

GEORGIA, Murray County

MINUTES

The Murray County Commissioner held a public meeting Tuesday, April 5, 2011 at 9:00am in the hearing room of the Murray County Courthouse Annex.

Interim Commissioner Starnes called the meeting to order and welcomed those in attendance.

By signature and execution the minutes of March 2011 were approved.

With no additions or deletions to the agenda, Interim Commissioner Starnes adopted the agenda as presented.

Under new business the following items were addressed and approved.

A. Resignation/Interim Governing Authority

RESIGNATION OF OFFICE

First of all I want to thank the residents of Murray County for having the confidence in electing me in 2008. Since then I have thoroughly enjoyed and considered it a privilege in serving all the people of Murray County and have done so to the best of my ability. However, due to the strenuous requirements of the job, I have neglected certain other important family and business matters. I must, guided by my conscience, relinquish my position as Commissioner immediately. I don't want this to be viewed as an abandonment of my office. I will work with the transition team as necessary to make sure that an orderly progression is followed. I sincerely hope that each of you will honor my decision as it was my voluntary decision and the best decision for me and my family and request that you respect the same.

This 28th day of March, 2011.

David Ridley

**STATE OF GEORGIA
Office of the Governor
ATLANTA 30334-0900**

**Nathan Deal
Governor**

March 31, 2011

**Mr. David Ridley
c/o Gregory H. Kinnaman
Murray County Attorney
P.O. Box 6178
Dalton, Georgia 30722-6178**

Dear Mr. Ridley:

Thank you for the service you have rendered as Commissioner of Murray County. I have been apprised of your resignation, effective March 28, 2011.

Your resignation is hereby accepted, and I wish you all the best in your future endeavors. Once again, thank you for your service to Murray County and the State of Georgia.

Sincerely,
Nathan Deal

ND:rg

cc: The Honorable Brian Kemp, Secretary of State
The Honorable Dale Adams, Judge, Probate Court of Murray County

B. Approved Murray County Land Use Development Planning Commission Minutes Dated March 15, 2011.

The meeting was called to order by Chairman Steve Anglea at 7 pm. The first order of business was approval of the agenda. David McDaniel made the motion to approve the agenda with the deletion of item 3 and the addition of old business of the request, by County Commissioner Ridley, that was tabled at the February meeting. Edward Dunn seconded the motion and the motion was unanimously approved.

The next order of business was approval of the minutes from February 15 meeting. Edward Dunn made the motion to approve the minutes as written. The motion was seconded by Larry Morrison and was unanimously approved.

New Business:

Steve Anglea read the rules of order and opened the public hearing on item number 1 of New Business, for a Rezone of 1.57 acres of property owned by Kristy Green-Coram located at 3728 Maple Grove Church Road in Land Lot 261 District 8 of Murray County. Mr. Barnes stated that a new home is being built on the property and they want a smaller tract than is required in AG district and he recommends approval. Nancy Young said all notices had been sent to adjacent property owners. There was no one present either for or against the request. Steve Anglea closed the public portion of the hearing for board discussion. Edward Dunn made a motion to approve the request, seconded by Larry Morrison, the motion was unanimously approved.

Item 2. Re/Classification of 1.5 acres of property from SR to RR owned by James Pullen in land lot 167 district 10 of Murray County addressed on Lyles Road. Mr. Barnes said there is a mix of mobile homes and site built houses in this neighborhood and he recommends approval. Nancy Young said all notices had been sent to adjacent property owners. Mr. Pullen was present for the meeting. No one present either for or against the request. Steve Anglea closed the public portion of

the meeting for board discussion. David McDaniel made a motion to approve the request 2nd by Larry Morrison, the motion was unanimously approved. David McDaniel made a motion to adjourn the meeting 2nd by Edward Dunn, all in favor, none opposed, meeting adjourned.

