted a copy as well. Attorney Mills stated he had sent letters to the Board and that he thought the purpose for reformatting was putting the resolution in the code vernacular. After further lengthy discussion, Commissioner Killingsworth stated to let him know when they were done arguing, and he left. Chairman Shivers moved on to item 8a.
- 8) **New Business**
- a. **Discussion on Water Fund Budget- Losses**
County Administrator Mueller reviewed the Water Fund's losses and informed the Board that the FY10 year may end with a \$70,000 deficit on the Water System. He suggested that any prior General Fund monies used for the Water System be shown as a loan. He stated that Bill Caldwell of R-Cap will be meeting with him to help diagnose the problems with the Water System and provide basic solutions to get to a breakeven point. The discussion continued with Commissioner Fair and Commissioner Davenport expressing their concern with the water system, the Administrator providing examples of fees to improve the fund, and Mr. Lee Hubbard providing his input on the way the City of Bluffton handles their water system. Chairman Shivers stated that the Board would look into finding avenues to save as much as they can. The Accounts Payable Clerk commented to the Board that a resolution was needed to cover over expenditures in the water fund. A line item would be added to water fund revenue as – loan from General Fund – used to cover over expenditures.
- b. **Resolution Approval- Resolution 10-058 Amend Economic Development Council FY2011 Budget**



CLAY COUNTY BOARD OF COMMISSIONERS

Commission Chambers, Fort Gaines, Georgia
Amended Minutes

Chairman Shivers asked when the Board approved the resolution. Vice Chairman Waters stated that the Board hasn't approved it and asked the Chairman to recuse himself from the discussion due to his being a member of the EDC. Motion made by Vice Chairman Waters to approve Resolution 10-058. The Chairman asked when the Board had the County office or Attorney to draw up the resolution. Attorney Mills stated that he hadn't. The Vice Chairman asked the Chairman again to recuse himself from the discussion. The Chairman refused and stated that the resolution was not approved by the Board to be drawn up. Motion made by Chairman Shivers to deny the resolution. There was not a second to either of the motions. The Chairman moved on to item 8c.

c. Discussion on Adopting Parliamentary Procedures

Chairman Shivers stated he would oppose the parliamentary procedure. He showed the handbook Robert's Rules of Order and stated it was a simple guideline they could follow. Commissioner Fair stated he had one and in it, it stated that the Chairman is supposed to recognize any Commissioner and give him a chance to speak. Vice Chairman Waters stated that ACCG put the document together which specifically focuses on County Commissions. He asked that the Board review it and discuss it at the next regular meeting. The Board engaged in discussion on Robert's Rules of Orders handbook regarding the Chairman of a Board voting. Chairman Shivers suggested getting opinions from ACCG. Vice Chairman Waters stated that it is ACCG's guideline based on their study of Robert's Rules and their suggested guidelines. Motion made by Commissioner Fair to move on. Chairman Shivers moved on to item 8d.

d. Discussion on Nuisance Abatement Ordinance

Vice Chairman Waters asked the Board to review the ordinance and decide if they want to refer it to the County Attorney. Attorney Mills encouraged the Board to review it before referring it to him.

e. Creation of Sub-Committee to Establish Regulations for Pre-Owned Manufactured Homes

Motion made by Vice Chairman Waters to establish a sub-committee to research the issue of establishing conditions for and regulating mobile homes in Clay County. Motion seconded by Commissioner Fair. Motion made by Vice Chairman Waters to nominate Commissioner Davenport and Commissioner Fair to be the sub-committee and return to the Board at the next meeting a list of conditions as a starting point for the Board to consider (if they will accept the nomination). Motion seconded by Commissioner Fair; motion carried.

f. Resign Resolutions 10-054, 10-055, 10-056, and 10-057

Motion made by Vice Chairman Waters to resign resolutions 10-054, 10-055, 10-056, and 10-057. Motion seconded by Commissioner Fair; motion carried.

g. Recovery Zone Resolution

Motion made by Vice Chairman Waters to approve Resolution 10-060 a Resolution of the Board of Commissioners of Clay County designating a recovery zone pursuant to the American Recovery and Reinvestment Act of 2009; and for other purposes. Motion seconded by Commissioner Fair; motion carried.

h. Discussion on Nomination for ACCG Board of Managers

Motion made by Vice Chairman Waters to nominate himself. Motion seconded by Commissioner Davenport; motion carried.

