

**IN THE CIRCUIT COURT OF THE  
FOURTH JUDICIAL CIRCUIT, IN  
AND FOR CLAY COUNTY, FLORIDA**

**SCHOOL BOARD OF CLAY  
COUNTY, FLORIDA,**

**Petitioner,**

**Case No.:**

**vs.**

**CLAY COUNTY, by and through its  
BOARD OF COUNTY COMMISSIONERS,**

**Respondent.**

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**EMERGENCY PETITION FOR WRIT OF MANDAMUS**

Petitioner, **SCHOOL BOARD OF CLAY COUNTY, FLORIDA** (“Petitioner” or “School Board”), by and through its undersigned counsel, and pursuant to Florida Rule of Civil Procedure 1.630 and Florida Rules of Appellate Procedure 9.030(c)(3) and 9.100, hereby petitions this Court for a writ of mandamus compelling Respondent, **CLAY COUNTY, by and through its BOARD OF COUNTY COMMISSIONERS** (“Respondent” or “County Commission”), to take all necessary actions, by way of resolution, so as to cause to be placed upon the ballot for a November 5, 2019, special election (or such other date prior to December 31, 2019, specified by Petitioner) the one-half cent sales surtax enacted by the School Board, as set forth in the lawful and duly adopted resolution of the School Board dated June 27, 2019, and amended resolution dated

July 8, 2019, and transmitted to Respondent on June 27, 2019, and July 8, 2019, respectively, along with such other and further relief as the Court may deem appropriate.

## **BACKGROUND**

1. Petitioner is the constitutionally established school board for Clay County, Florida. *See* Art. IX, § 4, Fla. Const.

2. Respondent is the constitutionally established County Commission for Clay County. *See* Art. VIII, § 1(e), Fla. Const.

3. Among the powers enjoyed by the School Board, *see* § 1001.32(2), Fla. Stat. (2018),<sup>1</sup> is the power to levy a discretionary sales surtax to fund school capital outlay projects. *See* § 212.055(6), Fla. Stat. (2018).

4. Pursuant to its power to levy a discretionary sales surtax to fund school capital outlay projects, the School Board duly enacted a resolution ("Resolution") (Attachment A) and amendment thereto ("Amended Resolution") (Attachment B) on June 27, 2019, and July 8, 2019, respectively, enacting a one-half cent sales surtax in Clay County for thirty years beginning January 1, 2020, to be placed on the ballot for an election by Respondent, pursuant to the procedure set

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<sup>1</sup> Section 1001.32(2), Florida Statutes (2018), provides that “[i]n accordance with the provisions of s. 4(b) of Art. IX of the State Constitution, district school boards shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law.”

forth by section 212.055(6), Florida Statutes (2018). The Resolution asked Respondent to set the special election on a date to be set by the Supervisor of Elections, the date of which would be prior to December 31, 2019; the Amended Resolution asked that the special election be set for a date certain of November 5, 2019.

5. In order to ensure adequate funding of the School Board's budget and to commence and complete necessary maintenance and other capital projects of existing and future school facilities, the School Board included in its Amended Resolution a request that the surtax referendum, *see* § 212.055(6)(a)-(b), Fla. Stat. (2018), be included on the ballot for a special election to be called on November 5, 2019.

6. Specifically, the Resolution and Amended Resolution ask Respondent to place on the ballot for a special election to be called either on a date prior to December 31, 2019, or on November 5, 2019, the following question:

THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA,  
REFERENDUM ELECTION  
NOVEMBER 5, 2019

LEVY OF A ONE-HALF CENT SALES  
SURTAX FOR EDUCATION FACILITIES,  
TECHNOLOGY AND SECURITY.

SHALL A ONE-HALF CENT SALES SURTAX BE LEVIED IN CLAY COUNTY FOR A PERIOD OF THIRTY (30) YEARS, BEGINNING JANUARY 1, 2020, TO FINANCE CONSTRUCTION, RECON-STRUCTION, RENOVATION, REMODELING, LAND ACQUISITION AND

IMPROVEMENT OF SCHOOL FACILITIES, INCLUDING SAFETY, SECURITY, TECHNOLOGY UPGRADES, AND FACILITY IMPROVEMENTS? A LIST OF CRITICALLY NEEDED PROJECTS HAS BEEN PUBLISHED AND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS ADVISORY COMMITTEE.

Instructions to Voters

\_\_\_\_\_ FOR THE ½% (0.5 CENTS) TAX  
\_\_\_\_\_ AGAINST THE ½% (0.5 CENTS) TAX

7. The School Board’s Resolution and Amended Resolution were transmitted to Respondent on June 27, 2019, and July 8, 2019, respectively.

8. The County Attorney’s office for the Respondent prepared an agenda packet for Respondent Commissioners’ review in advance of its July 9, 2019, meeting. Included in that packet was an agenda item regarding the School Board’s Resolution enacting a one-half cent sales surtax. (Attachment C)

9. Respondent considered the School Board’s Resolution at its regularly scheduled and duly noticed July 9, 2019, public meeting. Video of the meeting is available (as of the date of filing the instant petition) at the following link: <https://clayfl.swagit.com/play/07092019-2050>. A copy of a transcript of excerpts of the meeting is attached hereto as Attachment D.<sup>2</sup>

10. At the beginning of the portion of Respondent’s July 9, 2019, public meeting concerning the School Board’s Resolution, in response to a question from

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<sup>2</sup> References to the transcript attached hereto as Attachment D will be made in the following format: Tr. p. \_\_, lines \_\_–\_\_.

one of Respondent Commissioners concerning the scope of Respondent's responsibility with respect to placing the referendum on the ballot for election, the County Attorney advised Respondent "my interpretation of that statute is that it's mandatory." *July 9, 2019 BCC Agenda*, New Business, Clay County, Florida (last visited July 18, 2019), at 5:45, <https://clayfl.swagit.com/play/07092019-2050> ("July 9, 2019 BCC Agenda Video"); Tr. p. 8, lines 12–13. Additionally, in response to a question from the Chairman of the County Commission as to the sufficiency of Petitioner's Resolution for purposes of action by Respondent, the County Attorney responded: "As to the part that I believe applies to you, yes, I think that the resolution meets those requirements." Tr. p. 7, lines 23–25.

11. Additionally, at its August 9, 2019, public meeting, Respondent, through its Chairman, stated that it would not consider Petitioner's Amended Resolution due to late notice, and that Respondent would only consider the original Resolution passed by the School Board on June 27, 2019. Tr. p. 15, lines 7–18. Accordingly, the School Board's original Resolution was the only matter considered by Respondent; Petitioner's Amended Resolution was ignored.

12. At its July 9, 2019, public meeting, Respondent declined to approve the School Board's resolution and instead returned the resolution to the School Board "to refine [it] and put a date for the November 2020 general election."

Wesley LeBlanc, *School board's half-cent sales tax denied*, Clay Today, July 11, 2019, at 1. *See* Tr. p. 40, lines 2–16.

### **JURISDICTION OF THIS COURT**

13. This Court has jurisdiction to issue a writ of mandamus pursuant to Article V, Section 5(b) of the Florida Constitution, Florida Rule of Civil Procedure 1.630,<sup>3</sup> and Florida Rules of Appellate Procedure 9.030(c)(3) and 9.100. Mandamus is the proper remedy because Respondent has a clear legal duty, pursuant to section 212.055(6), Florida Statutes (2018), to cause the proposition submitted by Petitioner to be placed on the ballot for a special election to be called on November 5, 2019, or some other date acceptable to Petitioner prior to December 31, 2019. The Respondent's duty to place the timely, properly constituted proposition on the ballot is ministerial and not subject to discretion.

### **STANDING**

14. Respondent's failure to adopt a resolution implementing the lawful request of Petitioner, pursuant to section 212.055(6), Florida Statutes (2018),

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<sup>3</sup> Although this Court also has authority to issue a writ of mandamus pursuant to Florida Rule of Civil Procedure 1.630, given the very limited time within which the Court has to act in order to provide for determination of this Petition so as to allow for the placement of the proposition on a November 5, 2019, or other date prior to December 31, 2019, special election ballot by the Supervisor of Elections, Petitioner believes that Florida Rule of Appellate Procedure 9.100 provides the Court more discretion as to the timing of proceedings held in furtherance of this Petition. Moreover, the Respondent Commission is a "lower tribunal" as that term is defined in Florida Rule of Appellate Procedure 9.020.

directly impacts the School Board and its statutory authority to place the proposition at issue before the electors of Clay County. Accordingly, Petitioner has standing.

### **FACTS UPON WHICH THE SCHOOL BOARD RELIES**

15. The facts supporting the instant petition for writ of mandamus are clear, simple, and straightforward. The School Board adopted a lawful resolution, pursuant to section 212.055(6), Florida Statutes (2018), to place on a special election ballot a referendum for a sales surtax to commence and complete necessary maintenance and other capital projects for existing and future school facilities. Notwithstanding Petitioner's timely request for a referendum to be put to, and decided by, the Clay County electors this year, Respondent determined that the proposition should be "sent back" to the School Board for revisions and the School Board should request that the referendum be placed on the ballot, at the earliest, in the 2020 General Election. Tr. p. 40, lines 2–16.

16. Respondent's duty to cause the School Board's proposition to "be placed on the ballot" is ministerial. § 212.055(6)(b), Fla. Stat. (2018). Respondent's decision to delay putting the School Board's proposed sales surtax to the electors of Clay County for at least another year is a breach of Respondent's clear legal duty, an abuse of its limited power in this context, and an unwarranted

intrusion into the legal authority of the School Board to decide the operational funding needs of Clay County's public school students.

17. School administrators and faculty members offered comments to Respondent during its July 9, 2019, public hearing on the School Board's Resolution concerning the dire state of various school facilities. During those comments, speakers also made clear that conditions will only get worse and the costs of maintenance and repair will continue to increase with time if the schools do not promptly obtain adequate funding for maintenance and repairs of existing and future school facilities. July 9, 2019 BCC Agenda Video, at 11:25, 22:10 28:25, 1:12:48.

#### **NATURE OF RELIEF REQUESTED**

18. Preliminarily, Petitioner asks the Court to issue an order directing Respondent to show cause why this Court should not promptly issue Petitioner's requested writ of mandamus compelling the County Commission to convene an emergency meeting for the sole purpose of issuing a proper and duly-authorized, lawful resolution directing the Supervisor of Elections to place upon the ballot for a special election to be held November 5, 2019, or some other date acceptable to the Petitioner prior to December 31, 2019, the proposition contained within Petitioner's Resolution dated June 27, 2019, and Amended Resolution dated July 8, 2019.

19. Following the issuance of an order to show cause, or alternatively in lieu of issuing an order to show cause, the Court should issue a writ of mandamus compelling the Respondent to take such action. As discussed in more detail below, in the event that Respondent opposes this Petition, the Court should also award attorneys' fees and costs to Petitioner, pursuant to section 57.105(1), Florida Statutes (2018).

20. Unless this Court acts promptly to grant this Petition and issue a Writ of Mandamus, the Supervisor of Elections of Clay County will not have time to place the Petitioner's proposition upon the ballot. Section 212.055(10), Florida Statutes (2018), requires that, for any referendum held on or after March 23, 2018, to adopt a discretionary sales surtax under this section, an independent certified public accountant licensed pursuant to chapter 473, Florida Statutes, procured by the Office of Program Policy Analysis and Government Accountability ("OPPAGA"), shall conduct a performance audit of the program associated with the surtax adoption proposed by the county or school district. It further provides that the completed performance audit and the audit report, including any findings, recommendation, or other accompanying documents, shall be made available on the official website of the county or school district at least sixty days before the referendum is held. § 212.055(10)(b), Fla. Stat. (2018). OPPAGA has opined that the audit report for the sales surtax at issue in this case should be available for

publication no later than August 26, 2019, thereby making the earliest date for a referendum Tuesday, October 29, 2019. Although there does not currently appear to be a specific deadline by which to submit the final ballot language to the Supervisor of Elections, as an election has not yet been called, deadlines for submission of final ballot language to be included in late-October or early-November elections have historically been set in mid- to late-August. The Respondent must act well before that time in order for a proper and legal resolution to be adopted. If the County Commission does not timely act, then Petitioner's right to have the proposition placed upon the ballot is lost. Accordingly, time is of the essence and Petitioner respectfully requests the Court to act expeditiously to issue an Order to Show Cause, issue a writ of mandamus, and conduct any further proceedings, or issue relief, contemplated by Florida Rule of Appellate Procedure 9.100.

## **ARGUMENT**

### **A. A WRIT OF MANDAMUS IS PROPER WHEN THE RESPONDENT HAS A CLEAR, NON-DISCRETIONARY LEGAL DUTY TO PERFORM A SPECIFIC MINISTERIAL ACT.**

21. Petitioner seeks a writ of mandamus to compel Respondent to comply with the procedures mandated by section 212.055, Florida Statutes (2018). Mandamus lies to compel a clear legal right when the respondent has failed to perform a clear legal duty, and there are no other available legal remedies. *Adams*

*v. State*, 560 So. 2d 321, 322 (1st DCA 1990). The official act in question must be ministerial. *Town of Manalapan v. Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996). “[A] duty or act is defined as ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law.” *Rhea v. Dist. Bd. of Trs. of Santa Fe Coll.*, 109 So. 3d 851, 855 (Fla. 1st DCA 2013) (citing *Shea v. Cochran*, 680 So. 2d 628, 629 (Fla. 4th DCA 1996)).