C. Contract 2011: Indigent Defense Services

INDIGENT DEFENSE SERVICES AGREEMENT AMONG THE GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL, THE CIRCUIT PUBLIC DEFENDER OFFICE OF THE CONASAUGA JUDICIAL CIRCUIT, AND THE GOVERNING AUTHORITIES OF WHITFIELD AND MURRAY COUNTIES (CALENDAR YEAR 2011)

THIS AGREEMENT is entered into this 5th day of April, 2011, among the Georgia Public Defender Standards Council (herein referred to as "GPDSC"), the Circuit Public Defender Office of the Conasauga Judicial Circuit (herein referred to as "the Public Defender Office"), and the governing authorities of Whitfield and Murray Counties, bodies politic and subdivisions of the State of Georgia (herein referred to as "the Counties") and is effective January 1, 2011.

WITNESSETH:

WHEREAS, the Public Defender Office, the Counties, and GPDSC enter into this agreement to implement the provisions of the Georgia Indigent Defense Act of 2003, as amended, including the provisions quoted below; and

WHEREAS, O.C.G.A. 17-12-23 (d) provides as follows:

A city or county may contract with the circuit public defender office for the provision of criminal defense for indigent persons accused of violating city or county ordinances or state laws. If a city or county does not contract with the circuit public defender office, the city or county shall be subject to all applicable standards adopted by the council for representation of indigent persons in this state; and

WHEREAS, O.C.G.A. 17-12-25 (b) provides as follows:

The county or counties comprising the judicial circuit may supplement the salary of the circuit public defender in an amount as is or may be authorized by local Act or in an amount as may be determined by the governing authority of the county or counties, whichever is greater; and

WHEREAS, O.C.G.A. 17-12-30 (c) (6) provides as follows:

The governing authority of the county or counties comprising a judicial circuit may supplement the salary or fringe benefits of any state paid position appointed pursuant to this article; and

WHEREAS, O.C.G.A. 17-12-34 provides as follows:

The governing authority of the county shall provide, in conjunction and cooperation with the other counties in the judicial circuit and in a prorate share according to the population of each county, appropriate offices, utilities, telephone expenses, materials, and supplies as may be necessary to equip, maintain, and furnish the office or offices of the circuit public defender in an orderly and efficient manner. The provisions of an office, utilities, telephone expenses, materials, and supplies shall be subject to the budget procedures required by Article 1 of Chapter 81 of Title 36; and

WHEREAS, O.C.G.A. 17-12-35 provides as follows:

A circuit public defender office may contract with and may accept funds and grants from any public or private source; and

WHEREAS, the Counties are bodies politic, existing and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other political entities; and

WHEREAS, the Public Defender Office is existing and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other entities; and

WHEREAS, GPDSC is existing and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other entities; and

WHEREAS, GPDSC is the fiscal officer for the Public Defender Office; and

WHEREAS, it is the intent of the parties to this agreement to provide for the operation of an indigent defense system to assure that adequate and effective legal representation is provided, independent of political considerations or private interests, to indigent defendants in criminal cases consistent with the standards adopted by GPDSC. This system and this agreement include the following:

- (1) The provision by the Public Defender Office of the statutorily required services to the Counties;**
- (2) The payment for additional personnel and services by the Counties;**
- (3) The provision by the Counties of their pro rata shares of the costs of appropriate offices, utilities, telephone expenses, materials, and**

supplies as may be necessary to equip, maintain, and furnish the office or offices of the circuit public defender in an orderly and efficient manner;

- (4) Salary supplements; and
- (5) The provision for other matters necessary to carry out this agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in the agreement and for Ten Dollars (\$10) and other good and valuable consideration, **IT IS AGREED AS FOLLOWS:**

ARTICLE 1 **STATUTORY PERSONNEL**

Section 1.01 Statutory Staffing. The Public Defender Office agrees to provide for the Conasauga Judicial Circuit full-time staff for a circuit public defender office or offices consisting of a circuit public defender; an assistant public defender for each superior court judge authorized for the circuit, excluding the chief judge and senior judges; an investigator; and 2 additional persons to perform administrative, clerical or paraprofessional services.

