

FILED IN THE SUPERIOR COURT OF PIKE COUNTY  
BY: CARDLYN WILLIAMS, CLERK

IN THE SUPERIOR COURT OF PIKE COUNTY

04 JAN 21 PM 2:32

STATE OF GEORGIA

BY: VJA  
CARDLYN WILLIAMS, CLERK

JOHN G. SELL, BRENDA F. SELL, X  
JIMMY BASS, CAROL A. BASS, X  
LLOYD H. GAYTON, KENNETH E. X  
RILEY, II, PATSY A. RILEY, X  
CHRISTINA TAKLE, CATHY J. X  
LYNN, and JOY S. WALKER, ON X ✓  
BEHALF OF THE COALITION FOR X  
RESPONSIBLE GOVERNMENT, X

Plaintiffs

CIVIL ACTION FILE NO. 03V-005

vs.

THE BOARD OF COMMISSIONERS, X  
OF PIKE COUNTY, GEORGIA, and X  
THE COUNTY OF PIKE, X

Defendants

CONSENT INTERLOCUTORY ORDER

COMES NOW the parties to the above-styled case through their  
respective counsel to enter into the following Consent Order:

FACTUAL BACKGROUND

The Plaintiffs in the above-styled action filed this case alleging that  
the Defendant Pike County Board of Commissioners had violated the Ga.  
Open Meetings Act (O.C.G.A. 50-14-1 et seq.), the Ga. Open Records Act  
(O.C.G.A. 50-18-70 et seq.), the state law with regard to retention and  
destruction of public records (O.C.G.A. 50-18-90) and that the Defendant  
Pike County Board of Commissioners had acted illegally in operating  
county government for a number of months without a county manager as  
required by the 1998 local legislation which created the County Manager  
form of government for Pike County. The Defendant Pike County Board of

Commissioners answered the Plaintiffs' Complaint and denied all allegations.

The parties engaged in extensive discovery and have now agreed to the following terms which will serve as an Interlocutory Order which will address all of the substantive issues in the case.

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Meeting Agendas – Pursuant to provisions of O.C.G.A. Section 50-14-1(e)(1) and (e)(2), the Pike County Board of Commissioners will establish and maintain a practice of posting agendas for all public meetings as well as making said agendas available to the public prior to the scheduled public meeting. The agendas for each public meeting will reasonably and accurately identify the matters expected to be considered at the public meeting; whether the meeting is a regularly scheduled meeting or is a specially called meeting, in order to inform the public as to the true topics expected to be discussed at said meetings.

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Specifying and Clarifying Role and Authority of County Manager -

The parties agree that their respective counsel will work with the Pike County Legislative Delegation to prepare a proposed amendment to the 1998 Local Act which established the County Manager form of government in Pike County. The Parties have agreed that the attorneys for their respective parties hereto shall work together in drafting the proposed modified legislation; and that once a draft has been agreed upon by the

parties, a public hearing to consider the proposed modified legislation will be conducted by the Pike County Board of Commissioners prior to submitting said proposed modified legislation to the local State Representative for formal presentation and consideration for adoption.

The proposed modifications will address and clarify the following:

- (a) The duties of the County Manager including the County Manager's authority over personnel and other administrative functions. It is understood by the Parties that the County Manager shall have the general responsibility regarding county personnel except for the County Manager's position, which shall fall under the exclusive authority of the Pike County Board of Commissioners. In addition, the Parties understand the Pike County Board of Commissioners will continue to have limited authority regarding all other county personnel issues such as may be required for due process and appeals related to personnel issues. It is further understood by the Parties that the County Manager's authority over Pike County Constitutional Officers and personnel related thereto is limited by State Law.
- (b) In the event of a vacancy in the office of the County Manager, the Parties agree that the Pike County Board of Commissioners will expeditiously proceed with due diligence to appoint an interim County Manager within four (4) weeks of the vacancy of the office of County Manager. In addition, the Pike County Board of

Commissioners will proceed to advertise for the permanent position of County Manager at the first available opportunity after the vacancy of the office of County Manager.

- (c) The Parties agree that no county commissioner serving at the time the office of County Manager becomes vacant may be considered for either the interim or permanent County Manager.

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Attorney's Fees - The Pike County Commissioners agree to pay the sum of \$34,000.00 in attorney's fees to Plaintiffs' counsel, Shepherd & Johnston, on or before January 31, 2004.

