

References

Commissioners' Oath of Office

"I, (name), do swear (or affirm) that I will well and truly discharge the duties of Commissioner for Cobb County, in all matters which require my official action, to the best of my knowledge and skill, and I will so act as in my judgment will be most conducive to the welfare and best interests of the entire county.

I do further solemnly swear (or affirm) that I am not the holder of any unaccounted for public money due this state, or any political subdivision or authority thereof, that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am prohibited from holding by the laws of the State of Georgia; and that I am otherwise qualified to hold said office, according to the Constitution of the United States and the laws of Georgia; and that I will support the Constitutions of the United States and of this State, and that I have been a resident of Cobb County, Georgia for the time required by the Constitution and the laws of the State of Georgia."

Cobb County Code of Ethics

Cobb County, Georgia, Code of Ordinances

PART I - OFFICIAL CODE OF COBB COUNTY, GEORGIA

Chapter 2 - ADMINISTRATION

ARTICLE II. - BOARD OF COMMISSIONERS

DIVISION 2. - CODE OF ETHICS

Subdivision I. In General

Sec. 2-45. Compliance with applicable law.

No officer shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to him by virtue of his office. Other provisions of law or regulations relating to this division shall apply when any provisions of this division shall conflict with the laws of the state or the United States. The laws of the state or the United States shall apply when this division is silent. (Ord. of 11-14-89, § 105; Code 1977, § 3-20-35)

Additional Documents

Memorandum of Understanding (MOU), Nov. 26, 2013 (file document, included by reference))

Appendix A

Resolution for Creation of Special Districts (Preamble only), -

Appendix B

Constitution of the State of Georgia, Home Rule for Counties and Municipalities, Article IX, Section II, Paragraph 1 -

Appendix C

Constitution of the State of Georgia, Supplementary Powers, Article IX, Section III -
Constitution of the State of Georgia, Special Districts, Article IX, Section VI -

Appendix D

Constitution of the State of Georgia, Limitation on Local Debt, Art. IX, Sect. V, ¶1
Constitution of the State of Georgia, Limitation on Local Debt, Art. IX, Sect. V, ¶2
Constitution of the State of Georgia, Revenue Bonds, Article IX, SECTION VI

Appendix E

O.C.G.A. 50-32-12, Creation and activation of special districts, GRTA Jurisdiction
O.C.G.A. 48-8-81, Creation of special districts, Joint County and Municipal Sales & Use Tax
O.C.G.A. 48-13-50.1, Creation of special districts, Excise Tax on Rooms, Lodgings, & Accommodations

Appendix F

O.C.G.A. 48-13-92, Creation of Special Districts, Excise Taxes on Rental Motor Vehicles
O.C.G.A. 48-13-111, Creation of Special Districts, Excise Tax on Sale or Use of Energy

Appendix G

Minutes, BOC Meeting, 11-26-2013, Vote to approve the MOU

Appendix H

Agenda, BOC Meeting, 02-25-2014, Vote to approve 2 new Special Districts, two taxes, one "fee"

Appendix A

DRAFT / SUBJECT TO CHANGE

RESOLUTION OF THE BOARD OF COMMISSIONERS OF COBB COUNTY, GEORGIA CREATING "CUMBERLAND SPECIAL SERVICES DISTRICT NO. 1" FOR THE PROVISION OF LOCAL GOVERNMENT SERVICES WITHIN SUCH DISTRICT, AND AUTHORIZING THE LEVY AND COLLECTION OF FEES WITHIN SUCH DISTRICT, TO PAY, WHOLLY OR PARTIALLY, THE COST OF PROVIDING SUCH SERVICES THEREIN, AND TO CONSTRUCT AND MAINTAIN FACILITIES THEREFOR, AND OTHER MATTERS RELATED THERETO.

PREAMBLE

WHEREAS, Article IX, Section II, Paragraph III of the Georgia Constitution ("**Supplemental Powers Clause**") and applicable State law authorize Cobb County, Georgia (the "**County**"), a political subdivision of the State of Georgia (the "**State**") to provide certain specified local government services to County residents; and

WHEREAS, Article IX, Section II, Paragraph VI of the Georgia Constitution ("**Special Districts Clause**") authorizes the Board of Commissioners of Cobb County, Georgia (the "**Board**") on behalf of the County to create special districts for the provision of local government services within such districts and to levy and collect fees, assessments and taxes therein to pay, wholly or partially, the cost of providing such services and to construct and maintain facilities therefor; and

Appendix B

HOME RULE FOR COUNTIES AND MUNICIPALITIES

Article IX Section II Paragraph 1

(c) The power granted to counties in subparagraphs (a) and (b) above shall not be construed to extend to the following matters or any other matters which the General Assembly by general law has preempted or may hereafter preempt, but such matters shall be the subject of general law or the subject of local acts of the General Assembly to the extent that the enactment of such local acts is otherwise permitted under this Constitution:

(1) Action affecting any elective county office, the salaries thereof, or the personnel thereof, except the personnel subject to the jurisdiction of the county governing authority.

