BOARD OF COUNTY COMMISSIONERS
JASPER COUNTY, GEORGIA
CALLED MEETINGAGENDA
March 12, 2018
Immediately Following Work Session
Commissioner's Meeting Room – Ground Floor Ste. 16
MONTICELLO, GEORGIA

Work Session at 6:00 p.m. - Service Delivery Strategy with Cities of Monticello & Shady Dale

I. Call to Order (Immediately following Work Session)

NAME	PRESENT	ABSENT	LATE	ARRIVED
DISTRICT 1 – CARL PENNAMON, CHAIR	☐	☐	☐	
DISTRICT 2 – BRUCE HENRY, VICE-CHAIR	☐	☐	☐	
DISTRICT 3 – DON JERNIGAN	☐	☐	☐	
DISTRICT 4 – CRAIG SALMON	☐	☐	☐	
DISTRICT 5 - DOUG LUKE	☐	☐	☐	

II. Pledge of Allegiance –

III. Invocation – District 1

IV. Approval of Agenda

V. Consent Agenda –

1. Approval of Minutes:

2. Check Register – Check #'s-

VI. Public Hearing

Public Hearings are conducted to allow public comments on specific advertised issues such as rezoning, ordinances, policy development and other legislative actions to be considered by the County Commissioners. Following the public hearing, the Board of Commissioners will take action on each item presented below.

VII. County Commissioner Items

VIII. Presentations/Delegations

Presentation/Delegations allows scheduled speakers to address the Commission for not more than ten (10) minutes on specific topics or for recognition of citizens, county employees or other events by the Commissioners.

IX. Regular Agenda

Old Business:

1.

New Business:

1. Opioid Litigation

X. County Attorney Items

XI. County Manager Update

XII. Citizen Comments

The Citizens Comments section of the Agenda allows citizens who sign up to address the Commission for not more than three (3) minutes on specific topics. The County Attorney will keep time. Please be courteous of the 3 minute time limit.

XIII. Executive Session

Consultation with County attorney to discuss pending or potential litigation as provided by O.C.G.A. §50-14-2(1); Discussion of the future acquisition of real estate as provided by O.C.G.A.§50-14-3(4); and, Discussion on employment, compensation, or periodic evaluation of county employees as provided in O.C.G.A. § 50-14-3(6)

XIV. Adjournment

New Business – Item 1:

Agenda Request – Jasper County BOC

Department: Board of Commissioners

Date: March 12, 2018

Subject: Opioid Litigation

Summary:

Potential adoption of a resolution and legal agreement to move forward with litigation addressing the opioid crisis.

Background:

The County Attorney can provide background information and answer any questions from the Board.

Cost: $0

Recommended Motion(s):

Board Discretion. If the Board is in favor of proceeding, a motion authorizing the chairman to sign the attached resolution, number 2018.03.12, is needed.

RESOLUTION NO. 2018.03.12

A RESOLUTION OF THE COUNTY OF JASPER, GEORGIA ("COUNTY') AUTHORIZING, APPROVING AND DIRECTING THE EMPLOYMENT OF CERTAIN LAW FIRMS TO REPRESENT THE COUNTY IN POTENTIAL LITIGATION AGAINST CONTRIBUTORS OF OPIOID ADDICTION CRISIS.

WHEREAS, the County is experiencing serious Opioid use as a result of the ready availability of the drug and its abuse; and,

WHEREAS, the County desires to retain the Law Firms identified herein to advise and represent the County regarding litigation and the award of damages from the contributors of opioids within the County.

NOW, THEREFORE, BE IT RESOLVED BY THE JASPER COUNTY COMMISSION, AS FOLLOWS:

Section 1. The County Commission, as the governing body of the County, hereby authorizes and approves the employment of the law firms identified in the Legal Services Agreement, attached hereto and incorporated herein as **Exhibit "A"** (herein referred to as the "Law Firms") to represent the County in potential litigation against contributors of the Opioid addiction crisis.

Section 2. The County Commission hereby authorizes and approves, or confirms authorization and approval, of the Legal Services Agreement, substantially in the form attached hereto and incorporated herein by reference thereto as **Exhibit "A"**, and directs the Commission Chair to execute and enter into the Legal Services Agreement with the Law Firms, setting forth the scope of the work to be performed by the Law Firms, including litigation against contributors to the Opioid addiction crisis within the County and the terms and conditions of the employment of the Law Firms. The Legal Services Agreement may be amended, after approval of this Resolution, without further action of the County Commission, with the approval of the Commission Chair, whose signature on the Legal Services Agreement shall be evidence of such approval.