Section 1.02 Statutory Services. The Public Defender Office agrees to provide representation to indigent defendants in the following cases:

- (1) Cases prosecuted in the Superior, Probate, and Magistrate Courts of Whitfield and Murray Counties under the laws of the State of Georgia in which there is a possibility that a sentence of imprisonment or probation or suspension of sentence of imprisonment may be adjudged;
- (2) Hearings in the Superior, Probate, and Magistrate Courts of Whitfield and Murray Counties on a revocation of probation;
- (3) Cases prosecuted in the Juvenile Courts of Whitfield and Murray Counties in which a child may face a disposition in a delinquency case of confinement, commitment or probation; and
- (4) Direct appeals from a decision in cases described in (1), (2), and (3) above.

Section 1.03 Conflicts. The Public Defender Office agrees to provide for legal representation by a qualified attorney in cases described in Section 1.02 in which a public defender has a conflict of interest.

ARTICLE 2 **ADDITIONAL PERSONNEL AND SERVICES**

Section 2.01 Additional personnel and services. The Public Defender Office agrees to provide and the Counties agree to pay for the services and personnel described in

Attachment A. The parties agree to the terms of Attachment A. Attachment A is incorporated into this agreement by reference. The amount to be paid in Attachment A includes a 5% administrative services fee. Any additional personnel employed by the Public Defender Office pursuant to this section are fulltime state paid employees of the Public Defender Office in the unclassified services of the State Merit System of Personnel Administration with all the benefits provided by law to employees in the unclassified service. The additional personnel serve at the pleasure of the Circuit Public Defender. The parties agree that the employment of additional personnel employed by the Public Defender Office pursuant to this section may be terminated by the Public Defender Office if the Counties do not pay for the cost of these personnel in advance in accordance with this agreement.

ARTICLE 3

PROVISION BY THE COUNTIES OF THEIR PRO RATA SHARES OF THE COSTS OF APPROPRIATE OFFICES, UTILITIES, TELEPHONE EXPENSES, MATERIALS, AND SUPPLIES AS MAY BE NECESSARY TO EQUIP, MAINTAIN, AND FURNISH THE OFFICE OR OFFICES OF THE CIRCUIT PUBLIC DEFENDER.

Section 3.01 Office expenses. In addition to the personnel expenses described in Article 2 and Attachment A, each County agrees to pay its pro rata share of the county funded non-personnel portion of the budget, also provided in Attachment A, which is the budget for appropriate offices, utilities, telephone expenses, materials, technical support, and supplies to equip, maintain, and furnish the office or offices of the Public Defender Office. The amount of each County's pro rata share of this expense based on population is reflected in Attachment A. The funds shall be disbursed in accordance with the procedures outlined in Section 4.01 of this agreement. Attachment A is incorporated into this agreement by reference.

ARTICLE 4

ADMINISTRATION

Section 4.01 Administration. For administrative and accounting purposes the Public Defender Office shall be treated as a department of the Whitfield County government. As such, the Public Defender Office in Dalton shall be afforded access to the county's telephone and internet networks. Except as otherwise specified herein, all expenditures authorized by the Circuit Public Defender under the budget shall be made by Whitfield County. The Public Defender's Office shall utilize such forms, software and accounting procedures as Whitfield County shall specify unless the same are inconsistent with administrative procedures for the Public Defender's Office established by the GPDSC.

Section 4.02 Counties' Pro Rata Shares Murray County will pay Whitfield County for Murray's County's pro rata of the expenditures for the Public Defender's Office. The pro rata share for Murray County shall be Thirty Percent (30%) based on the 2000 U.S. Census population figures for Whitfield (83,525) and Murray (36,506) Counties.