22. As an extraordinary writ proceeding, an action in mandamus is particularly appropriate against governmental officers or agencies and may be issued to enforce a legal right by requiring a public official or agency to perform a corresponding duty required by law. *Soto v. Bd. of Cty. Comm'rs of Hernando Cty.*, 716 So. 2d 863, 864 (Fla. 5th DCA 1998); *State ex rel. Second Dist. Court of Appeal v. Lewis*, 550 So. 2d 522 (Fla. 1st DCA 1989).

23. Section 212.055(a), Florida Statutes (2018), provides the following: "The **school board** in each county **may levy**, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, **a discretionary sales surtax** at a rate that may not exceed 0.5 percent." (Emphasis added.) Additionally, subdivision (b) of that section provides that “[t]he resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. The statement shall conform to the requirements of s. 101.161 **and shall be placed**

**on the ballot by the governing body of the county."** § 212.055(b), Fla. Stat. (2018) (emphasis added).

24. The language of section 212.055(6), Florida Statute (2018), demonstrates two notable points: 1) it is within the authority of only the School Board to levy a discretionary sales surtax, subject to majority approval of the county's electors via referendum; and 2) if the School Board's resolution "include[s] a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax," which conforms to the requirements of section 101.161, Florida Statutes,<sup>4</sup> then the statement "shall be placed on the ballot by the governing body of the county." In other words, if the School Board decides to levy a discretionary sales surtax pursuant to the procedure set forth in section 212.055(6), Florida Statutes, and the School Board's resolution memorializing that decision complies with Florida's laws governing referenda, then it is Respondent's ministerial duty to cause the measure to be "placed on the ballot."

25. Thus, it is the School Board and the School Board alone that determines whether to seek additional funding for capital outlay projects by way of a discretionary sales surtax. Once that decision has been made, it must be put to the

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<sup>4</sup> Notably, only general mention of the Resolution's sufficiency was made at the public hearing; no specific mention of the Resolution's compliance with the requirements of section 101.161, Florida Statutes, was made.

county's electors for a vote by Respondent. Because the School Board determines the need and timing for additional funding via sales surtax, and includes in its calculations to determine the term of the surtax the amount of revenue needed to meet its current and future financial obligations, the School Board must determine when the sales surtax will take effect.

26. In this case, Petitioner's Resolution reflects its decision to levy a sales surtax, subject to voter approval, for thirty years beginning on January 1, 2020. The School Board, a duly authorized political entity, made the decision as to when the additional funds would be needed for school construction projects. Accordingly, in order for the sales surtax to take effect as decided by the School Board to best serve the public school students of Clay County, if approved by the electorate, a special election must be held prior to the effective date of January 1, 2020.

27. Having complied with the express provisions of section 212.055(6), Florida Statutes (2018), by having duly-enacted a resolution and amendment thereto levying a discretionary sales surtax beginning January 1, 2020, the language of which includes a statement compliant with section 101.161, Florida Statutes (2018), the statute is clear that the statement "shall be placed on the ballot by" Respondent.

28. Because the effective date of the sales surtax is January 1, 2020, as determined in the sole discretion of the School Board, Respondent must hold an election prior thereto and include the referendum on the ballot.

29. Accordingly, because Respondent failed to comply with its ministerial duty to approve the School Board's resolution and cause the measure "to be placed on the ballot" of an election prior to the surtax's effective date, a writ of mandamus is warranted in this case.

**B. PURSUANT TO § 57.105(1), FLORIDA STATUTES (2018), AN AWARD OF ATTORNEYS' FEES IS PROPER IF RESPONDENT OPPOSES THE PETITION FOR A WRIT OF MANDAMUS**

30. It is important to note that this is not the first time Respondent has been brought before this Court on a petition for writ of mandamus for having failed to perform a ministerial duty to which the School Board had a clear legal right. A similar issue was resolved with regard to a measure to make the county's superintendent position an appointed rather than an elected position in 2014. *See Sch. Bd. Of Clay Cty. v. Bd. of Cty. Comm'rs of Clay Cty.*, No. 10-2014-CA-000983 (Fla. 14th Cir. Ct. Aug. 26, 2014) (Attachment E). In that case, Judge Borello granted the School Board's petition for writ of mandamus after the County Commission had declined to add a measure to make the superintendent an appointed position on the ballot for the election to occur on November 4, 2014, as

requested by the School Board, and instead decided to place it on the ballot for the 2016 General Election. *Id.*

31. Additionally, at Respondent's July 9, 2019, public hearing at which it declined to approve Petitioner's resolution at issue, the County Commission was explicitly advised by its own legal counsel that the requirement for Respondent to place the sales surtax issue on the ballot was not discretionary—the County Attorney's representative said of the provision “my interpretation of that statute is that it's mandatory.” July 9, 2019 BCC Agenda Video, at 5:45; Tr. p. 8, lines, 12–13.

32. Accordingly, between having been down this road before and having been advised by its own attorney that it did not have discretion in the matter, the Respondent Commission knew or should have known that any defense of a petition for a writ of mandamus would not be supported by the material facts necessary to establish a defense to a petition or would not be supported by the application of existing law to the material facts at issue. Thus, an award of attorneys' fees is appropriate pursuant to section 57.105(1), Florida statutes (2018).

### **CONCLUSION**

33. Petitioner submitted a timely and proper request to have its proposition to levy a discretionary sales surtax placed upon the ballot by Respondent for a special election to be called for November 5, 2019, or some other

date acceptable to the Petitioner prior to December 31, 2019. Respondent has no discretion in the exercise of its ministerial duty to place the measure on the ballot for an election to occur after the surtax is set to take effect. Therefore, this Court should grant the instant petition and issue a writ of mandamus requiring Respondent to promptly issue a resolution directing the Supervisor of Elections to place the proposition on the ballot and for other such relief as may be appropriate.

Respectfully submitted,

*/s/ Jon C. Moyle* \_\_\_\_\_

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*COUNSEL FOR PETITIONER*

**CERTIFICATE OF SERVICE**

I, JON C. MOYLE, HEREBY CERTIFY that the foregoing was served via electronic mail this 19th day of July, 2019, to Clay County Attorney Courtney Grimm ([Courtney.grimm@claycountygov.com](mailto:Courtney.grimm@claycountygov.com)), PO Box 1366, Green Cove Springs, Florida 32043-1366.

/s/ Jon C. Moyle  
JON C. MOYLE, JR.

**CERTIFICATE OF COMPLIANCE**

The undersigned counsel for Petitioner certifies that this Emergency Petition is submitted in compliance with Fla. R. App. P. 9.100(l).

/s/ Jon C. Moyle  
JON C. MOYLE, JR.

RESOLUTION

**A RESOLUTION OF THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, CALLING FOR A REFERENDUM TO BE HELD BEFORE DECEMBER 31, 2019, FOR THE PURPOSE OF SUBMITTING TO THE DULY QUALIFIED ELECTORS OF CLAY COUNTY, FLORIDA, A QUESTION REGARDING THE LEVY BY THE SCHOOL BOARD OF A DISCRETIONARY SALES SURTAX OF ONE-HALF CENT FOR THE FUNDING OF NEW CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENT OF SCHOOL FACILITIES INCLUDING LAND ACQUISITION, SAFETY AND SECURITY IMPROVEMENTS, TECHNOLOGY IMPLEMENTATION, AND UPGRADES, AND TO SERVICE BOND INDEBTEDNESS THEREFOR, IF ANY; PROVIDING FOR PROPER NOTICE OF SUCH ELECTION; PROVIDING FOR ABSENTEE VOTING, EARLY VOTING AND FOR PRINTING OF BALLOTS; AUTHORIZING CERTAIN RESOLUTION INCIDENTAL ACTIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The School Board of Clay County, Florida ("School Board"), has developed a long range capital outlay needs assessment establishing those needs on the basis of growth projected in Clay County, Florida; and

**WHEREAS**, the School Board has determined that it has insufficient existing capital outlay funding to meet its established capital outlay needs of construction, renovation and technology and security upgrades for school facilities, which needs are being driven by growth in Clay County, Florida; and

**WHEREAS**, the lack of funding throughout the School District of Clay County, Florida ("the District"), for the cost of construction, reconstruction and improvement of new and existing public school facilities, and for the cost of providing and retrofitting schools for technology implementation, including hardware and software and security upgrades, has become more acute; and

**WHEREAS**, surveys by the School Board indicate the need for construction of new facilities, renovation of existing school facilities and installation of new computer technology and retrofitting of existing facilities for technology implementation and security upgrades throughout the District; and

**WHEREAS**, needed construction and improvements to the Clay County District Schools' facilities and physical plants, security and technology infrastructure are critically overdue; and

**WHEREAS**, it is the School Board's duty to ensure the establishment of new schools and the many needed new construction projects and critical improvements to the existing schools and

technology and security infrastructure within the district which cannot be funded with existing revenue sources in the foreseeable future; and

**WHEREAS**, the School Board desires to limit the financial impact of its capital outlay and technology implementation programs on local property owners by minimizing the use of ad valorem taxes;

**NOW, THEREFORE, BE IT RESOLVED** by The School Board of Clay County, Florida;

SECTION 1 – AUTHORITY FOR RESOLUTION: This adopted resolution is pursuant to Title XVI, Section 212.055(6), *Florida Statutes*, and other applicable provision of law.

SECTION 2 – FINDINGS: The School Board, as the governing board of the District, pursuant to Article IX, Section 4(b), *Florida Constitution* and Section 1001.32(2) and 1001.40, *Florida Statutes*, hereby finds and determines the following:

A. That the school district has grown and will continue to grow as projected by more than 600 students per year for the next ten (10) years. Additional funding is needed to construct, renovate, repair, render safe and secure and technologically update school facilities to accommodate the current and increasing student enrollment.

B. That the Board has experienced substantial funding reductions in recent years related to capital expenditures and fixed capital costs associated with new construction, reconstruction and improvement of school facilities, including safety and security improvements and technology upgrades, along with phased replacement.

C. That Section 212.055(6), *Florida Statutes*, authorizes the levy of a one-half cent school capital outlay surtax for the purposes of funding new construction, reconstruction and improvement of school facilities including safety and security improvements and technology upgrades, upon approval by a majority vote of the electors of Clay County. Proceeds will be used for school safety and security, technology needs, and capital improvements to, and new construction of, school facilities.

D. That the Board hereby determines that it is in the best interest of the School District of Clay County, Florida (“the District”) and its students to levy the sales surtax authorized by and in accordance with Sections 212.055(6), and 212.054 Florida Statutes, in an amount equal to one-half cent per dollar (the “Sales Surtax”).

E. That the levy of a one-half cent school capital outlay sales surtax as authorized by Section 212.055(6), *Florida Statutes*, for a period of thirty (30) years, commencing on January 1, 2020, and terminating December 31, 2049, is necessary for the School Board to provide sufficient funds to repair, reconstruct, improve and

sustain its existing facilities and fund the construction of new facilities needed to accommodate an aging plant and growing enrollment and/or to make lease payments under lease purchase agreements pursuant to Sections 1001.42 (11)(b)5 and 1013.15(2), Florida Statutes, or pay bond indebtedness issued to finance capital projects, all of which is permitted by Section 212.055(6), Florida Statutes.

F. That the levy of a one-half cent school capital outlay sales surtax is subject to approval by the electors of the County at a referendum held as provided in Section 212.055(6), *Florida Statutes*, and if approved is hereby levied and will be collected as authorized in the manner required by law.

G. That a citizen advisory committee consisting of Clay County citizens will be appointed by the School Board to monitor and advise the School Board and school district staff on the expenditure of funds.

SECTION 3 – PLAN FOR USE OF SALES SURTAX PROCEEDS: The proceeds of the school capital outlay sales surtaxes authorized by Section 212.055(6), *Florida Statutes*, shall be expended by the School Board for fixed capital expenditure or fixed capital costs associated with the renovation, reconstruction or construction of school facilities and campuses, and any land acquisition and land improvement, design and engineering costs related thereto, and for the costs of safety and security equipment, security services and costs of retrofitting and providing for technology implementation, including hardware and software which have a useful life expectancy of five (5) or more years, for the various sites within the district. A plan for these capital expenditures is set forth in the plan entitled ED. F.I.R.S.T., which is attached hereto and incorporated herein as Exhibit B. The intended use of the sales tax proceeds also includes additional capital projects which are not listed in detail, as well as the making of lease payments under lease purchase agreements pursuant to Sections 1001.42 (11)(b)5 and 1013.15(2), Florida Statutes, and/or pay and service bond indebtedness issued to finance capital projects expenditures, authorized by Section 212.055(6), Florida Statutes.