Section 3. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

Section 4. This Resolution shall be in full force and effect from and after its adoption as provided by law.

[Signatures for Resolution appear on the following page S-1]

This Resolution was introduced, seconded and adopted at a duly convened meeting of the Jasper County Commission, held on March 12 2018.

_____
County Commission Chairperson

ATTEST:

_____
County Clerk

_____
County Attorney

CERTIFICATE

I, the undersigned Clerk of Jasper County, Georgia, DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution, which resolution was adopted by the County in a meeting duly called and assembled on March 12 2018, which meeting was open to the public and at which a quorum was present and acting throughout, and that the original of said resolution and said Legal Services Agreement have been recorded in the minute book of the County which is in my custody and control in accordance with O.C.G.A. § 36-10-1.

IN TESTIMONY WHEREOF, witness my signature this _____, 2018.

_____
County Clerk

EXHIBIT “A”

Legal Services Agreement

LEGAL SERVICES AGREEMENT

RE: Jasper County, Georgia civil suit against those legally responsible for the wrongful manufacture and distribution of prescription opiates and damages caused thereby.

1. SCOPE OF EMPLOYMENT: **Jasper County, Georgia** (hereinafter "Client"), by and through its County Commission, hereby retains the law firms of Blasingame, Burch, Garrard & Ashley, P.C.; Clark & Smith Law Firm LLC and Alexander Royston, LLP ("the Firms") pursuant to the Georgia Rules of Professional Conduct and O.C.G.A. § 36-1-3, on a contingent fee basis, to pursue ***all*** civil remedies against the manufacturers of prescription opiates and those in the chain of distribution of prescription opiates responsible for the opioid epidemic which is plaguing **Jasper County, Georgia** including, but not limited to, filing a claim for public nuisance to abate, enjoin, recover and prevent the damages caused thereby. Henry G. Garrard, III of the law firm Blasingame, Burch, Garrard & Ashley, P.C. shall serve as Lead Counsel. Client authorizes Lead Counsel to employ and/or associate additional counsel, with consent of Client, to assist Lead Counsel in the just prosecution of the case.

2. ATTORNEYS' FEES: In consideration, Client agrees to pay to the Firms thirty percent (30%) of the total recovery (gross) in favor of the Client as an attorney fee whether the claim is resolved by compromise, settlement, or trial and verdict (and appeal). The gross recovery shall be calculated on the amount obtained before the deduction of costs and expenses and shall include the value of any abatement of the opioid epidemic as discussed more fully below. Client grants the Firms an interest in a fee based on the gross recovery. If a court awards attorneys' fees in the lawsuit filed by the Firms on behalf of Client, the Firms shall receive the "greater of" the gross recovery-based contingent fee or the attorneys' fees awarded. **There is no fee if there is no recovery.**

   The Client acknowledges this fee is reasonable given the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly, the likelihood this employment will preclude other employment by the Firms, the fee customarily charged in the locality for similar legal services, the anticipated (contingent) litigation expenses and the anticipated results obtained, the experience, reputation, and ability of the lawyer or lawyers performing the services and the fact that the fee is contingent upon a successful recovery.

   This litigation is intended to address a significant problem in the community. The litigation focuses on the manufacturers and wholesale distributors and their role in the diversion of millions of prescription opiates into the illicit market which has resulted in opioid addiction, abuse, morbidity and mortality. There is no easy solution and no precedent for such an action against this sector of the industry. Many of the facts of the case are locked behind closed doors. The billion-dollar industry denies liability. The litigation will be very expensive and the litigation expenses will be advanced by the Firms with reimbursement contingent upon a successful recovery. The outcome is uncertain, as is all civil litigation, with compensation contingent upon a successful recovery. Consequently, there must be a clear understanding between the Client and the Firms regarding the definition of a

"successful recovery."