ARTICLE 5 **MISCELLANEOUS**

Section 5.01 Term. The term of this agreement is one (1) year beginning January 1, 2011 and ending December 31, 2011.

Section 5.02 Maintenance of effort. The Counties agrees that they will continue to fund indigent defense for the term of this agreement and as part of this support each county agrees to provide the space, equipment and operating expenses necessary to effectively operate the circuit public defender office.

Section 5.03 Severability. Any section, subsection, paragraph, term, condition, provision or other part (hereinafter collectively referred to as "part") of this agreement that is judged, held, found, or declared to be voidable, void, invalid, illegal or otherwise not fully enforceable shall not affect any other part of this agreement, and the remainder of this agreement shall continue to be of full force and effect. Any agreement of the parties to amend, modify, eliminate, or otherwise change any part of this agreement shall not affect any other part of this agreement, and the remainder of this agreement shall continue to be of full force and effect.

Section 5.04 Cooperation, dispute resolution and jurisdiction. (a) The Public Defender Office and the counties acknowledge that this agreement may need to be revised periodically to address new or unforeseen matters.

(b) Each party to this agreement agrees to cooperate with the other party to effectuate and carry out the intent of this agreement.

(c) This agreement, and the rights and obligations of the parties, are governed by, and subject to and interpreted in accordance with the laws of the State of Georgia. The parties acknowledge and agree that by law, the exclusive jurisdiction for contract actions against the state, departments and agencies of the state, and state authorities is the Superior Court of Fulton County, Georgia. The parties further acknowledge that the Fulton Superior Court has a Court sponsored Arbitration and Mediation Program in which the parties agree to fully participate.

Section 5.05 Notice. A notice to a party to this agreement shall be made in writing and shall be delivered by first class mail or personally to the person and at the address indicated below:

Circuit Public Defender Office of the Conasauga Judicial Circuit:
MICHAEL R. MCCARTHY
(or his successor in office)
Circuit Public Defender
Post Office Box 548
Dalton, Georgia 30722-0548

Governing Authority of Whitfield County:

MARK GIBSON
Administrator for Whitfield County
(or his successor in office)
Post Office Box 248
Dalton, Georgia 30722-0248

Governing Authority of Murray County:

DAVID RIDLEY
County Commissioner for Murray County
(or his successor in office)
Post Office Box 1129
Chatsworth, Georgia 30705-1129

Georgia Public Defender Standards Council:

W. TRAVIS SAKRISON
Director
(or his successor in office)
104 Marietta Street, Suite 200
Atlanta, Georgia 30303

Section 5.06 Agreement modification. This agreement, including all attachments hereto, constitutes the entire agreement among the parties with respect to the subject matter of this agreement and may be altered or amended only by a subsequent written agreement of equal dignity; provided, however, that the parties' representatives identified in Section 5.05 may agree in writing by an exchange of letters or emails prior to the budget revision becoming effective to budget revisions which do not increase or decrease the total dollar value of the agreement. This agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to the subject matter of this agreement. No modifications may be made without prior notice to and approval from all the parties to this agreement.

Section 5.07 Termination. (a) **Due to non-availability of funds.** In the event that either of the sources of reimbursement for services under this agreement (appropriations from the General Assembly of the State of Georgia, or appropriations from the governing authorities of the Counties) is reduced during the term of this agreement, the Public Defender Office may make financial and other adjustments to this agreement and notify the Counties accordingly. An adjustment may be an agreement amendment or may be the termination of the agreement. The certification by the director of the Georgia Public Defender Standards Council of the occurrence of reduction in State funds is conclusive. The certification of the occurrence of the reduction in county funds by the persons named in Section 5.05 by the Counties to receive notices is conclusive. The Counties shall promptly notify the Public Defender Office in writing on the non-existence or insufficiency of funds and the date of termination. The Public Defender Office shall

then immediately cease providing the services required hereunder except for any necessary winding down and transition services required under Section 5.08. In lieu of terminating this agreement, the Counties and the Public Defender Office may make financial and other adjustments to this agreement by amending it pursuant to Section 5.06.