SECTION 4 – CONTINUING LEVY OF SCHOOL CAPITAL OUTLAY SALES SURTAX: Subject to approval by the electors of the county at a referendum held as provided in Section 212.055(6), *Florida Statutes*, the School Board hereby levies a one-half cent school capital outlay sales surtax and the same is hereby levied for the period commencing, January 1, 2020, and ending December 31, 2049. The Sales Surtax, in an amount equal to one-half cent per dollar shall be collected as authorized in the manner required by law.

SECTION 5 – REFERENDUM ELECTION ORDERED: The School Board hereby requests that the Board of County Commissioners of Clay County, Florida, call a special election/referendum to be held throughout Clay County, Florida, on a date prior to December 31, 2019, which date is to be set by the Supervisor of Elections, for the purpose of submitting to the duly qualified electors of Clay County the question set forth herein. The Clay County Supervisor of Elections shall conduct said special election pursuant to the provisions of the election laws of the State of Florida.

SECTION 6 – NOTICE OF REFERENDUM ELECTION: Not less than thirty (30) days' notice of said election shall be given by publication in the manner and at the times required by Florida law. Said notice shall be substantially in the following form together with such additional information as the Supervisor of Elections and the County Clerk of Clay County, Florida, shall require:

NOTICE OF ELECTION  
TUESDAY, \_\_\_\_\_, 2019  
IN  
CLAY COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN THAT AN ELECTION HAS BEEN CALLED BY THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, AT THE REQUEST OF THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, FROM 7:00 A.M. UNTIL 7:00 P.M. ON TUESDAY, THE \_\_\_\_ DAY OF \_\_\_\_\_, 2019, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY QUALIFIED ELECTORS OF CLAY COUNTY, FLORIDA, THE FOLLOWING QUESTION:

SHALL A ONE-HALF CENT SALES SURTAX BE LEVIED IN CLAY COUNTY FOR A PERIOD OF THIRTY (30) YEARS, BEGINNING JANUARY 1, 2020, TO FINANCE CONSTRUCTION, RECON-STRUCTION, RENOVATION, REMODELING, LAND ACQUISITION AND IMPROVEMENT OF SCHOOL FACILITIES, INCLUDING SAFETY, SECURITY, TECHNOLOGY UPGRADES, AND FACILITY IMPROVEMENTS? A LIST OF CRITICALLY NEEDED PROJECTS HAS BEEN PUBLISHED AND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS ADVISORY COMMITTEE.

Instructions to Voters

\_\_\_\_\_ FOR THE 1/2% (0.5 CENTS) TAX  
\_\_\_\_\_ AGAINST THE 1/2% (0.5 CENTS) TAX

A RESOLUTION ADOPTED BY THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, ON JUNE 27, 2019, PROVIDES FOR THE IMPOSITION OF A ONE-HALF CENT SALES TAX, THE PROCEEDS OF WHICH SHALL BE EXPENDED BY THE SCHOOL BOARD FOR FIXED CAPITAL EXPENDITURES OR FIXED CAPITAL COSTS ASSOCIATED WITH THE CONSTRUCTION, RECONSTRUCTION OR IMPROVEMENT OF SCHOOL FACILITIES AND CAMPUSES WHICH HAVE A USEFUL LIFE EXPECTANCY OF FIVE (5) OR MORE YEARS, AND ANY LAND ACQUISITION, LAND IMPROVEMENT, DESIGN AND ENGINEERING COSTS RELATED THERETO, AND FOR THE COSTS OF RETROFITTING AND PROVIDING FOR TECHNOLOGY AND SAFETY AND SECURITY

COSTS RELATED THERETO, AND FOR THE COSTS OF RETROFITTING AND PROVIDING FOR TECHNOLOGY AND SAFETY AND SECURITY IMPLEMENTATION, INCLUDING HARDWARE AND SOFT-WARE, FOR THE VARIOUS SITES WITHIN THE DISTRICT. SUCH PROCEEDS AND INTEREST THEREON MAY ALSO BE USED FOR THE PURPOSE OF MAKING LEASE PAYMENTS UNDER LEASE PURCHASE AGREEMENTS AND FOR THE PURPOSE OF SERVICING BOND INDEBTEDNESS ISSUED TO FINANCE PROJECTS AUTHORIZED ABOVE.

IN ACCORDANCE WITH THE CONSTITUTION AND THE ELECTION LAWS OF THE STATE OF FLORIDA, ALL DULY QUALIFIED ELECTORS OF CLAY COUNTY, FLORIDA, SHALL BE ENTITLED TO VOTE IN THE ELECTION OF WHICH THIS NOTICE PERTAINS.

THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, SHALL BE AUTHORIZED TO LEVY THE TAX COVERED BY THE QUESTION STATED ABOVE IF THE QUESTION IS APPROVED BY VOTE OF A MAJORITY OF THE DULY QUALIFIED ELECTORS OF CLAY COUNTY, VOTING THEREON.

SECTION 7 – PLACES OF VOTING, INSPECTORS AND CLERKS: The Clay County polls will be open at the voting places on the date of the referendum election from 7:00 a.m. until 7:00 p.m. All qualified electors residing within the County will be entitled and permitted to vote at the referendum election on the proposition provided in the Resolution. The places of voting and the inspectors and clerks of the referendum election will be those designated by the Supervisor of Elections of Clay County in accordance with law.

SECTION 8 – OFFICIAL BALLOT: The ballots to be used in the referendum election to be held on \_\_\_\_\_, 2019, shall be in English and Spanish and shall be in full compliance with the laws of the state of Florida and shall be substantially in the following form:

OFFICIAL BALLOT

THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA,  
REFERENDUM ELECTION  
\_\_\_\_\_, 2019

LEVY OF A ONE-HALF CENT SALES  
SURTAX FOR EDUCATIONAL FACILITIES,  
TECHNOLOGY AND SECURITY.

SHALL A ONE-HALF CENT SALES SURTAX BE LEVIED IN  
CLAY COUNTY FOR A PERIOD OF THIRTY (30) YEARS,  
BEGINNING JANUARY 1, 2020, TO FINANCE  
CONSTRUCTION, RECON-STRUCTION, RENOVATION,

REMODELING, LAND ACQUISITION AND IMPROVEMENT OF SCHOOL FACILITIES, INCLUDING SAFETY, SECURITY, TECHNOLOGY UPGRADES, AND FACILITY IMPROVEMENTS? A LIST OF CRITICALLY NEEDED PROJECTS HAS BEEN PUBLISHED AND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS ADVISORY COMMITTEE.

Instructions to Voters

\_\_\_\_\_ FOR THE 1/2% (0.5 CENTS) TAX  
\_\_\_\_\_ AGAINST THE 1/2% (0.5 CENTS) TAX

If a majority of the ballots cast at such election shall be "FOR THE ONE-HALF CENT TAX," the levy of such tax shall be approved and said surtax shall be levied as provided by law.

SECTION 9 – ABSENTEE VOTING: Adequate provision will be made for absentee voters. The form of ballots to be used in the referendum for absentee voters will be the same as used in the polling places for the election.

SECTION 10 – PRINTING OF BALLOTS: The Supervisor of Elections of Clay County is authorized and directed to have printed, as needed, ballots for absentee electors entitled to cast ballots in the referendum election and to make appropriate arrangements for conducting the election at the polling places specified.

SECTION 11 – REFERENDUM ELECTION PROCEDURE: The Supervisor of Elections of Clay County shall hold, administer and conduct the referendum election in the manner prescribed by law for holding election in the County. Returns shall show the number of qualified electors who voted at the referendum election on the proposition and the number of votes cast respectively for and against approval of the proposition. The returns will be canvassed in accordance with law.

SECTION 12 – FINANCIAL RESPONSIBILITY: The Board shall be responsible for the cost of the special election. The Superintendent of Schools is authorized and directed to process payment of election costs as needed.

SECTION 13 – SEVERABILITY: In the event any word, phrase, clause, sentence, or paragraph of this Resolution shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence, or paragraph.

SECTION 14 - ADDITIONAL ACTION: The Board Chair through the School Board Attorney is authorized, without further action of the School Board, to take whatever steps or actions are necessary to ensure that the requested election is set in a timely manner and is set to take place within the time frame set forth in this Resolution.

SECTION 15 – REPEALING CLAUSE: All Resolutions in conflict or inconsistent with this Resolution are repealed insofar as there is conflict or inconsistency.

SECTION 16 – EFFECTIVE DATE: This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED AND APPROVED** this \_\_\_\_\_ day of June 2019, by the School Board of Clay County, Florida.

**THE SCHOOL BOARD OF CLAY  
COUNTY, FLORIDA**

By \_\_\_\_\_  
**CAROL STUDDARD, Chairman**

By \_\_\_\_\_  
**JANICE KEREKES**

By \_\_\_\_\_  
**TINA BULLOCK**

By \_\_\_\_\_  
**MARY BOLLA**

By \_\_\_\_\_  
**ASHLEY GILHOUSEN**

ATTEST:

\_\_\_\_\_  
**ADDISON G. DAVIS, Superintendent**

**EXHIBIT A**

**PLAN FOR USE OF SALES SURTAX PROCEEDS**

1. Pursuant to Section 212.055(6), *Florida Statutes*, capital improvements to be funded by proceeds of the sales surtax shall be for capital projects having a useful life expectancy of more than five (5) years, and any land acquisition, land improvement, design and engineering costs related to, but not limited to, the following:

- a. Renovation or renewal of school facilities
- b. Construction of new school facilities
- c. Technology upgrades; hardware and software
- d. School safety and security improvements
- e. Phased replacement plan objectives, such as, and for example only and not as a limitation, reduction of portable classrooms.
- f. In addition to, and without limiting the above listed improvements and projects, those projects listed in ED.F.I.R.S.T. plan attached hereto as Exhibit B.

2. Scope of projects will be based on a detailed facility assessment of the facility need, condition and provision for a secure, safe and appropriate learning environment.

3. A citizen advisory committee consisting of Clay County citizens appointed by the School Board shall monitor and advise the School Board on the expenditure of the surtax proceeds.

\* \* \* \* \*

Exhibit  
"B"

# ED.F.I.R.S.T

## The Power of a Penny for the Children of Clay County



**Addison G. Davis, Superintendent of Schools**

**Dr. Michael Kemp, Assistant Superintendent of Operations**



## Current Financial Need to ELEVATE Clay!

Districtwide need to Elevate  
CCDS with Relevant Facilities

Revenue from  
Half Cent Effort

**CURRENT FACILITIES NEED**  
**\$318,293,650.00**  
**\$300,000,000.00**  
NEW GROWTH - 7 SCHOOLS

vs. **\$403,929,990.00 (30 YR)**

**NOTE: PROPOSED REVENUE STREAM IS LESS THAN THE \$618,293,650.00 NEEDED!**  
**DECADES OF DEFERRED MAINTENANCE HAS COMPOUNDED THE NEED**





# Proposed Projects

- Safety/Security Upgrades
- Capital Improvements- Permanent Classroom Additions
- New Growth Construction – 7 NEW SCHOOLS
- Classroom Technology Improvements
- Energy Efficiency Improvements
- Building Envelope Improvements
- Mechanical- HVAC/Control Upgrades
- Plumbing Upgrades
- Food and Nutrition Service Upgrades
- Educational Program Improvements
- Classroom Furniture Replacement
- Transportation Facility Upgrade
- Centralized District Services Facility





# New Schools NEEDED – 7 Projected!

## ➤ IMMEDIATE NEED (Growth) – 2 YEARS

- 1 Elementary (Lake Asbury) School “R” - CR 315 Property
- 1 Elementary (Tynes) School “A” - Two Creeks Property

## ➤ IMMEDIATE NEED (Growth and Portable Reduction) 2-5 YEARS

- 1 K-8 (K-6/7-8 Config.) Fleming Island - Old Hard Road
- 1 K-8 (K-6/7-8 Config.) Green Cove JH

- 1 K-6 Keystone Heights – new elementary on McDavid Park Property; and Renovate KHE to become KH Junior High

## ➤ IMMEDIATE NEED (Growth – South 17) 5-10 YEARS

- 1 Elementary (South 17)
- 1 High School! (South 17)



AMENDED RESOLUTION

**A RESOLUTION OF THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, CALLING FOR A REFERENDUM TO BE HELD ON NOVEMBER 5, 2019, FOR THE PURPOSE OF SUBMITTING TO THE DULY QUALIFIED ELECTORS OF CLAY COUNTY, FLORIDA, A QUESTION REGARDING THE LEVY BY THE SCHOOL BOARD OF A DISCRETIONARY SALES SURTAX OF ONE-HALF CENT FOR THE FUNDING OF NEW CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENT OF SCHOOL FACILITIES INCLUDING LAND ACQUISITION, SAFETY AND SECURITY IMPROVEMENTS, TECHNOLOGY IMPLEMENTATION, AND UPGRADES, AND TO SERVICE BOND INDEBTEDNESS THEREFOR, IF ANY; PROVIDING FOR PROPER NOTICE OF SUCH ELECTION; PROVIDING FOR ABSENTEE VOTING, EARLY VOTING AND FOR PRINTING OF BALLOTS; AUTHORIZING CERTAIN RESOLUTION INCIDENTAL ACTIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The School Board of Clay County, Florida ("School Board"), has developed a long range capital outlay needs assessment establishing those needs on the basis of growth projected in Clay County, Florida; and

**WHEREAS**, the School Board has determined that it has insufficient existing capital outlay funding to meet its established capital outlay needs of construction, renovation and technology and security upgrades for school facilities, which needs are being driven by growth in Clay County, Florida; and

**WHEREAS**, the lack of funding throughout the School District of Clay County, Florida ("the District"), for the cost of construction, reconstruction and improvement of new and existing public school facilities, and for the cost of providing and retrofitting schools for technology implementation, including hardware and software and security upgrades, has become more acute; and

**WHEREAS**, surveys by the School Board indicate the need for construction of new facilities, renovation of existing school facilities and installation of new computer technology and retrofitting of existing facilities for technology implementation and security upgrades throughout the District; and

**WHEREAS**, needed construction and improvements to the Clay County District Schools' facilities and physical plants, security and technology infrastructure are critically overdue; and

**WHEREAS**, it is the School Board's duty to ensure the establishment of new schools and the many needed new construction projects and critical improvements to the existing schools and

technology and security infrastructure within the district which cannot be funded with existing revenue sources in the foreseeable future; and

**WHEREAS**, the School Board desires to limit the financial impact of its capital outlay and technology implementation programs on local property owners by minimizing the use of ad valorem taxes;

**NOW, THEREFORE, BE IT RESOLVED** by The School Board of Clay County, Florida;

SECTION 1 – AUTHORITY FOR RESOLUTION: This adopted resolution is pursuant to Title XVI, Section 212.055(6), *Florida Statutes*, and other applicable provision of law.