9) **Comments from the Public**

Ken Penuel- Gave an informal apology about the meeting as well as a brief update on the Phenomenal Trail. Attorney Mills- He informed the Board of his completing the Body Art Ordinance to comply with codification. He suggested the Board look into adding permitting fees.

10) **Comments from Department Heads & Constitutional Officers**

11) **Administrator Comments, Reports & Recommendations**

Administrator Mueller notified the Board that we're nearing the end of the FY10 budget and they'll see more amendments due to over expenditures. He also updated them on the following:

1. HVAC- still in progress
2. Culvert bids- in progress; DOT gave the go ahead with the proposed fix plan; it meets their standards
3. Sutton's Museum- closed out by One Georgia



CLAY COUNTY BOARD OF COMMISSIONERS

Commission Chambers, Fort Gaines, Georgia
Amended Minutes

12) Comments from the Board

Commissioner Fair- Expressed his concerns of the arguments of the Board. He asked the Attorney for an update on Pop's Deli. The Attorney stated that there was an offer to purchase the contents. He informed the Board that once selling the contents that the County now owns, they can proceed with getting payment on the final net amount owed.

Commissioner Davenport- Expressed his disappointment with the Board arguing in a meeting. He was concerned about the public being concerned about the purchase of the knuckle boom truck and the road crew on open mowers being subjected to hornet stings. He asked if 1st aid kits were on the mowers. The Administrator stated he would look into it. He inquired about the chuckle given by Mr. Penuel during item 8e. Mr. Penuel stated it was for sympathy and that it wasn't derogatory.

Vice Chairman Waters- Inquired about the status of the sound proof door for the Magistrate Judge. The Administrator stated that nothing had been done at this time; he will work on it. The Vice Chairman provided audio recordings to the Board from the ACCG Transportation and Property Tax Information Session attended by both he and the County Administrator.

Chairman Shivers- Stated that the \$3926.00 from Regions Bank and the \$14,827.00 from Worker's Compensation Payroll Audit made for a good week. He also apologized for not conducting the meeting smoothly. The Chairman then adjourned the meeting but had to reopen the meeting to approve the invoices.

13) Invoices to Be Approved

Motion made by Commissioner Fair to approve the invoices. Motion seconded by Commissioner Davenport. Vice Chairman Waters questioned the amount of \$3075 to the library. The Accounts Payable Clerk stated it was their regular budgeted amount. Motion carried.

14) Consent Agenda

15) Executive Session (If Needed)

16) Adjourn

There being no further business, the meeting adjourned at 9:50 p.m.

Handwritten signature of David Shivers in cursive.

David Shivers, Chairman

Handwritten date "8-25-10" in cursive.

Date

I HEREBY AFFIRM THAT I AM THE COUNTY CLERK AND THAT THIS IS A TRUE AND CORRECT COPY OF THE AUGUST 3, 2010 REGULAR MEETING OF THE CLAY COUNTY BOARD OF COMMISSIONERS.

Handwritten signature of Adria Williams in cursive.

Adria Williams, County Clerk

Handwritten date "8-4-2010" in cursive.

Date

RESOLUTION 10-060

RESOLUTION OF THE BOARD OF COMMISSIONERS OF CLAY COUNTY DESIGNATING A RECOVERY ZONE PURSUANT TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; AND FOR OTHER PURPOSES

WHEREAS, the American Recovery and Reinvestment Act of 2009 (“**Recovery Act**”) authorizes States and local governments to issue a new category of tax-exempt private activity bonds, called Recovery Zone Facility Bonds (“**Facility Bonds**”) that may be issued by States and local governments and entities empowered to issue bonds on behalf of States and local governments; and