(2) Action affecting the composition, form, procedure for election or appointment, compensation, and expenses and allowances in the nature of compensation of the county governing authority.

(3) Action defining any criminal offense or providing for criminal punishment.

(4) Action adopting any form of taxation beyond that authorized by law or by this Constitution.

(5) Action extending the power of regulation over any business activity regulated by the Georgia Public Service Commission beyond that authorized by local or general law or by this Constitution.

(6) Action affecting the exercise of the power of eminent domain.

(7) Action affecting any court or the personnel thereof.

(8) Action affecting any public school system.

(d) The power granted in subparagraphs (a) and (b) of this Paragraph shall not include the power to take any action affecting the private or civil law governing private or civil relationships, except as is incident to the exercise of an independent governmental power.

(e) Nothing in subparagraphs (a), (b), (c), or (d) shall affect the provisions of subparagraph (f) of this Paragraph.

(f) The governing authority of each county is authorized to fix the salary, compensation, and expenses of those employed by such governing authority and to establish and maintain retirement or pension systems, insurance, workers' compensation, and hospitalization benefits for said employees.

(g) No amendment or revision of any local act made pursuant to subparagraph (b) of this section shall become effective until a copy of such amendment or revision, a copy of the required notice of publication, and an affidavit of a duly authorized representative of the newspaper in which such notice was published to the effect that said notice has been published as provided in said subparagraph has been filed with the Secretary of State. The Secretary of State shall provide for the publication and distribution of all such amendments and revisions at least annually.

Appendix C

Paragraph III. *Supplementary powers*

Paragraph III. *Supplementary powers.* (a) In addition to and supplementary of all powers possessed by or conferred upon any county, municipality, or any combination thereof, any county, municipality, or any combination thereof may exercise the following powers and provide the following services:

- (1) Police and fire protection.
- (2) Garbage and solid waste collection and disposal.
- (3) Public health facilities and services, including hospitals, ambulance and emergency rescue services, and animal control.
- (4) Street and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic on streets and roads constructed by counties and municipalities or any combination thereof.

- (5) Parks, recreational areas, programs, and facilities.
- (6) Storm water and sewage collection and disposal systems.
- (7) Development, storage, treatment, purification, and distribution of water.
- (8) Public housing.
- (9) Public transportation.
- (10) Libraries, archives, and arts and sciences programs and facilities.
- (11) Terminal and dock facilities and parking facilities.
- (12) Codes, including building, housing, plumbing, and electrical codes.
- (13) Air quality control.

(14) The power to maintain and modify heretofore existing retirement or pension systems, including such systems heretofore created by general laws of local application by population classification, and to continue in effect or modify other benefits heretofore provided as a part of or in addition to such retirement or pension systems and the power to create and maintain retirement or pension systems for any elected or appointed public officers and employees whose compensation is paid in whole or in part from county or municipal funds and for the beneficiaries of such officers and employees.

(b) Unless otherwise provided by law ,

(1) No county may exercise any of the powers listed in subparagraph (a) of this Paragraph or provide any service listed therein inside the boundaries of any municipality or any other county except by contract with the municipality or county affected; and

(2) No municipality may exercise any of the powers listed in subparagraph (a) of this Paragraph or provide any service listed therein outside its own boundaries except by contract with the county or municipality affected.

(c) Nothing contained within this Paragraph shall operate to prohibit the General Assembly from enacting general laws relative to the subject matters listed in subparagraph (a) of this Paragraph or to prohibit the General Assembly by general law from regulating, restricting , or limiting the exercise of the powers listed therein ; but it may not withdraw any such powers.

(d) Except as otherwise provided in subparagraph (b) of this Paragraph, the General Assembly shall act upon the subject matters listed in subparagraph (a) of this Paragraph only by general law .