SECTION 2 – FINDINGS: The School Board, as the governing board of the District, pursuant to Article IX, Section 4(b), *Florida Constitution* and Section 1001.32(2) and 1001.40, *Florida Statutes*, hereby finds and determines the following:

A. That the school district has grown and will continue to grow as projected by more than 600 students per year for the next ten (10) years. Additional funding is needed to construct, renovate, repair, render safe and secure and technologically update school facilities to accommodate the current and increasing student enrollment.

B. That the Board has experienced substantial funding reductions in recent years related to capital expenditures and fixed capital costs associated with new construction, reconstruction and improvement of school facilities, including safety and security improvements and technology upgrades, along with phased replacement.

C. That Section 212.055(6), *Florida Statutes*, authorizes the levy of a one-half cent school capital outlay surtax for the purposes of funding new construction, reconstruction and improvement of school facilities including safety and security improvements and technology upgrades, upon approval by a majority vote of the electors of Clay County. Proceeds will be used for school safety and security, technology needs, and capital improvements to, and new construction of, school facilities.

D. That the Board hereby determines that it is in the best interest of the School District of Clay County, Florida (“the District”) and its students to levy the sales surtax authorized by and in accordance with Sections 212.055(6), and 212.054 *Florida Statutes*, in an amount equal to one-half cent per dollar (the “Sales Surtax”).

E. That the levy of a one-half cent school capital outlay sales surtax as authorized by Section 212.055(6), *Florida Statutes*, for a period of thirty (30) years, commencing on January 1, 2020, and terminating December 31, 2049, is necessary for the School Board to provide sufficient funds to repair, reconstruct, improve and

sustain its existing facilities and fund the construction of new facilities needed to accommodate an aging plant and growing enrollment and/or to make lease payments under lease purchase agreements pursuant to Sections 1001.42 (11)(b)5 and 1013.15(2), Florida Statutes, or pay bond indebtedness issued to finance capital projects, all of which is permitted by Section 212.055(6), Florida Statutes.

F. That the levy of a one-half cent school capital outlay sales surtax is subject to approval by the electors of the County at a referendum held as provided in Section 212.055(6), *Florida Statutes*, and if approved is hereby levied and will be collected as authorized in the manner required by law.

G. That a citizen advisory committee consisting of Clay County citizens will be appointed by the School Board to monitor and advise the School Board and school district staff on the expenditure of funds.

SECTION 3 – PLAN FOR USE OF SALES SURTAX PROCEEDS: The proceeds of the school capital outlay sales surtaxes authorized by Section 212.055(6), *Florida Statutes*, shall be expended by the School Board for fixed capital expenditure or fixed capital costs associated with the renovation, reconstruction or construction of school facilities and campuses, and any land acquisition and land improvement, design and engineering costs related thereto, and for the costs of safety and security equipment, security services and costs of retrofitting and providing for technology implementation, including hardware and software which have a useful life expectancy of five (5) or more years, for the various sites within the district. A plan for these capital expenditures is set forth in the plan entitled ED. F.I.R.S.T., which is attached hereto and incorporated herein as Exhibit B. The intended use of the sales tax proceeds also includes additional capital projects which are not listed in detail, as well as the making of lease payments under lease purchase agreements pursuant to Sections 1001.42 (11)(b)5 and 1013.15(2), Florida Statutes, and/or pay and service bond indebtedness issued to finance capital projects expenditures, authorized by Section 212.055(6), Florida Statutes.

SECTION 4 – CONTINUING LEVY OF SCHOOL CAPITAL OUTLAY SALES SURTAX: Subject to approval by the electors of the county at a referendum held as provided in Section 212.055(6), *Florida Statutes*, the School Board hereby levies a one-half cent school capital outlay sales surtax and the same is hereby levied for the period commencing, January 1, 2020, and ending December 31, 2049. The Sales Surtax, in an amount equal to one-half cent per dollar shall be collected as authorized in the manner required by law.

SECTION 5 – REFERENDUM ELECTION ORDERED: The School Board hereby requests that the Board of County Commissioners of Clay County, Florida, call a special election/referendum to be held throughout Clay County, Florida, on November 5, 2019 for the purpose of submitting to the duly qualified electors of Clay County the question set forth herein. The Clay County Supervisor of Elections shall conduct said special election pursuant to the provisions of the election laws of the State of Florida.

SECTION 6 – NOTICE OF REFERENDUM ELECTION: Not less than thirty (30) days' notice of said election shall be given by publication in the manner and at the times required by

Florida law. Said notice shall be substantially in the following form together with such additional information as the Supervisor of Elections and the County Clerk of Clay County, Florida, shall require:

NOTICE OF ELECTION  
TUESDAY, NOVEMBER 5, 2019  
IN  
CLAY COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN THAT AN ELECTION HAS BEEN CALLED BY THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, AT THE REQUEST OF THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, FROM 7:00 A.M. UNTIL 7:00 P.M. ON TUESDAY, THE 5TH DAY OF NOVEMBER, 2019, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY QUALIFIED ELECTORS OF CLAY COUNTY, FLORIDA, THE FOLLOWING QUESTION:

SHALL A ONE-HALF CENT SALES SURTAX BE LEVIED IN CLAY COUNTY FOR A PERIOD OF THIRTY (30) YEARS, BEGINNING JANUARY 1, 2020, TO FINANCE CONSTRUCTION, RECONSTRUCTION, RENOVATION, REMODELING, LAND ACQUISITION AND IMPROVEMENT OF SCHOOL FACILITIES, INCLUDING SAFETY, SECURITY, TECHNOLOGY UPGRADES, AND FACILITY IMPROVEMENTS? A LIST OF CRITICALLY NEEDED PROJECTS HAS BEEN PUBLISHED AND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS ADVISORY COMMITTEE.

Instructions to Voters

\_\_\_\_\_ FOR THE 1/2% (0.5 CENTS) TAX  
\_\_\_\_\_ AGAINST THE 1/2% (0.5 CENTS) TAX

A RESOLUTION ADOPTED BY THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, ON JUNE 27, 2019, AND AMENDED AS SET FORTH HEREIN ON JULY 8, 2019, PROVIDES FOR THE IMPOSITION OF A ONE-HALF CENT SALES TAX, THE PROCEEDS OF WHICH SHALL BE EXPENDED BY THE SCHOOL BOARD FOR FIXED CAPITAL EXPENDITURES OR FIXED CAPITAL COSTS ASSOCIATED WITH THE CONSTRUCTION, RECONSTRUCTION OR IMPROVEMENT OF SCHOOL FACILITIES AND CAMPUSES WHICH HAVE A USEFUL LIFE EXPECTANCY OF FIVE (5) OR MORE YEARS, AND ANY LAND ACQUISITION, LAND IMPROVEMENT, DESIGN AND ENGINEERING COSTS RELATED THERETO, AND FOR THE COSTS OF RETROFITTING AND PROVIDING FOR TECHNOLOGY AND SAFETY AND SECURITY COSTS RELATED THERETO, AND FOR THE COSTS OF RETROFITTING AND PROVIDING FOR TECHNOLOGY AND

SAFETY AND SECURITY IMPLEMENTATION, INCLUDING HARDWARE AND SOFTWARE, FOR THE VARIOUS SITES WITHIN THE DISTRICT. SUCH PROCEEDS AND INTEREST THEREON MAY ALSO BE USED FOR THE PURPOSE OF MAKING LEASE PAYMENTS UNDER LEASE PURCHASE AGREEMENTS AND FOR THE PURPOSE OF SERVICING BOND INDEBTEDNESS ISSUED TO FINANCE PROJECTS AUTHORIZED ABOVE.

IN ACCORDANCE WITH THE CONSTITUTION AND THE ELECTION LAWS OF THE STATE OF FLORIDA, ALL DULY QUALIFIED ELECTORS OF CLAY COUNTY, FLORIDA, SHALL BE ENTITLED TO VOTE IN THE ELECTION OF WHICH THIS NOTICE PERTAINS.

THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA, SHALL BE AUTHORIZED TO LEVY THE TAX COVERED BY THE QUESTION STATED ABOVE IF THE QUESTION IS APPROVED BY VOTE OF A MAJORITY OF THE DULY QUALIFIED ELECTORS OF CLAY COUNTY, VOTING THEREON.

SECTION 7 – PLACES OF VOTING, INSPECTORS AND CLERKS: The Clay County polls will be open at the voting places on the date of the referendum election from 7:00 a.m. until 7:00 p.m. All qualified electors residing within the County will be entitled and permitted to vote at the referendum election on the proposition provided in the Resolution. The places of voting and the inspectors and clerks of the referendum election will be those designated by the Supervisor of Elections of Clay County in accordance with law.

SECTION 8 – OFFICIAL BALLOT: The ballots to be used in the referendum election to be held on November 5, 2019, shall be in English and Spanish and shall be in full compliance with the laws of the state of Florida and shall be substantially in the following form:

OFFICIAL BALLOT

THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA,  
REFERENDUM ELECTION  
NOVEMBER 5, 2019

LEVY OF A ONE-HALF CENT SALES  
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If a majority of the ballots cast at such election shall be "FOR THE ONE-HALF CENT TAX," the levy of such tax shall be approved and said surtax shall be levied as provided by law.

SECTION 9 – ABSENTEE VOTING: Adequate provision will be made for absentee voters. The form of ballots to be used in the referendum for absentee voters will be the same as used in the polling places for the election.

SECTION 10 – PRINTING OF BALLOTS: The Supervisor of Elections of Clay County is authorized and directed to have printed, as needed, ballots for absentee electors entitled to cast ballots in the referendum election and to make appropriate arrangements for conducting the election at the polling places specified.

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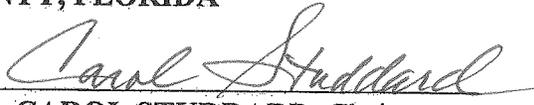
SECTION 14 - ADDITIONAL ACTION: The Board Chair through the School Board Attorney is authorized, without further action of the School Board, to take whatever steps or actions are necessary to ensure that the requested election is set in a timely manner and is set to take place within the time frame set forth in this Resolution.

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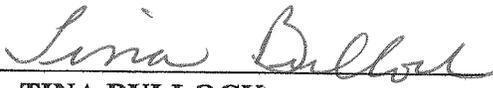
SECTION 16 – EFFECTIVE DATE: This Amended Resolution shall take effect immediately upon its adoption.

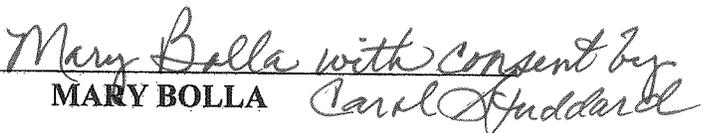
**DULY ADOPTED AND APPROVED** this 8<sup>th</sup> day of July 2019, by the School Board of Clay County, Florida.

**THE SCHOOL BOARD OF CLAY  
COUNTY, FLORIDA**

By   
**CAROL STUDDARD, Chairman**

By   
**JANICE KEREKES**

By   
**TINA BULLOCK**

By   
**MARY BOLLA**

By   
**ASHLEY GILHOUSEN**

ATTEST:

  
**ADDISON G. DAVIS, Superintendent**

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3. A citizen advisory committee consisting of Clay County citizens appointed by the School Board shall monitor and advise the School Board on the expenditure of the surtax proceeds.