WHEREAS, Facility Bonds may be issued to finance facilities and other projects within designated “recovery zones” as described in the Recovery Act; and

WHEREAS, pursuant to the Recovery Act, the term “recovery zone” means:

- (1) any area designated by the issuer as having significant poverty, unemployment, rate of foreclosures, or general distress;
- (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and
- (3) any area for which a designation as an empowerment zone or renewal community is in effect as of February 17, 2009; and

WHEREAS, pursuant to Notice 2009-50, the United States Treasury has issued guidance whereby an issuer may make a designation of a recovery zone in any reasonable manner as it shall determine in good faith in its discretion.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Clay County (the “**Board of Commissioners**”), as follows:

1. Designation of Recovery Zone. Based on the criteria provided in the Recovery Act for establishing a recovery zone, the Board of Commissioners hereby determines, in good faith, that the area of Clay County (the “**County**”) described on Exhibit A attached hereto (i.e., the “**Area**”), has significant poverty, unemployment, rates of home foreclosures, and/or general distress, as more specifically noted on said Exhibit A, and it is appropriate and desirable for the Board of Commissioners to designate (and the Board of Commissioners hereby designates) the Area as a recovery zone for purposes of the Recovery Act (“**Recovery Zone**”).

2. General Authorization. From and after the date of adoption of this Resolution, the officials, employees and agents of the County are hereby authorized to do all such acts and things and to execute and deliver any and all other documents, certificates and other instruments as may be necessary and desirable in connection with the implementation of the transactions contemplated hereby.

3. Governing Law. This Resolution shall be governed by and shall be construed under and enforced in accordance with the laws of the State of Georgia, without regard to the provisions of Georgia law relating to conflict of laws.

4. Conflicts. Any and all resolutions or parts of resolutions heretofore adopted which are in conflict with this Resolution shall be and the same are hereby repealed, and this Resolution shall be in full force and effect from and after its adoption.

5. Effective Date. This Resolution (including the recitals first above written, which are hereby incorporated into this Resolution) shall take effect immediately upon its adoption; a copy of this Resolution may be filed in the official records of the Board of Commissioners.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

EXHIBIT A

**DESCRIPTION OF THE RECOVERY ZONE
AND MANNER FOR ITS DESIGNATION**

The Recovery Zone consists of each census tract within the territorial boundaries of Clay County which meets any one or more of the following criteria:

- (1) a census tract with a poverty rate of 15 percent or greater as determined from data in the most current United States decennial census; or
- (2) a census tract that is eligible under the federal New Markets Tax Credit Program; or
- (3) a census tract that suffers from a "foreclosure risk index score" of 18 or greater based on data from the U.S. Department of Housing and Urban Development's Neighborhood Stabilization Program 2.

The following census tracts in Clay County meet the requirements above:

9601

9602

The foregoing census tracts constitute the entire territorial boundaries of Clay County. Therefore, all of Clay County is designated by this Resolution as a recovery zone for purposes of the Recovery Act.

PASSED AND ADOPTED after the first and only reading this 3rd day of August, 2010.

COUNTY OF CLAY, STATE OF GEORGIA

BY: David Shivers Yea Nay Abstain No Vote
David Shivers, Chairman

BY: Barry Waters Yea Nay Abstain No Vote
Barry Waters, Vice Chairman

BY: Radar Fair Yea Nay Abstain No Vote
Radar Fair

BY: James Davenport Yea Nay Abstain No Vote
James Davenport

BY: _____ Yea Nay Abstain No Vote
Walt Killingsworth

CERTIFICATE OF CLERK

The undersigned Clerk of the Board of Commissioners of Clay County, **DOES HEREBY CERTIFY** that the foregoing pages constitute a true and correct copy of a Resolution adopted by the Board of Commissioners of Clay County on the 3 day of August, 2010, the original of such Resolution being duly recorded in the Minute Book of the Board of Commissioners of Clay County, which Minute Book is in my custody and control.

GIVEN under my hand and the official seal of Clay County, this 3 day of August, 2010.

Alma Dilliam
Clerk of the Board of Commissioners
of Clay County

[SEAL]