The Firms intend to present a damage model designed to abate the public health and safety crisis. This damage model may take the form of money damages and/or equitable remedies (e.g., an abatement fund). The purpose of the lawsuit is to seek reimbursement of the costs incurred in the past fighting the opioid epidemic and/or recover the funds necessary to abate the health and safety crisis caused by the unlawful conduct of manufacturers and wholesale distributors. The Client agrees to compensate the Firms, contingent upon prevailing, by paying 30% to the Firms of any settlement/resolution/judgment, in favor of the Client, whether it takes the form of monetary damages or equitable relief. For instance, if the remedy is in the form of monetary damages, Client agrees to pay 30% of the gross amount to the Firms as compensation and then reimburse the reasonable litigation expenses. If the remedy is in the form of equitable relief (e.g., abatement fund), Client agrees to pay 30% of the gross value of the equitable relief to the Firms as compensation and then reimburse the reasonable litigation expenses. To be clear, the Firms shall not be paid nor receive reimbursement from public funds unless required by law. However, any judgment arising from successful prosecution of the case, or any consideration arising from a settlement of the matter, whether monetary or equitable, shall not be considered public funds for purposes of calculating the contingent fee unless required by law. Under no circumstances shall the Client be obligated to pay any attorneys fee or any litigation expenses except from moneys expended by defendant(s) pursuant to the resolution of the Client's claims. If the defendant(s) expend their own resources to abate the public health and safety crisis in exchange for a release of liability, then the Firms will be paid the designated contingent fee from the resources expended by the defendant(s). Client acknowledges this is a necessary condition required by the Firms to dedicate their time and invest their resources on a contingent basis to this enormous project. If the defendant(s) negotiate a release of liability, then the Firms should be compensated based upon the consideration offered to induce the dismissal of the lawsuit.

Negotiability of Fees: The rates set forth above are not set by law but are negotiable between the Firms and Client.

3. COSTS AND OTHER EXPENSES: The Firms and/or the other law firms in association with the Firms, hereinafter referred to as the "Attorneys," shall advance all necessary litigation expenses necessary to prosecute these claims. All such litigation expenses, including the reasonable internal costs of electronically stored information (ESI) and electronic discovery generally or the direct costs incurred from any outside contractor for those services, will be deducted from any recovery after the contingent fee is calculated. **There is no reimbursement of litigation expenses if there is no recovery. Costs advanced will be payable out of the Client's share of any recovery and will not affect the contingency rate or fees due to the Firms.**

4. FEE SHARING WITH CO-COUNSEL: The division of fees, expenses and labor between the Attorneys will be decided by private agreement between the law firms and subject to approval by the Client. Any division of fees will be governed by the Georgia Rules of Professional Conduct including: (1) the division of fees is in proportion to the services

performed by each lawyer or each lawyer assumes joint responsibility for the representation and agrees to be available for consultation with the Client; (2) the Client has given *written* consent after full disclosure of the identity of each lawyer, that the fees will be divided, and that the division of fees will be in proportion to the services to be performed by each lawyer or that each lawyer will assume joint responsibility for the representation; (3) except where court approval of the fee division is obtained, the *written* closing statement in a case involving a contingent fee shall be signed by the Client and each lawyer and shall comply with the terms of the Georgia Rules of Professional Conduct; and (4) the total fee is *not clearly excessive*.

5. COMMUNICATIONS WITH CLIENT: Lead Counsel shall appoint a contact person to keep the Client reasonably informed about the status of the matter in a manner deemed appropriate by the Client. The Client at all times shall retain the authority to decide the disposition of the case and personally oversee and maintain absolute control of the litigation.

   Upon conclusion of this matter, Lead Counsel shall provide the Client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. The closing statement shall specify the manner in which the compensation was determined under the agreement, any costs and expenses deducted by the lawyer from the judgment or settlement involved, and, if applicable, the actual division of the lawyers' fees with a lawyer not in the same firm, as required in Rule 1.5 of the Georgia Rules of Professional Conduct. The closing statement shall be signed by the Client and reflect the amount paid to each attorney among whom the fee is being divided.

6. REVIEW AND UNDERSTANDING OF THIS AGREEMENT: Client acknowledges review and understanding of this agreement, having read its contents in its entirety, and Client understands and agrees with all of its provisions. Client acknowledges that the Firms, its employees or agents, and the terms of this Agreement have made no promise or guarantee regarding the successful determination of Client's claim or causes of action, nor any guarantees regarding the amount of recovery or the type of relief, if any, which Client may obtain there from. The Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of this matter are expressions of opinion only and the Attorneys make no guarantee as to the outcome of any litigation, settlement or trial proceedings.

   SIGNED, this _____ day of March, 2018.

Jasper County, Georgia

_____
County Commission Chair

Accepted:

BLASINGAME, BURCH, GARRARD & ASHLEY, P.C.
440 College Avenue, Suite 320
Athens, Georgia 30601

By _____ _____
Date

CLARK & SMITH LAW FIRM, LLC
3402 Vineville Avenue, Suite A
Macon, Georgia 31204

By _____ _____
Date

S. DAVID OZBURN
1121 Floyd Street, NE
Covington, Georgia 30014

By _____ _____
Date