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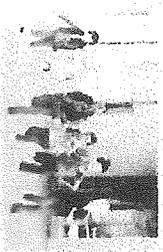
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# ED. F. I. R. S. T

## The Power of a Penny for the Children of Clay County



Addison G. Davis, Superintendent of Schools  
Dr. Michael Kemp, Assistant Superintendent of Operations



# Current Financial Need to ELEVATE Clay!

Districtwide need to Elevate  
CCDS with Relevant Facilities

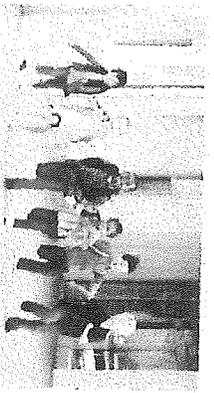
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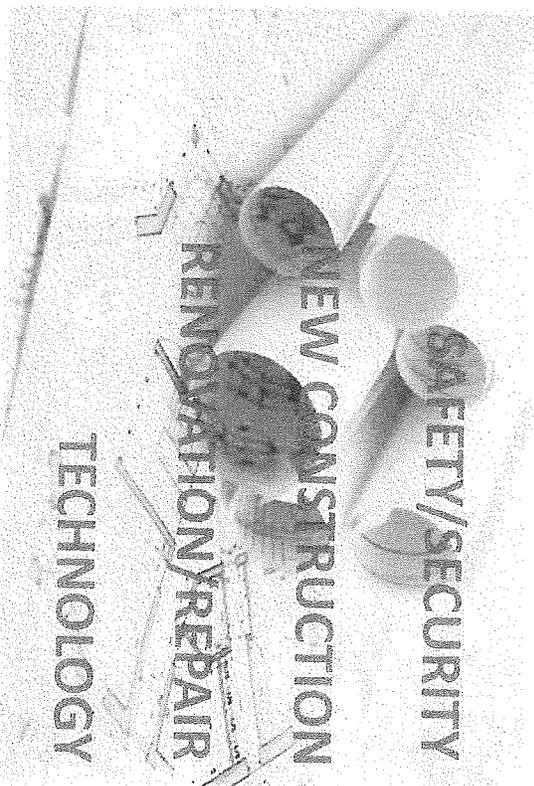
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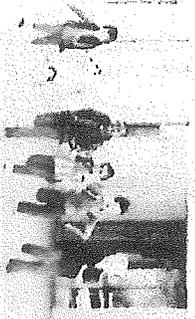




# Proposed Projects

- Safety/Security Upgrades
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- Classroom Technology Improvements
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- Transportation Facility Upgrade
- Centralized Services Facility





# **New Schools NEEDED – 7 Projected!**

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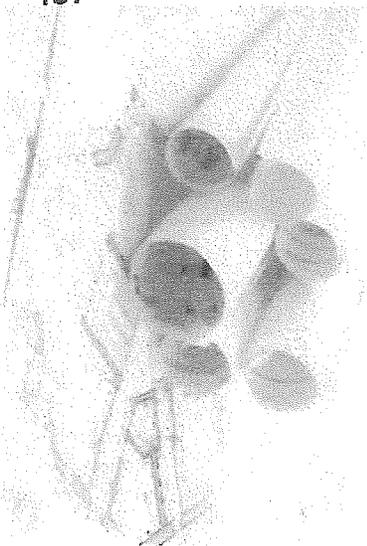
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## ➤ **IMMEDIATE NEED (Growth – South 17) 5-10 YEARS**

- 1 Elementary (South 17)
- 1 High School (South 17)



[CLOSE](#)

**BOARD OF COUNTY COMMISSIONERS  
MEETING AGENDA**

July 9, 2019  
Administration Building,  
4th Floor, BCC Meeting Room, 477 Houston Street,  
Green Cove Springs, FL 32043  
4:00 PM

---

**INVOCATION**

[Commissioner Bolla](#)

**PLEDGE**

[Commissioner Hendry](#)

**CALL TO ORDER**

**ROLL CALL**

**A MOMENT IN HISTORY**

**PET ADOPTIONS**

**PRESENTATIONS**

[Augusta Savage Community Center Funding Request - Van Royal, GCS City Council](#)

**APPROVAL OF MINUTES**

1. [June 25, 2019 BCC Minutes](#)

**PUBLIC COMMENTS**

**CONSENT AGENDA**

2. [Approval of the 2018 Recapitulation of the Tax Roll and Report of Error & Insolvencies for the Tax Roll](#)
3. [Satisfaction of Mortgage Riggs](#)
4. [Satisfaction of Mortgage Duket](#)
5. [Finance Business](#)

The Finance Department business is submitted to request approval and ratification by the Board for various warrants and disbursements in order to meet the requirements of Ch. 136.06 (1), FI Statute. Acceptance and disposal of various Board property and various documents are submitted for the Board's information. At times, approval is requested for various finance related issues.

6. [Finance & Audit Committee Business](#)

Approval of the Finance & Audit Committee Minutes of July 2, 2019.

**OLD BUSINESS**

7. [Consideration of Stormwater Maintenance Municipal Service Benefit Unit implementation documents: \(1\) required mailed notice to be sent to all Clay County residents in the unincorporated area, including proposed 2019/2020 rate, proposed maximum annual assessment rate, and hardship and veterans exemption information; \(2\) Initial Resolution to set the Stormwater Maintenance MSBU rate, maximum annual assessment rate, and to provide directions for preparation of assessment roll and notice prior to the final assessment resolution; \(3\) proposed ordinance authorizing hardship assistance and exemptions for veterans with service connected total and permanent disability and death from the Stormwater Maintenance MSBU; and \(4\) approval of advance payment to The Master's Touch, LLC in the amount of \\$23,321.60 for the estimated postage cost related to mailing the notice \(Final payment will be issued to The Master's Touch, LLC once the notices have been printed and mailed.\)](#)

**NEW BUSINESS**

8. [Resolution of the School Board of Clay County, Florida, calling for a referendum to be held before December 31, 2019, for the purpose of submitting to the duly qualified electors of Clay County, Florida a question regarding the levy by the school board of a discretionary sales surtax of one-half cent](#)

**COUNTY MANAGER/CLERK OF THE BOARD**

**COUNTY ATTORNEY**

**PUBLIC COMMENTS**

**COMMISSIONERS' COMMENTS**

***In accordance with the Americans with Disabilities Act, any person needing a special accommodation to participate in this matter should contact the Clay County ADA Coordinator by mail at Post Office Box 1366, Green Cove Springs, FL 32043, or by telephone at number (904) 269-6347 no later than three (3) days prior to the hearing or proceeding for which this notice has been given. Hearing impaired persons can access the foregoing telephone number by contacting the Florida Relay Service at 1-800-955-8770 (Voice), or 1-800-955-8771 (TDD).***

EXCERPT FROM THE MEETING OF  
THE CLAY COUNTY BOARD OF COUNTY COMMISSIONERS

407 HOUSTON STREET  
GREEN COVE SPRINGS, FLORIDA

TUESDAY, JULY 9, 2019

**APPEARANCES**

MIKE CELLA, CHAIRMAN  
GAVIN ROLLINS, BOARD MEMBER  
GAYWARD HENDRY, BOARD MEMBER  
DIANE HUTCHINGS, BOARD MEMBER  
WAYNE BOLLA, BOARD MEMBER

ALSO PRESENT:

COURTNEY GRIMM, ESQUIRE  
ATTORNEY FOR THE CLAY COUNTY BOARD  
OF COUNTY COMMISSIONERS

I N D E X

|                        | PAGE |
|------------------------|------|
| New Business Excerpt   | 4    |
| Reporter's Certificate | 41   |

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## M E E T I N G

1  
2 July 9, 2019

3 (The following is an excerpt.)

4 \* \* \* \* \*

5 THE CHAIR: 2019 for the purpose of submitting  
6 to the duly qualified of elections to the Clay County  
7 the question by the school board of discretionary of  
8 sales surtax of one-half cent.

9 Before we start if I could set some ground rules  
10 for discussion in a board action. I know we have  
11 quite a few in attendance today that would like to  
12 speak on this agenda item. I do have a number of  
13 cards. If you have not filled one out, certainly  
14 you're welcome to do so at this time so that we can  
15 put you in the queue, so that's why we're going to  
16 change it up a little from our usual public comment  
17 rules. Be sure -- that card is given to Jackie here,  
18 as this young lady's doing here.

19 We are all adults, so I ask that we all respect  
20 each others' opinions. No applause, no booing,  
21 especially no booing the Commissioners, no addressing  
22 another specific individual. You'll be limited to  
23 three minutes, and we'll be pretty strict on that  
24 only because we have so many people we want to make  
25 sure everybody gets a chance to be heard here today.

1 And if you don't want to speak, but would like to be  
2 acknowledged at some point I'll ask while everybody  
3 is here, and you can just raise your hand if your shy  
4 and you don't want to come and talk to us. Many of  
5 you have already e-mailed us whether it's pro or con  
6 in regards to the referendum of the resolution and we  
7 do appreciate that you took time to be able to do  
8 that. I know I took the time to answer everyone of  
9 you that did, so we do appreciate that.

10 At this time I would like to turn to our County  
11 Attorney Courtney Grimm, and she'll summarize a  
12 little bit about what the school board is requesting  
13 us to do in regards to that resolution and the tax  
14 referendum, and then we'll let the commissioners asks  
15 questions of staff, and then we'll invite you to  
16 address this and give us your thoughts as well, and  
17 then at that point, after we're done there, we'll  
18 bring it back and the board will take action in one  
19 shape or another.

20 So, Courtney if you could?

21 MS. GRIMM: Sure. The board received a  
22 resolution from the school board of Clay County on  
23 June -- the evening of June the 27th, at which time  
24 they adopted the resolution requesting that the Board  
25 under Florida Statute 212.055 call for a special

1 election to call a question for the purpose of  
2 submitting the question regarding the levy by the  
3 school board of a discretionary sales surtax of  
4 one-half cent for the funding of new construction,  
5 reconstruction and improvement of school facilities  
6 including land acquisition, safety and security  
7 improvements, technology implementation, and  
8 upgrades, as well as to service bond indebtedness.

9           Thereafter on Monday, July 8th, an amended  
10 resolution was forwarded to the Board which was  
11 virtually identical to the original resolution except  
12 for in the amended resolution it specified that it  
13 would -- the school board was requesting a date for  
14 the election to be set on November 5th, 2019.

15           The resolution from the school board lays out  
16 the procedure that they have requested be included as  
17 part of the special election. The matters submitted  
18 to you for discussion --

19           THE CHAIR: Okay.

20           MS. GRIMM: -- and consideration.

21           THE CHAIR: Anybody have any questions in  
22 regards to the resolution or the referendum in  
23 regards to what's been sent to us and presented by  
24 Courtney at this time?

25           MR. BOLLA: Under conditions of that law that

1 was sited what are our responsibilities? Can you  
2 outline what we have the authority to do and what we  
3 don't have the authority to do.

4 MS. GRIMM: Sure. Under the 212.055.

5 MR. BOLLA: Paragraph 6.

6 MS. GRIMM: Okay. Hold on. Basically, what  
7 212.055 that Subsection 6 provides is that the school  
8 board will adopt their own resolution. It has to  
9 meet certain requirements under the statute, and then  
10 it will be forwarded to the Board, and the board at  
11 that time shall -- let me find the correct word --  
12 shall -- sorry. I have the statute. I believe it  
13 says shall place it on the ballot, period.

14 Thereafter the board should review the  
15 resolution and consider whether or not to place the  
16 matter on the ballot, and there were other  
17 considerations that you may have with respect to the  
18 timing of the election.

19 MR. BOLLA: Does the resolution in your opinion  
20 meet all the provision of that law to send over to  
21 us?

22 MS. GRIMM: The -- in looking at the resolution,  
23 I haven't analyzed it. As to the part that I believe  
24 applies to you, yes, I think that the resolution  
25 meets those requirements. I think there are many

1 questions in connection with this resolution. I've  
2 had discussions with the supervisor of elections  
3 about some of the way it's been worded or some of the  
4 requirements. Those, I believe, we would leave for  
5 the for the supervisor of election or department of  
6 elections for those considerations, and there are  
7 some inconsistencies in the resolution, but again I  
8 think those are for another party to make that  
9 decision.

10 MR. BOLLA: And the word shall in those laws,  
11 what does that usually mean.

12 MS. GRIMM: My interpretation of that statute is  
13 that it's mandatory.

14 MR. ROLLINS: Mr. Chair?

15 THE CHAIR: Yes.

16 MR. ROLLINS: But isn't it true that shall  
17 doesn't always mean shall to include supreme court  
18 references? That shall doesn't -- sometimes shall  
19 can sometimes mean the manner or the process for  
20 placing something on the ballot? I mean, that -- law  
21 schools aren't even teaching that you should put  
22 shall in contracts anymore because it's so vague and  
23 ambiguous.