(b) For cause. This agreement may be terminated for cause, in whole or in part, at any time by either party for failure by the other party to substantially perform any of its duties under this agreement. "Cause" means a breach or default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of notice of such default (or such additional cure period as the non-defaulting party may authorize). Should a party exercise its right to terminate this agreement under this subsection, the termination shall be accomplished in writing and specify the reason and the termination date. In the event of termination under this subsection the Public Defender Office shall submit a final agreement expenditure report containing all charges incurred through and including the termination date to the Counties no later than 30 days after the effective date of written notice of termination and the Counties shall pay the amount due within 15 days of the receipt of the final agreement expenditure report. Upon termination of this agreement, the Public Defender Office shall not incur any new obligations after the effective date of the termination, except as required under Section 5.08. The above remedies contained in this subsection are in addition to any other remedies provided by law or the terms of this agreement.

Section 5.08 Cooperation in transition of services.

- (a) During or at the end of the agreement.** The Public Defender Office agrees upon suspension, termination or expiration of this agreement, in whole or in part, for any reason to cooperate as requested by the Counties to effectuate the smooth and reasonable transition of services for existing clients. This includes but is not limited to the continuation of representation by Public Defender Office where appropriate or required by law, court rule or the State Bar of Georgia ethical standards or the facilitation of the timely transfer to the Counties of the client records. The Counties shall compensate the Public Defender for all post-suspension, post-termination or post-expiration services under this subsection. The Public Defender Office shall submit a monthly expenditure report containing all charges incurred during the preceding month on or before the 5th day of each month. The Counties shall pay the amount due within 15 days of the receipt of the monthly expenditure report. This subsection survives the suspension, termination or expiration of the agreement.
- (b) Statutory responsibility continuation.** The Public Defender Office and the Counties acknowledge that all of them have responsibilities for indigent defense costs under the Georgia Indigent Defense Act of 2003, as

amended and that the termination or expiration of this agreement does not relieve any party of its responsibility under the law.

Section 5.09 Advance of Funds. The parties agree that advances of funds cannot remain outstanding following agreement termination or expiration and will be reclaimed. The parties agree that upon termination of this agreement, for any reason, all unexpended and unobligated funds held by the parties revert to the party entitled to the funds. The parties agree to reconcile expenditures against advances of funds within 30 days of termination of this agreement.

Section 5.10 Rollover of Funds. The Counties acknowledge that state agencies have a fiscal year from July 1 to June 30. The Counties agree to authorize the Georgia Public Defender Standards Council to roll over remaining county funds from the end of one fiscal year to the start of the new fiscal year.

Section 5.11 Time / Originals. Time is of the essence and there shall be four (4) originals prepared, one (1) for each party to this agreement.

IN WITNESS WHEREOF, the parties have each here unto affixed their signatures the day and year first written above.

(NOTE: AN ATTACHMENT (A) IS IN AUXILIARY FILES)

D. Grant Application: Georgia D.O.T. Section 5311 FY 2012 Rural Public Transportation Grant - \$264,232, Federal \$15,960, State \$152,512 Local Funds.

(NOTE: DETAILED GRANT APPLICATION IN AUXILIARY FILES)

Documents are located in the auxiliary files.

ADJOURNMENT:

This 5th day of April, 2011.

ATTEST:

Tommy Parker, Interim Co Clerk

Tom Starnes, Interim Co Commissioner

In Attendance: Tom Starnes, Tommy Parker, Mike McCarthy, Dirk Green, Joey Arnold, Dinah Rowe, Edward Dunn, Charlotte Keener, Karen Crump, Dana Burch, Matt Sanford, Mark Millican, Joan Dooley, Dick Barnes