Paragraph VI - *Special Districts*

Paragraph VI. *Special districts.* As hereinafter provided in this Paragraph, special districts may be created for the provision of local government services within such districts; and fees, assessments, and taxes may be levied and collected within such districts to pay, wholly or partially, the cost of providing such services therein and to construct and maintain facilities therefor. Such special districts may be created and fees, assessments, or taxes may be levied and collected therein by any one or more of the following methods:

- (a) By general law which directly creates the districts.
- (b) By general law which requires the creation of districts under conditions specified by such general law .
- (c) By municipal or county ordinance or resolution, **except that no such ordinance or resolution may supersede a law enacted by the General Assembly pursuant to subparagraphs (a) or (b) of this Paragraph.**

Appendix D

GEORGIA CONSTITUTION

ARTICLE IX, SECTION V.

LIMITATION ON LOCAL DEBT

Paragraph I. *Debt limitations of counties, municipalities, and other political subdivisions*. (a) The debt incurred by any county, municipality, or other political subdivision of this state, including debt incurred on behalf of any special district, shall never exceed 10 percent of the assessed value of all taxable property within such county, municipality, or political subdivision; and no such county, municipality, or other political subdivision shall incur any new debt without the assent of a majority of the qualified voters of such county, municipality, or political subdivision voting in an election held for that purpose as provided by law.

GEORGIA CONSTITUTION

ARTICLE IX. SECTION V.

LIMITATION ON LOCAL DEBT

Paragraph II. *Special district debt* Any county, municipality, or political subdivision of this state may incur debt on behalf of any special district created pursuant to Paragraph VI of Section II of this article. Such debt may be incurred on behalf of such special district where the county, municipality, or other political subdivision shall have, at or before the time of incurring such debt, provided for the assessment and collection of an annual tax within the special district sufficient in amount to pay the principal of and interest on such debt within 30 years from the incurrence thereof; and no such county, municipality, or other political subdivision shall incur any debt on behalf of such special district without the assent of a majority of the qualified voters of such special district voting in an election held for that purpose as provided by law. No such county, municipality, or other political subdivision shall incur any debt on behalf of such special district in an amount which, when taken together with all other debt outstanding incurred by such county, municipality, or political subdivision and on behalf of any such special district, exceeds 10 percent of the assessed value of all taxable property within such county, municipality, or political subdivision. The proceeds of the tax collected as provided herein shall be placed in a sinking fund to be held on behalf of such special district and used exclusively to pay off the principal of and interest on such debt thereafter maturing. Such moneys shall be held and kept separate and apart from all other revenues collected and may be invested and reinvested as provided by law.

GEORGIA CONSTITUTION

Article IX, SECTION VI.

REVENUE BONDS

Paragraph I. *Revenue bonds; general limitations*. Any county, municipality, or other political subdivision of this state may issue revenue bonds as provided by general law. The obligation represented by revenue bonds shall be repayable only out of the revenue derived from the project and shall not be deemed to be a debt of the issuing political subdivision. No such issuing political subdivision shall exercise the power of taxation for the purpose of paying any part of the principal or interest of any such revenue bonds.

Appendix E

TITLE 50. STATE GOVERNMENT
CHAPTER 32. GEORGIA REGIONAL TRANSPORTATION AUTHORITY
ARTICLE 2. JURISDICTION

O.C.G.A. § 50-32-12 (2013)

§ 50-32-12. Creation and activation of special districts

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. One such district shall exist within the geographic boundaries of each county, and the territory of each district shall include all of the territory within its respective county. Any special district within a county within the geographic area over which the authority has jurisdiction shall be deemed activated for purposes of this chapter.

TITLE 48. REVENUE AND TAXATION
CHAPTER 8. SALES AND USE TAXES
ARTICLE 2. JOINT COUNTY AND MUNICIPAL SALES AND USE TAX

O.C.G.A. § 48-8-81 (2013)

§ 48-8-81. Creation of special districts

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

TITLE 48. REVENUE AND TAXATION
CHAPTER 13. SPECIFIC, BUSINESS, AND OCCUPATION TAXES
ARTICLE 3. EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMMODATIONS

O.C.G.A. § 48-13-50.1 (2013)

§ 48-13-50.1. Creation of special districts

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. One such district shall exist within the geographical boundaries of each county, and the territory of each such district shall include all of the territory within the county except territory located within the boundaries of any municipality which imposes an excise tax on charges to the public for rooms, lodgings, and accommodations under this article.

Appendix F

TITLE 48. REVENUE AND TAXATION
CHAPTER 13. SPECIFIC, BUSINESS, AND OCCUPATION TAXES
ARTICLE 5. EXCISE TAXES ON RENTAL MOTOR VEHICLES

O.C.G.A. § 48-13-92 (2013)

§ 48-13-92. Special districts

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. One such district shall exist within the geographical boundaries of each county, and the territory of each district shall include all of the territory within the county except territory located within the boundaries of any municipality that imposes an excise tax on charges to the public for the rental or lease of rental motor vehicles under this article.