24 MS. GRIMM: There are various interpretations.  
25 It depends on the statute; it depends on the court's

1 interpretation of the situation that its in.

2 MR. ROLLINS: But it's true that court's have  
3 interpreted shall to mean a procedural thing not an  
4 absolute in certain cases?

5 MS. GRIMM: Yes, based on the facts of that  
6 case.

7 MR. ROLLINS: Thanks.

8 THE CHAIR: Any other questions? We have no  
9 questions from the Board then we'll call for public  
10 comment section to order, and we'll get started on  
11 our cards, and this isn't in no particular order.  
12 They've just been stacked in front of me.

13 (Public Comments Omitted.)

14 THE CHAIR: I'd like to point out to the Board  
15 that we have, as I see them, three or four options  
16 and we can discuss those options or if anybody wants  
17 to weigh in and just get it rolling, we can start  
18 there with Commissioner Rollins and go from there.

19 MR. ROLLINS: Sure. As many have spoken about  
20 -- I have concerns of the process, let me clarify  
21 upfront. I've taught in three different Clay County  
22 schools, and one of those I was in a portable, and I  
23 am a teacher. I'm a Clay County teacher. I've been  
24 in the classroom more recently than any of the school  
25 board members or the superintendent or any members of

1           this Board, so I care deeply about education. My  
2           masters is in education.

3           But I also care deeply about transparency, and  
4           the public understanding what is going on, and I  
5           agree with school board member Mary Bolla who said as  
6           educators we have a duty to educate the citizens on  
7           what this would entail. We shouldn't thrust it upon  
8           them in a way that lacks transparency, and whether it  
9           was -- followed the letter of the law or not,  
10          meetings at 8:00 am after a 4th of July weekend with  
11          conflicting notices, that is definitely not the  
12          spirit of a transparency that the Sunshine Law  
13          requires.

14          Changing the date is a major change. The issue  
15          before us today -- one of them is when the date is,  
16          and so to change the date is a major issue. And even  
17          as late as afternoon yesterday, I was calling our  
18          legal staff trying to find out if they had had a  
19          chance to review it, and they hadn't even gotten it  
20          yet. It wasn't until I think the afternoon sometime,  
21          I'm not sure the exact timeframe that our legal staff  
22          even had a chance to review a resolution that we are  
23          now expected to vote on. That certainly is not the  
24          spirit of transparency the public has come to expect.

25

1           As a commission we have worked diligently. We  
2 moved our meetings to 4:00 p.m. to allow more  
3 participation. We allowed for Facebook live. We've  
4 also have worked to try to improve our video system  
5 so that we can get that message out to the public.  
6 We just hired a fantastic public affairs office --  
7 officer who is doing great work, and we have several  
8 who have worked diligently to communicate with the  
9 public, and I think it would be unfortunate for us to  
10 move forward with this because from the very  
11 beginning it's lacked transparency.

12           And I can go into a lot of detail, but just one  
13 example is from the very beginning, I was told and  
14 multiple other members of the public and members of  
15 this Board were told that this was going to be paid  
16 for through private donations. Is that happening? Is  
17 it being paid for through private donations, no.  
18 That, at the last minute was switched, and now it's  
19 suddenly being paid for out of taxpayer dollars, a  
20 blank check, and it wasn't even a specific amount  
21 authorized in the resolution, which I know we  
22 wouldn't approve just blank checks. I'm looking at  
23 our auditor. We don't just approve blank checks for  
24 things on this side of the house. We are very  
25 detailed and careful in the way we approve things,

1 and so from a financial standpoint that gives me  
2 concerns.

3 So what I'm in favor of is, as educators if we  
4 think this is important and needed, let's go out and  
5 educate the public, but let's do that in November of  
6 2020 when everyone can vote on it, and yes,  
7 technically absentee ballots might be sent out to  
8 military members, but I can tell you, as somebody who  
9 just got back from a combat zone fairly recently, my  
10 focus wasn't on keeping track of what the school  
11 board was doing, and so I did vote in the general  
12 election because I wanted to have a say on who my  
13 commander-in-chief was, but I wasn't aware of every  
14 special election happening necessarily and it's a  
15 process.

16 It's process when you're trying to keep  
17 Americans safe, and embassies are going after  
18 terrorist groups, and then you're also having to  
19 figure out when the special elections are for the  
20 school board and they're changing it over the 4th of  
21 July weekend, the dates, at the last minute, that is  
22 not transparency, and so if we want true  
23 transparency; if we want to have a discussion on  
24 this, let's have a discussion on this. Let's put it  
25 on the November 2020 election ballot. Who can be

1           against that? Why would anyone be against saving  
2           taxpayer money, allowing more people to have a say in  
3           this, and then having an honest discussion and  
4           debate.

5                     And there are issues and challenges whether it's  
6           the court or other things, but there have been  
7           decisions by the school board made as to what to do  
8           with their funding. And I'll just give you one  
9           example. County-wide Clay County has enough room for  
10          additional students. We have what is known as  
11          capacity. We have enough classrooms for additional  
12          students. Yet, the school board authorized and paid  
13          for the construction of a 23.5 million dollar  
14          building. All cash. That was great. It's wonderful  
15          to have a brand new building, but it wasn't  
16          absolutely necessary. They could have redistricted.  
17          They could have put students in different schools,  
18          and that's not popular, it's not fun to do, but it  
19          would have been the right thing to do from a  
20          financial standpoint. And do you think we could pay  
21          for (unintelligible) in Orange Park with 23.5 million  
22          dollars? Absolutely. That could have been used for  
23          bonding, could have been used for a lot of things.

24                     There's -- and I could go down the lists of  
25          others decisions that have been made along those

1 lines, and so this isn't simply an issue of do you  
2 care about kids. I absolutely care about kids. I  
3 actually -- and I think this might be a good idea  
4 down the road, but we have to do a better job of  
5 educating the public on what this is going towards,  
6 and do it in a transparent manner, not these last  
7 minute meetings over the 4th of July when no one  
8 knows about them, not shifting resolutions, not  
9 confusing ballot language.

10 So I would recommend, and I'm going to recommend  
11 that we vote this down. Send it back to the school  
12 board, and then if they want to send us another  
13 resolution that's first cleaned up and reviewed in  
14 more detail for the language and inconsistencies, but  
15 then if it comes back to us with a 2020 general  
16 election, then that's something I think that we can  
17 consider and move forward with, but currently I don't  
18 feel comfortable moving forward voting with this.  
19 It's fraught with all kinds of inconsistencies, not  
20 to mention the lack of transparency in the process,  
21 and it's an additional expense unnecessarily to the  
22 public.

23 Let's put it on the general election ballot and  
24 let the voters decide from there.

25 THE CHAIR: Mr. Hendry.

1 MR. HENDRY: Thank you, Mr. Chairman.

2 What I reviewed -- the resolution that was dated  
3 June 27th, 2019 -- where's the signatures -- the  
4 Chairman of the school board. Based on presentations  
5 that I've heard, this is not the resolution that  
6 we're supposed to be considering today --

7 THE CHAIR: Well, let's clear this up.

8 MR. HENDRY: Please.

9 THE CHAIR: If you noted on our agenda, the item  
10 that is on the agenda is that one that was passed by  
11 them on June 27th. They missed the deadline for  
12 submitting anything that we would usually take in  
13 terms of the board here. Whether it would be  
14 internally from one of our staff people or  
15 commissioners. We accepted it, but that's not what's  
16 under consideration for this particular meeting.  
17 Under consideration is the original resolution they  
18 passed us.

19 MR. HENDRY: Okay.

20 THE CHAIR: Under our rules --

21 MR. ROLLINS: That wasn't clear to me.

22 THE CHAIR: That's all that we can do. Courtney  
23 acknowledged the fact that we received it, but if you  
24 look at our agenda online, some of those folks that  
25 were speaking did, that's the resolution that is

1 before us at this point in time. So, you know, the  
2 bottom line is if we go down that path of deciding  
3 that we don't want to approve a special election for  
4 2019, and we want to push it out for 2020, that's the  
5 resolution we would be using.

6 But I just wanted to straighten that out.

7 MR. HENDRY: Thank you.

8 THE CHAIR: That's the only way that it could  
9 work because that's the way we work, so Commissioner,  
10 do you have some other questions or do you have other  
11 comments? You're more than welcome to continue.

12 MR. HENDRY: So we're voting on the resolution  
13 that's published in the agenda, but that's not the  
14 resolution that the school board wants us to be  
15 voting on, is it?

16 THE CHAIR: Well, let's also tell you a little  
17 bit about that there's some conjecture as to why they  
18 had to change. They changed because they were  
19 notified by the state, and I can't remember the  
20 agency, the agency OPPAGA?

21 MS. GRIMM: OPPAGA.

22 THE CHAIR: Yeah. There were notified that they  
23 needed to be able to undergo an audit to make sure  
24 that they needed that monies, and then that audit had  
25 to be on public website or at least exposed to the

1 public for 60 days prior to any special election,  
2 which backed them into a situation to where it was  
3 either November 4th or 5th whatever the Tuesday is  
4 there, and so that's why they had to have a new  
5 meeting so that they can specifically talk about that  
6 date because they couldn't do the September, October  
7 dates because they wouldn't work with the audit, and  
8 then following the waiting time to make sure people  
9 saw the audit.

10 So when they dealt with the supervisor of  
11 elections, that was the date that they had to come  
12 with because they backed it up based on the audit,  
13 and then the subsequent posting of that auditor or at  
14 least the public sites -- publishing that particular  
15 date the audit, so that why they had to do it.

16 That had nothing to do with us. And quite  
17 honestly, you know, when they called the special  
18 meeting, we're not involved in that so we have no  
19 idea what they're trying to do with this special  
20 meeting. We were told they were having a special  
21 meeting, and then they sent over the resolution.

22 It first hit 10:30 in the morning is the first  
23 time we saw something from the school board. It was  
24 from Bruce Bickner, their attorney. There was  
25 nothing -- he said that the special resolution is

1 attached. There was nothing attached, so then we  
2 proceeded to call and that's when Jackie Slaybaugh  
3 called and notified them that we didn't receive  
4 anything.

5 By about 11:30 I think this is when they  
6 actually did finally send something, and by the time  
7 that occurred that's when -- you know, and they sent  
8 it directly to me. They didn't even copy Howard  
9 Wanamaker, our County Manager, or our county  
10 attorney, county auditor, or any of the other  
11 commissioners, and so that's when I started  
12 forwarding it to Teresa Capo, our Executive  
13 Assistant, so she could get it to our Commissioners,  
14 and then sent it to Howard and to Courtney.

15 It was only until about 1:30, 1:45 when I hand  
16 delivered letter was given to me that contained the  
17 official and original copy of the resolution, so  
18 that's sort of the timeframe of what --

19 MR. ROLLINS: Thank you. Yeah, I found out from  
20 a citizen is how I found out about the resolution.  
21 Nothing on our staff. I'm just trying to paint the  
22 picture this wasn't --

23 THE CHAIR: I couldn't release something that  
24 wasn't attached to the e-mail.

25 MR. ROLLINS: Oh, yeah. No, it -- our staff did

1 everything they could with a very short timeline.

2 THE CHAIR: I hope that answered some of your  
3 questions.

4 MR. HENDRY: That's a heck of explanation.

5 MS. GRIMM: Could I just add a footnote just to  
6 clarify the record. Mr. Bickner did send me the  
7 resolution with the attachments at 10:22 a.m. on  
8 Monday. I was out of the office. After Mr. Rollins  
9 called, I did check my e-mails and forwarded them to  
10 the office so that we could review it.

11 THE CHAIR: But at least in terms of where I  
12 was, that's where -- and the copy that he sent to me  
13 was specifically to me. It had no other e-mails  
14 copies, so we did the best we could with that and --

15 MR. HENDRY: Well, I can't support something  
16 that I've got to scratch my head that many times  
17 over, Mr. Chairman, so.

18 THE CHAIR: I guess your done, then?

19 MR. HENDRY: I'm done.

20 THE CHAIR: All right.

21 MR. ROLLINS: Academy award goes to Commissioner  
22 Hendry.

23 THE CHAIR: He scratched his head and it was  
24 off. All right. Mr. Bolla?

25 MR. BOLLA: Let me wake up here first. I

1 apologize for my looks. I can't do anything about  
2 it.

3 The first issue is what decision are we actually  
4 making here. This is a referendum for the people of  
5 Clay County to decide whether or not they want to go  
6 along with this. It's not up to the Board of County  
7 Commissioners to say what the final decision should  
8 be. It's up to the folks.

9 Second issue is that the -- when I was on the  
10 school board we were spending millions of dollars to  
11 build brand new schools, but we weren't -- I used to  
12 joke we haven't spent five cents to maintain the last  
13 one we built, and that's pretty much the way this  
14 works.