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Temporary Record of Closed Meetings -

The Pike County Board of Commissioners shall make a record of all closed executive sessions of the Pike County Board of Commissioners for a period of twenty-four (24) months from the date of this Order. The record shall consist of an audio recording, videotape recording (with audio) or stenographic record at the option of the Pike County Board of Commissioners. It is understood by the parties and it is expressly Ordered by this Court that said records of the executive sessions of the Pike County Board of Commissioners shall be maintained by the Clerk of Pike County in a secure location and the use of the records shall be limited to an in-camera review by the Superior Court of Pike County in response to an Order of the Pike County Superior Court for said in-camera inspection. The

purpose of this provision is to provide an inexpensive and timely means to monitor compliance by the Pike County Board of Commissioners with the provisions of the Georgia Open Meetings Act. It is expressly Ordered by this Court that creation and retention of these records of the executive sessions of the Pike County Board of Commissioners shall not create an open record which is subject to public inspection pursuant to O.C.G.A. Section 50-18-70 et seq.

It is further agreed by the parties that the twenty-four (24) month period wherein the Pike County Board of Commissioners are required to create and maintain the record of executive sessions of that body may be extended by Order of the Superior Court of Pike County should the Court determine that the Pike County Board of Commissioners have violated the provisions of the Open Meetings Act during said twenty-four (24) month period and that, in the discretion of the Court, further monitoring of the Pike County Board of Commissioners is necessary. If the Court does not find a violation of the Open Meetings Act during the twenty-four (24) month monitoring period, the records of the executive sessions shall be destroyed and shall not be subject to a production request, including the Open Records Act, that may be made to the Pike County Board of Commissioners which is unrelated to this Order.

If a party files a verified petition with the Superior Court of Pike County alleging that the Board of Commissioners have conducted a closed meeting, or executive session, in violation of the Georgia Open Meetings

Act, the Superior Court of Pike County shall order the Clerk of Pike County to produce the record of the closed meeting or executive session in question for the Court to conduct an in-camera inspection. If the Court finds no violation of the Georgia Open Meetings Act, the record of the subject meeting will be retained by the Clerk of Pike County and the Court will enter an appropriate order. If, on the other hand, the Court finds evidence that the Pike County Board of Commissioners did violate the Open Meetings Act, the Court will make the relevant portions of the closed meeting or executive session available to the party filing the complaint. The parties further agree that if the Court determines that a party has acted frivolously or abusively in relation to complaints or requests for an in-camera inspection of the recordings of the closed or executive session pursuant to this Order, then the Pike County Board of Commissioners would be entitled to an award of reasonable attorney's fees which it has incurred in responding to the requests which the Court may find to be frivolous or abusive.

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Workshops and Information -

The Pike County Board of Commissioners will either conduct or request a workshop(s) regarding the law pertaining to open meetings and open records. The workshop(s) will be noticed and open to the public. Other than members of the public, the workshop(s) shall be attended by all commissioners presently serving on the Pike County Board of

Commissioners, the County Manager, the County Clerk and all other personnel related to the offices of the Pike County Board of Commissioners. In addition, the Pike County Board of Commissioners will make information provided by the Association of County Commissioners of Georgia regarding open meetings and open records available to the public.


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Adherence to State Law –

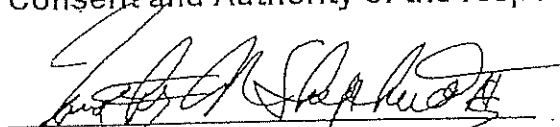
The Pike County Board of Commissioners recognizes its obligation to adhere to state law regarding record retention and/or destruction.

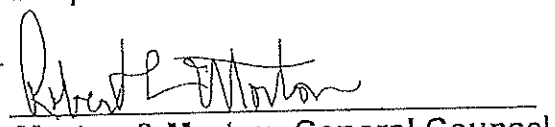
The provisions of this Consent Interlocutory Order are hereby adopted by this Court and all parties hereto are Ordered to comply.

SO ORDERED, this the 21 day of January, 2004.

  
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Honorable Christopher C. Edwards  
Clerk Superior Courts

The above-styled Consent Interlocutory Order is entered with the Consent and Authority of the respective parties hereto.

  
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Shepherd & Johnston  
Attorneys for Plaintiffs  
by Timothy N. Shepherd

  
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Morton & Morton, General Counsel  
for Pike County Board  
of Commissioners  
by Rob Morton