TITLE 48. REVENUE AND TAXATION
CHAPTER 13. SPECIFIC, BUSINESS, AND OCCUPATION TAXES
ARTICLE 6. EXCISE TAX ON SALE OR USE OF ENERGY

O.C.G.A. § 48-13-111 (2013)

§ 48-13-111. Creation of special districts

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution, there are created within this state 159 special districts. One such district shall exist within the geographical boundaries of each county, and the territory of each district shall include all of the territory within the county except territory located within the boundaries of any municipality that imposes an excise tax on energy under this article.

Appendix G Minutes of BOC Meeting Approving MOU, 11-26-2013

8B. ADOPTION OF RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY, THE COBB-MARIETTA COLISEUM EXHIBIT HALL AUTHORITY, AND THE ATLANTA NATIONAL LEAGUE BASEBALL CLUB, INC., THE OWNER AND OPERATOR OF THE ATLANTA BRAVES, A MAJOR LEAGUE BASEBALL FRANCHISE – BOARD OF COMMISSIONERS

MOTION: Motion by Lee, second by Birrell, to **adopt** a Resolution *as revised* authorizing the County to enter into the Memorandum of Understanding (MOU) *as revised and presented* between the County, the Cobb-Marietta Coliseum Exhibit Hall Authority (the Authority), and the Atlanta National League Baseball Club, Inc. (the Braves), the owner and operator of the Atlanta Braves, a Major League Baseball franchise, which MOU (a) sets forth certain material terms of the parties' agreements regarding the development, design, financing, construction and operation on approximately 60 acres of land in the County of (1) a new multi-purpose sports, entertainment and recreation facility (the Stadium) and certain parking areas to be owned by the Authority (the Authority Parking, and collectively with the Stadium, the Stadium Project) for exclusive use by the Braves in accordance with the MOU, and (2) a mixed-use retail and entertainment district (the Retail and Entertainment District) and privately owned parking to be developed in the County by the Braves or its affiliate or other private assignee and (b) the parties' agreement to negotiate in good faith to develop and execute certain agreements consistent with the MOU, including, without limitation, a Stadium Operating Agreement, an Intergovernmental Agreement, certain Bond Documents, a Transportation and Infrastructure Agreement, a Non-Relocation Agreement and a Construction Management Agreement, and **authorize** the Chairman to execute the necessary documents. A copy of the Resolution is attached and made a part of these minutes. A copy of the Memorandum of Understanding is attached and made a part of these minutes.

Funding: The County's contributions to finance a portion of the cost of construction and on-going capital maintenance of the Stadium Project will be budgeted in the respective budget years.

Clerk's Note: Prior to the vote on this item, discussion ensued among the Board of Commissioners. Each Commissioner stated their position on this issue, and Commissioner Cupid directed that the minutes reflect that she is not opposed to the Atlanta Braves moving to Cobb County.

VOTE: **ADOPTED** 4-1, Commissioner Cupid opposed

Chairman Lee called for a brief recess from 9:30 until 9:38 p.m.

Appendix H

Agenda, BOC Meeting, 02-25-2014, Vote to approve 2 new Special Districts, two taxes, one "fee" (Agenda is shown as Minutes had not yet been posted)

COBB COUNTY COUNTY ATTORNEY

Tab 9

PUBLIC HEARING AGENDA COVER

REGULAR MEETING OF FEBRUARY 25, 2014

**ITEM
NO.**

County Attorney

- 1 **To conduct the second public hearing to solicit comments and input on the proposed Rental Motor Vehicle Excise Tax Ordinance and to consider approval and adoption of such ordinance by amending Chapter 114 of the Official Code of Cobb County, Georgia to include the same as Article IV.**
- 2 **To conduct the second public hearing to solicit comments and input on the proposed Resolution and proposed Ordinance, "Article V, Cumberland Special Services District No. I" creating the Cumberland Special Services District No. I for the provision of local government services and facilities therein and to consider approval and adoption of the said Resolution and Ordinance by amending Chapter 114 of the Official Code of Cobb County, Georgia to include the same as Article V thereof.**
- 3 **To conduct the second public hearing to solicit comments and input on the proposed Resolution and proposed Ordinance, "Article VI, Cumberland Special Services District No. II" creating the Cumberland Special Services District No. II for the provision of local government services and facilities therein and to consider approval and adoption of the said Resolution and Ordinance by amending Chapter 114 of the Official Code of Cobb County, Georgia to include the same as Article VI thereof.**