15 The reason for that is most of the funds that  
16 the school board gets is what's called categorical  
17 funds. So if you get a capital dollar, from the  
18 impact fee, for instance, you can't spend it to  
19 maintain an air conditioner. It's illegal. So the  
20 only money you can spend, is the money that's ear  
21 marked for maintenance.

22 So last year in their infinite wisdom the State  
23 of Florida decided that the public school systems  
24 didn't need any more maintenance money because they  
25 said that the school system could use their taxing

1 authority to come up with some kind of funding  
2 stream, so they could afford to fix the schools.

3 Recognizing that, they gave the charter schools  
4 158 million dollars for their maintenance needs  
5 because they don't have taxing authority.

6 So they do recognize that we need money from  
7 someplace. The only place we're going to get the  
8 money is this additional sales tax right now. I  
9 don't see where it's going to come any other way.

10 I mean, I personally will likely be voting yes  
11 if this referendum ever sees the light of day, and I  
12 mean, I agree with many that we should save the  
13 180,000 dollars and spend it on maintenance, and put  
14 this on the 2020 November docket for election.

15 THE CHAIR: Ms. Hutchings.

16 MS. HUTCHINGS: Well, a little anticlimactic,  
17 but you all have stated very eloquently what the  
18 concerns are, and I want to thank you the public  
19 coming out to meeting with a government body on a  
20 Tuesday afternoon. It's not a fun thing to do.  
21 You're here because you're passionate, and I want you  
22 to know you were heard.

23 The -- I'm not going to enumerate, you know,  
24 everything and just rehash what you said, but there's  
25 clearly some process problems here, and clearly I

1 have no problem with this going on the ballot, but  
2 when our legislature just passed a bill that says it  
3 needs to be at the general election, it's, to me,  
4 something that is a priority, and they heard from the  
5 public.

6 And the public -- I can tell you my e-mail and  
7 phone have blown up and it's been very few that were  
8 supportive of putting it on the ballot now, and most  
9 of the people that don't support it being on the  
10 ballot now, support it in being on the ballot in  
11 2020.

12 It's not a matter of don't put it on the ballot;  
13 it's a matter of when, so for that reason I'm -- and  
14 everything you all said so eloquently -- how come I  
15 could say scratch my head and it just wouldn't have  
16 the same affect, but thank you you all so much for  
17 coming, and I stand with the sentiments that have  
18 already been expressed .

19 THE CHAIR: I guess it's up to me to put a wrap  
20 to this. I think I said at the top I received more  
21 e-mails and calls about this special election and  
22 referendum than pretty much anything I've been talked  
23 about since being commissioned in November 2016.

24 It's clear our citizens are upset. They think  
25 their tax dollars are not going to be spent well.

1           They perceive the special election in November of  
2           this year is a cynical way of getting the sales tax  
3           increase since we'll have a little as seven or ten  
4           percent maybe slightly more of the electorate  
5           actually voting in the special election.

6           We all know that the latest house bill that was  
7           passed as a bill requires all referendums that  
8           increase taxes to be held during a course of a  
9           general election. That's in effect in January,  
10          January 1st.

11          We can probably go through the referendum and  
12          the resolution and pinpoint a number of different  
13          things. I think a lot of taxpayer and residents that  
14          spoke here today and that I heard from, think the  
15          resolution is too broad and covers way too many  
16          categories than what it should read giving the school  
17          board way too much latitude over the spending.  
18          They're not happy with the idea that the independent  
19          citizens committee is going to be picked by the  
20          school board. It's like the fox watching the hen  
21          house. Heard that term numerous times. More times  
22          that I probably want to remember.

23          We can talk about, you know, all of those --  
24          look, we all want better schools. I think everybody  
25          agrees on that. We all want better education for our

1 kids. Now, we realize that better schools help do  
2 that. Better schools also help us keep our real  
3 estate values higher. It's an undeniable fact. We  
4 realize that we have to keep up with growth that's  
5 not only here now, but that's coming down the pike.

6 That's why we have to do it right. That's why  
7 there's too much at stake at this time to try to rush  
8 things through. Honest mistakes made. Didn't  
9 realize that OPPAGA was needed to be involved, so  
10 that delayed things. You know in a rush to get  
11 things done, you know, sometimes that crush of trying  
12 to get things done creates errors, and  
13 inconsistencies.

14 So, what I'd like to propose to the board is,  
15 well, that we send this back to the school board.  
16 Tell them to work on that resolution, refine that a  
17 little bit. Maybe refine even the pitch that they're  
18 using in terms of some generic ideas, as to where  
19 that money's going to be spent because there's a  
20 whole long laundry list, but we all know some of that  
21 isn't going to happen with some of that money. Give  
22 us a plan that everybody can believe in, so that we  
23 can all get behind that.

24 And then also ask for their agreement, you know.  
25 I think somebody mentioned attorney general's

1 opinion based in 1998 in Hernando County where the  
2 attorney general asked what the County Commission was  
3 supposed to do with the -- City counsel's supposed to  
4 do with this question of the referendum from school  
5 board and they said you have the opportunity to  
6 decide that dates that is placed on the ballot, but  
7 we'd like to see you work together to be able to come  
8 up with that, and be able to work together to do  
9 that.

10 That's what I propose. I want to send it back  
11 with a no. I don't want to send it back saying that  
12 we're absolutely against that because I just said  
13 we're all for better schools.

14 We all realize -- you know , I've heard Dr. Kemp  
15 speak several times on the needs for capital to be  
16 able to build the schools that we need and be able to  
17 do the things we need to do. I can give them the  
18 same speech just substitute roads on the other side,  
19 so we need that kind of capital as well. So we  
20 understand that.

21 But I think at this point in time, it seems to  
22 me, this was rushed through, even, you know,  
23 receiving things less than 24 hours -- or about 24  
24 hours before we were going to meet to try to consider  
25 it, that just doesn't work for us. So if the board

1 is amenable, I would say we send it back and ask them  
2 to -- and all we could do is request in terms of  
3 resolution and what they cover because that's really  
4 up to them, but we can request -- say look, you heard  
5 our citizens, we heard our citizens, that's what they  
6 want; and then be able to see if we can get an  
7 agreement from them that the November 2020 is when we  
8 need to hold this special election. It wouldn't be a  
9 special election. It would be part of the general  
10 election, but it would be a referendum on that sales  
11 tax, but that's the only way that would happen.

12 If they disagree with that, well then all bets  
13 would be off on that.

14 I've got a question from our supervisor of  
15 elections or comment.

16 SUPERVISOR: Good evening. Just wanted to clear  
17 up a little bit of misinformation. First and  
18 foremost in a general election we average 60 to 87  
19 percent of a turn out. The last time this question  
20 came before the county in 2003, we had a 26 percent  
21 turn out in a special election. You-all get that.  
22 You-all understand that.

23 But the misinformation that I truly want to  
24 clarify especially as a veteran of the Persian Gulf  
25 War, and a military member who has voted by mail

1           countless times. The first thing that -- when you  
2           set election date, we send an election notice to all  
3           military members and overseas citizens of the pending  
4           election. Okay. We also send sample ballots. Now,  
5           of course, you can vote online as a military member.  
6           So we would make sure that we properly notice that.

7           Also, I've heard it said several times that  
8           because of the special election that we would be  
9           precluded from sending vote by mail ballots. That is  
10          never the case. There is not an election that's  
11          going to take place to where we send out vote by mail  
12          ballots.

13          As a matter of fact, currently we have 23,000  
14          requests that are on the books right now that would  
15          receive this vote by mail ballot.

16          The reason why I could not give the school board  
17          or much less any other entity the exact cost of what  
18          this election would be, is because a number of  
19          factors. Number one, the school board was not able  
20          to tell me that they were going to allow early  
21          voting. They would have that ability to disallow the  
22          early voting process and, of course, early voting we  
23          now have around 71 percent of the vote happens prior  
24          to election day. Vote by mail ballots are roughly  
25          about \$1.11 each to go out to where it cost me about

1 .37 cents to produce a precinct ballot, not knowing  
2 how many people would request a vote by mail ballot,  
3 not knowing the turn out, it's hard for he to get  
4 fixed on a price.

5 So I just want to let you know that first and  
6 foremost, elections is what we do. I firmly believe  
7 that we should conduct all elections.

8 Number two, they should be properly noted. A  
9 military members and overseas citizen will always  
10 have the opportunity to vote. And with 71 percent of  
11 the vote happening prior to election day, that's a  
12 bitter pill to swallow, so I appreciate the  
13 opportunity to the place it on a general ballot, a  
14 presidential election ballot to where we're likely to  
15 have the largest turn out ever.

16 Yes, it will not be an exclusive item on that's  
17 on the ballot, but you can bet this, I'll advertise  
18 the heck out of it; I'll make sure that everybody  
19 knows about it, and the importance of the ballot  
20 never let's any one item go unnoticed.

21 So I just wanted to make sure that we were clear  
22 on that that. That we would be sending out vote by  
23 mail ballots, and that we would advertise it no  
24 matter what.

25 THE CHAIR: All right. I've got a question.

1 MR. ROLLINS: Just one. And thank you for  
2 clarifying that. I just want to clarify my comments  
3 were not at all about the way you would conduct it.

4 SUPERVISOR: Oh, no. No. No. I didn't take it  
5 --

6 MR. ROLLINS: You guys do a great job.

7 SUPERVISOR: I didn't take that --

8 MR. HENDRY: Just simply that generally the off  
9 cycle elections are not -- the public isn't generally  
10 aware as statistics show with voter turn out.

11 Now, everyone has the opportunity, but they're  
12 less likely to be aware of it just for a number of  
13 factors and that is added to the challenge, but I  
14 appreciate all the work you do to notify, you know,  
15 military members and for your service.

16 SUPERVISOR: Well, with the fact that 12 of our  
17 precincts clerks were going to be on vacation this  
18 November as we solicited their availability, again I  
19 appreciate the fact that we're able to hit the pause  
20 button a little bit and take a better look at this.

21 THE CHAIR: Thank you, supervisor of elections.  
22 I know there's been contingent from the school board  
23 here. I know Dr. Kemp is here, and I don't want to  
24 put you on the spot, Doctor, but if you're up to it  
25 and you want to come and address the board, I

1 certainly would invite you to do so at this time. It  
2 was unscheduled, so. But I never heard you miss a  
3 presentation.

4 DR. KEMP: Well, thank you for the opportunity.  
5 I want to tell you first and foremost that I  
6 appreciate each and every one of you.

7 You-all have heard me talk a little bit before  
8 about the opportunity to serve and how difficult  
9 leadership can be at times, but I guess the message  
10 that's really out here is we are truly at a pivotal  
11 point as a county and I had the chance to speak at a  
12 municipality last night in Keystone Heights, and just  
13 to share a little bit about the true challenges.

14 I don't want to speak badly about anyone before  
15 me, or who sat in these chairs before us, or anyone  
16 who served before me because that's just not what I  
17 do. But I can tell you the challenge is real.

18 When you take a look at the growth needs and  
19 that we've been very transparent on what's happening  
20 with growth, and Mr. Fossa our -- who's also here, we  
21 talked about the First Coast Expressway, and what's  
22 that going to do for Clay, and no matter how much we  
23 communicate the growth needs that are going to be  
24 taking place, there's always some.

25 And I just talked to a gentleman the other day

1 at Penny Farms area. Look, he said, it's not coming.  
2 They're building the First Coast Expressway right  
3 through there. The growth is coming, and people can  
4 debate the growth and people can debate we don't have  
5 a crystal ball as to exactly when that will happen,  
6 but we do know what's going to happen when the  
7 governor's part development and we have great road  
8 maps to look at. We've got great variables that we  
9 look at, so the growth portion is one piece, so how  
10 do we address that growth need? That's a need.

11 In 2017 when I got here, I immediately started  
12 looking at a needs assessment by school because quite  
13 honestly, as I stated before I was shocked. I was  
14 shocked at the condition of the facilities that we  
15 inherited, and it's not just me. It's the entire --  
16 every team before me inherited it. So it was a  
17 little frustrating at first to see what can we do to  
18 keep air conditioners running.

19 People don't -- there's a lot of misinformation  
20 about the true conditions of our facilities, and I  
21 can't speak for previous boards. I will not do that.  
22 I can't control the fact that there's been distrust  
23 issues in the past between multiple municipalities.  
24 Whether it's with the commission and the board, and  
25 board and Keystone.

1           I'm here to tell you that -- you know, Houston,  
2           we have a problem. Clay has an issue. We have an  
3           issue, and at the end of the day, we look at growth  
4           needs and we look at the sales tax initiative or any  
5           other way to generate a revenue stream. I think it  
6           -- I think it comes down to accountability. Each and  
7           every one of you as well as each board members as  
8           well as each individual that's in the seats that are  
9           responsible for a decision.

10           I mean, it's great, and I'm all about the  
11           scrimmage. I'm all about what can we do next; what  
12           can we do differently? How do we get better? What  
13           else can we do? I'm all about that. But at the end  
14           of the day, the challenge remains, and, you know,  
15           there's never a good time to talk about additional  
16           revenue. There's never a good time. It's kind of  
17           like a colonoscopy. I mean, there's never a good  
18           time, but you have to do what you need to do  
19           sometimes, so.

20           As far as the growth part that's one piece of  
21           it, but as far as the needs assessment for the  
22           facilities and what's happening and the fact that we  
23           have got to come up with a solution together  
24           collectively to make it work, it's important to me.

25           It's important be me that those of us that are

1 in positions to actually have the authority -- we're  
2 in authority positions to try to come up with a  
3 solution. There has to be a solution at the end of  
4 the day because authority without capacity is  
5 futility. We have to have capacity to get it done,  
6 and our master plan on the needs assessment that  
7 we've gone school-by-school and looked at it.

8 People don't realize that just the Orange Park  
9 chiller is 1.2 million dollars last quoted, and every  
10 year it's going higher, and we're putting bandaids,  
11 on bandaids, on bandaids, you know and what a lot of  
12 people don't understand the funding.

13 I agree with you. This team stands -- I'll  
14 stand ready. Whether it's a special referendum or an  
15 opportunity to educate the public -- I'm not legally  
16 allowed to advocate, but I can educate. Educate the  
17 public on the true conditions of the facilities and  
18 where we are, and I can't talk much about how we got  
19 there other than the fact that funding is truly  
20 restricted.

21 Last year I received \$855,000 in PECO  
22 Maintenance. You know what we got this year, zero.  
23 Every year state funding has been cut. We used to  
24 get PECO new growth construction. Well they said  
25 what about impact fees. Well the impact fees we

1 received from -- can only be used for new growth. It  
2 can only be used for new growth.

3 The Portable Reduction Act, that's never been  
4 truly be able to be followed, because a lot of our  
5 schools were built with the concept of portables.

6 Regardless on your opinions on portables, and we  
7 have 980 portables, we started with 980 portables,  
8 third most in the state, only behind Miami Dade and  
9 Orange County Orlando, and they have two and a half,  
10 three times the students.

11 Now, that strategy that neighborhoods would  
12 mature and you wouldn't need brick and mortar  
13 buildings has changed. A lot has changed.

14 I'm absolutely convinced that just the portable  
15 strategy alone is an issue. That with the  
16 maintenances issue on top of our HVAC, we have gone  
17 school-by-school looked at every mechanical system  
18 all the building envelope issues which is roof,  
19 plumbing. A lot of our schools are very, very old.  
20 Average is age is 40 years old district wide from  
21 youngest to oldest school. Orange Park is  
22 approaching 92 years old. Original stuff, original  
23 plumbing. True there's been no deferred maintenance;  
24 no preventative maintenance over time.

25 So, as I come into my leadership role, just as

1       you come into yours, and the next board whether they  
2       get voted out, whether the cabinet gets booted,  
3       whether this commission gets voted out, the next  
4       group comes in I'm going to present this question.  
5       We have the same challenge. The challenge is not  
6       going away. The growth needs are only going to  
7       compound, and the issue is with our existing  
8       facilities.

9               Because quite honestly, people can say, you know  
10       -- well, it is about the kids. I couldn't understand  
11       when I got here why certain agencies, certain  
12       municipalities, I couldn't understand why there's  
13       this perception that our students didn't deserve the  
14       same resources and facilities and relevant  
15       facilities, and technology in classrooms that other  
16       districts have enjoyed for years before us.

17               We didn't get wifi in our -- wifi, folks till  
18       2017 when I got here. When I found out we didn't  
19       have wifi, I was concerned about that. When I found  
20       out that more than half of our schools didn't have  
21       any type of camera surveillance, I mean even on  
22       parent pickup zones and things of that nature. I can  
23       now tell you that 100 percent of our schools have  
24       camera surveillance.

25               Things that for some reason were not priorities.

1 I can't speak for why they weren't, but I can tell  
2 you from 2017 forward I'm committed to trying to find  
3 a solution because you can have the best vision -- we  
4 can have the best visions, we can have the best  
5 plans, but without ability implemented, vision  
6 without implementation is hallucination.

7 I mean, you know, there's never a good time.  
8 We've got to keep on looking at strategies and  
9 solutions, and I implore you. I'm all about working  
10 together because I'm convinced with the growth that  
11 we face, and I think you've heard me say this, Mr.  
12 Cella. Some of the growth that we face in the next  
13 15, 20 years and what's going to happen, I truly am  
14 convinced that even if we're all working together,  
15 it's going to take everybody working together in the  
16 spirit of cooperation.

17 And just on a personal level, it's disheartening  
18 a bit, because Clay County children do deserve the  
19 same resources that other districts are doing.  
20 There's a reason 20 plus districts already had to go  
21 down this road. It's not because anybody wants to.  
22 No one likes to pursue this type of revenue stream.  
23 It doesn't make you popular.

24 I understand the community's concerns. I  
25 understand the power of the scrimmage because that's

1        what's going to help collectively win the game, but  
2        at the end the day scrimmage ends great, and we can  
3        look at all but there's got to be a solutions that's  
4        actually -- that we can execute.

5                And I think that together, if we can focus more  
6        than just as an outsider looking in, if we can focus  
7        more truly on working together for what we're all  
8        going to experience together all municipalities put  
9        aside whatever has happened in the past and all those  
10       issues and variables that I can't control. I'm not  
11       here to lecture I'm here to speak from my heart on  
12       this because it's tough to be in a position where  
13       when you go into the schools, you can't help. I need  
14       to be able to fix this. I can't fix this. I'm  
15       working on it. My team's here. Our team is here  
16       because they care. Our team has been a part of  
17       developing the needs assessment. It's not just  
18       something that was just slung together. It's  
19       something that we've been working on school-by-school  
20       on the first worst scenario what's -- something  
21       breaks every day, and you can say well, you can  
22       tighten your belt. We can only do so much with  
23       impact fees. We've got the gas and surtax charge --  
24       we were not prepared as a county to experience the  
25       growth that took place in Fleming Island, Eagle

1 Harbor, Oakleaf, and all the area.

2 If you think about what the Buckman Bridge did  
3 to Clay, what the First Coast Expressway is going to  
4 do to Clay with the new bridge, and people are pretty  
5 much going to cut Jacksonville -- there's going to  
6 leave I-10 and cut through and come through the First  
7 Coast Expressway and over to I-95.

8 So I'm closing, but I want you to know that I  
9 stand committed whether it's now or whether it's  
10 sometime in the future to have a solution that we can  
11 truly work together to make this -- make Clay more  
12 competitive because we're going to lose the  
13 competitive edge every time. We're going to lose on  
14 economic development because two things they look at.

15 They look at first of all when big companies  
16 come in, tax breaks. Second thing, Mr. Cella, they  
17 look at perception of public schools and do we have  
18 relevant resources.

19 When I got here in 2017 concept of the 21st  
20 Century classroom is a view sonic projector, and a  
21 pulled down white screen. That's not a 21st-Century  
22 technology. Our kids have missed out, so I'm here to  
23 try to be an equitable player. I do care. I'm  
24 committed.

25 I spend more time at 925 Center Street than

1 anywhere else. I'm available to answer any questions  
2 regarding what we're doing. And we're prepared to  
3 educate. I'm prepared to say what it means for every  
4 school, and what it will mean for each -- so I do  
5 appreciate the opportunity to work together and --  
6 because it matters. Collectively, we've got a  
7 challenge.

8 THE CHAIR: We understand that.

9 DR. KEMP: Yes, sir. And I appreciate -- and  
10 again I appreciate the opportunity.

11 MR. BOLLA: I think if you get that story to the  
12 public, you're not going to have any problems.

13 DR. KEMP: We stand ready to show what the plan  
14 is, what the master plan is, and what it means for  
15 each school and what it means for each feeder  
16 pattern, and what it means for over the course of  
17 time.

18 But, once again vision without implementation is  
19 hallucination. We've got to have a way to execute,  
20 and I'm ready for a solution. Thank you.

21 THE CHAIR: Thank you, Dr. Kemp, I appreciate  
22 it. And thank you to the rest of your team for being  
23 here. We appreciate their interest and their support  
24 for their programs.

25 MR. ROLLINS: Ready to entertain a motion?

1 THE CHAIR: I'm ready to entertain a motion.

2 MR. ROLLINS: So I move that we send this  
3 resolution back to the school board for refinement on  
4 several of the issues that have been brought up, and  
5 also for them to put the date in there for the  
6 November 2020 general election, and then to send that  
7 back to us at sometime in the future for  
8 consideration.

9 MR. BOLLA: I'll second.

10 THE CHAIR: All right. Any other discussions;  
11 Being none I'll call a vote. All in favor please say  
12 Aye.

13 ALL MEMBERS: Aye.

14 THE CHAIR: Any oppose? That motion does carry  
15 five-zero, and Dr. Kemp will work with you to see  
16 what we can do to getting that through.

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**IN THE CIRCUIT COURT OF THE  
FOURTH JUDICIAL CIRCUIT IN  
AND FOR CLAY COUNTY, FLORIDA**

**SCHOOL BOARD OF CLAY  
COUNTY, FLORIDA,**

**Petitioner,**

**CASE NO.: 10-2014-CA-000983**

**vs.**

**CLAY COUNTY, by and through its  
BOARD OF COUNTY COMMISSIONERS,**

**Respondent.**

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**ORDER GRANTING PETITIONER'S EMERGENCY  
PETITION FOR WRIT OF MANDAMUS**

On the 26th day of August 2014, this Court conducted a hearing to consider Petitioner's Emergency Petition for Writ of Mandamus. This Court has jurisdiction to issue a Writ of Mandamus pursuant to Article V, Section 5(b) of the Florida Constitution, Rules 9.030(c)(3) and 9.100 of the Florida Rules of Appellate Procedure, and Rule 1.630 of the Florida Rules of Civil Procedure.

The Court having reviewed the Emergency Petition for Writ of Mandamus, Respondent's response, Petitioner's reply, relevant statutory authority and case law, and arguments of the parties, the Court finds as follows:

- 1) To be entitled to a writ of mandamus, one must demonstrate a clear legal right to the performance of a legal duty by a public officer, and that there are no other legal remedies available. Rhea v. Dist. Bd. of Trustees of Santa Fe Coll., 109 So. 3d 851, 855 (Fla. 1st DCA 2013). Mandamus may be used only to enforce a clear and certain right, not to establish such a right. Plymel v. Moore, 770 So. 2d 242, 246 (Fla. 1st

DCA 2000). It is a remedy to compel public officials to perform a ministerial act or duty that the person deprived has a right to demand and the officials have a clear legal duty to perform. Rhea, 109 So. 3d at 855. A duty or act is ministerial when no room exists for the exercise of discretion and the law directs the required performance. Id.

- 2) Applied to the instant case, the law of mandamus required the Court to determine whether the School Board alleged sufficient facts to state a claim that section 1001.461, Florida Statutes affords them a clear legal right to have the proposition placed on the ballot for the November 4, 2014 general election.
- 3) It is not in dispute that the Supervisor of Elections has adequate time to place the proposition on the ballot. The Court finds the School Board's request to place the proposition on the ballot for the November 4, 2014 general election was timely made.
- 4) Respondent points out that this issue is more properly before the Court in a Petition for Writ of Certiorari rather than a Petition for Writ of Mandamus, as Mandamus does not lie when a circuit court reviews the quasi-judicial actions of a local governing body. Because a prompt ruling has been requested of the Court, the Emergency Petition for Writ of Mandamus will also be considered as a Petition for Writ of Certiorari. See Fla. R. App. P. 9.040(c).

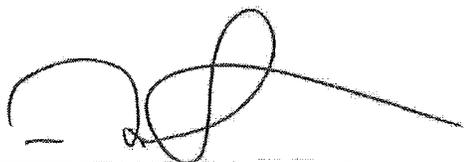
After careful review of the record, applicable constitutional and statutory authorities, case law, and submissions and argument of counsel, it is **ORDERED AND ADJUDGED:**

1. The Emergency Petition for Writ of Mandamus requested by the School Board of Clay County, Florida is granted.
2. Respondent Clay County Board of County Commissioners is ordered to meet no later than August 28, 2014 for the purpose of adopting a resolution causing to be

placed upon the November 4, 2014 general election ballot the proposition contained within the Resolution of the School Board of Clay County, Florida duly passed and approved on July 17, 2014 and as requested by the School Board of Clay County, Florida via correspondence to Commissioner Wendell D. Davis, Chairman, Clay County Board of County Commissioners, dated July 23, 2014.

3. Immediately upon adoption of the resolution, the County Attorney of the Clay County Board of County Commissioners shall cause a certified copy of the resolution to be delivered to the Supervisor of Elections and a certified copy of the resolution to be delivered to the School Board of Clay County, Florida.
4. The Court reserves ruling on the award of attorneys' fees and costs incurred by the Petitioner in obtaining this Order.

**DONE AND ORDERED** in Chambers in Green Cove Springs, Clay County, Florida, on this 26<sup>th</sup> day of August, 2014.



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Mark J. Borello  
Circuit Court Judge

Copies to:  
Counsel of Record