

HABERSHAM COUNTY BOARD OF COMMISSIONERS

EXECUTIVE SUMMARY

SUBJECT: Resolution Providing Clerk of Magistrate Court

DATE: July 26th, 2021

BUDGET INFORMATION:

ANNUAL-
CAPITAL-

() RECOMMENDATION
() POLICY DISCUSSION
() STATUS REPORT
(x) OTHER

COMMISSION ACTION REQUESTED ON:

PURPOSE: Repeal and Rescind Resolution to provide that the Clerk of Superior Court shall serve as the Clerk of Magistrate Court. By repealing and rescinding the Resolution of September 29th, 2014 it will restore authority to the Chief Magistrate Judge concerning the Magistrate Clerk Duties pursuant to OCGA 15-10-105. I would further ask that we reassign current magistrate court personnel under the direct supervision of the Chief Magistrate Judge.

BACKGROUND / HISTORY:

I was appointed as Chief Magistrate Judge of Habersham County in July of 2014. I am currently serving my second elected term. In 2014 my predecessor had appointed one of his employees through a Standing Order as the Chief Clerk of Magistrate Court. This did not appear to follow the law pursuant to OCGA 15-10-105. The BOC at that time passed a resolution September 29th, 2014 providing that the Clerk of Superior Court serve as the Clerk of Magistrate Court. I did not object to the resolution. The entire Magistrate Court and clerk's duties were being restructured along with personnel changes. Over the course of time, between receiving memos that essentially state that we judges are not to have any contact or communication with the Clerk's Office personnel; the revocation of user privileges of the Records Management system twice, and the lack of communication with the Command Staff, it has become more apparent to me that, although I am ultimately held responsible for the actions of Magistrate Court Clerks, the scheduling of hearings, the opening and closing of cases, I have no authority to effectively manage my court. There is a break down of communication that resulted most recently in the belief that we had been hacked or the records management system was hijacked as I could not access cases, pleadings, calendars, etc., only to discover that the revocation of user privileges that crippled my ability to do my job was done in house. No one bothered to tell me anything until I spoke to the Clerk of Superior Court and essentially stated that I have a problem. I was told that there were some people in the courthouse that had access to things they weren't supposed to have access to. Those people were myself and Judge Amy Thomas. I adamantly disagree with that statement. I am the Chief Judge of this court. In closing, the Legislature has passed numerous laws concerning abandoned motor vehicles, abandoned mobile homes, and Garnishment proceedings of which this court has jurisdiction. Taking into consideration the recent changes to dispossession proceedings, CDC moratorium, CARES act, our court is quick, efficient, and rapidly evolving. We have developed a system for making the court more accessible to the public by having in person and virtual attendance while allowing public access. Having personnel that possess a working knowledge of the current law, standing orders, procedures, forms, and functioning as one of the courts that still process in person filings, it is imperative to have the highest quality employees to ensure that the Magistrate court is functioning effectively and efficiently. The ability to work closely with and communicate to meet the demands and requests for service to our customers can

be achieved without compromising the integrity of the court or exposing the judges to ex-parte communication. The current Magistrate Clerk personnel do not work for me. They work with me. However, the duties they perform directly affect me and this court. I have no management authority or ability to perform their evaluations I have been reduced to the position of merely making suggestions when we see a better way to handle something. Judge Thomas and I work with the clerks every day and know their dedication and loyalty to this court. The only reward or benefit they receive from me is candy, pies, and occasionally I will buy them lunch, and often tell them how much I appreciate them. To retain quality employees, I don't believe a pie or candy is enough.

FACTS AND ISSUES:

- a. No extra cost for the Records Management program, we will continue to use ICON.
 - b. Upon being given the Management responsibility of the Magistrate Court Clerk's, I will appoint Judge Amy Thomas Clerk of Magistrate Court. Judge Thomas has had extensive Human Resources experience with Habersham County and she has an accounting degree.
 - c. Only cost would be the appropriate pay increases for the experienced personnel currently assigned to the Magistrate Court and the transfer of their duties exclusively to Magistrate Court functions. The reassignment of double duty for said clerks as to passports and State Court Civil, and adoption filings that are currently being handled by Lisa Thomason.
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OPTIONS:

- 1) Repeal and Rescind current Resolution providing Clerk of Magistrate Court September 29th, 2014.
 - 2) Re-assign current Magistrate Court Clerk staff to the Magistrate Court
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RECOMMENDED SAMPLE MOTION:

1. Repeal and Rescind Resolution to provide that the Clerk of Superior Court shall serve as the Clerk of Magistrate Court in Habersham County, Georgia; to provide for the Restructuring of the administrative personnel of the Magistrate Court under the authority and supervision of the Clerk of Superior Court; to provide for the compensation therefore; to provide for a commencement date and for other purposes.
 2. Upon repeal and rescinding the aforementioned resolution, there would be no Clerk of the Magistrate Court. Pursuant to OCGA 15-10-105, the Chief Magistrate or some other magistrate appointed by the Chief Magistrate shall perform the duties of clerk. A chief magistrate performing the duties of clerk, or another magistrate appointed by the chief magistrate to perform the duties of clerk, shall receive, in addition to any other compensation to which he or she is entitled, compensation for performing the duties of clerk, the amount of which compensation shall be fixed by the county governing authority at not less than \$393.66 per month. Further, pursuant to OCGA 15-10-105, in any case any magistrate may perform any duty to be performed by the clerk.
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DEPARTMENT:

Prepared by: Chief Magistrate Judge Gerald W. Johnson

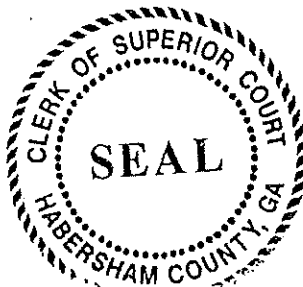
Director Habersham County Magistrate Court

Encl: Copy of Resolution Providing Clerk of Magistrate Court dated September 29th, 2014 Attachemtn "A"

**ADMINISTRATIVE
COMMENTS:** _____

DATE: _____

County Manager



GEORGIA, HABERSHAM COUNTY
This is to certify that the within
document is a true and correct copy
of the original on file in this office.

This 29th day September 2014

Clerk Superior Court

David C. Wall (signature)

Attachment "A"

HABERSHAM COUNTY
CLERK OF COURT

2014 SEP 29 AM 10:10

HABERSHAM COUNTY BOARD OF COMMISSIONERS
HABERSHAM COUNTY, GEORGIA

Book Page Recorded
David C. Wall

RESOLUTION NO.: _____

A RESOLUTION TO PROVIDE THAT THE CLERK OF SUPERIOR COURT SHALL SERVE AS THE CLERK OF MAGISTRATE COURT IN HABERSHAM COUNTY, GEORGIA; TO PROVIDE FOR THE RE-STRUCTURING OF THE ADMINISTRATIVE PERSONNEL OF THE MAGISTRATE COURT UNDER THE AUTHORITY AND SUPERVISION OF THE CLERK OF SUPERIOR COURT; TO PROVIDE FOR COMPENSATION THEREFOR; TO PROVIDE FOR THE AMENDMENT OF THE BUDGET ACCORDINGLY; TO PROVIDE FOR A COMMENCEMENT DATE AND FOR OTHER PURPOSES

WHEREAS, the Habersham County Board of Commissioners (local governing authority within the meaning of O.C.G.A. Section 15-10-105) along with the Clerk of Superior Court and the Magistrate Court are desirous of providing efficient and effective clerk services within the Habersham County Court system through the wise use of court personnel and budget resources; and

WHEREAS, efficiency and effectiveness can be best obtained by the consolidation of redundant services and processes through the designation of the clerk of superior court to serve as clerk of the magistrate court; and

WHEREAS, pursuant to O.C.G.A. Section 15-10-105, the county governing authority may provide that the clerk of superior court shall serve as clerk of the magistrate court with the consent of the clerk of superior court when there is not local law to the contrary; and

WHEREAS, it further appears that there is no local law to the contrary and both the Honorable David Wall, Clerk of Habersham Superior Court, and Judge Gerald Johnson, Chief Magistrate of Habersham County Magistrate Court, consent to the designation by the Board of Commissioners that the clerk of superior court shall serve as the clerk of magistrate court; and

WHEREAS, it further appearing that the Habersham County Board of Commissioners is desirous of providing that the clerk of superior court shall serve as the clerk of magistrate court and be compensated accordingly;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Habersham, Georgia, and it is hereby resolved by the authority of the same, as follows:

Upon motion, second and approval of the Habersham County Board of Commissioners, the Habersham County Clerk of Superior Court shall serve as clerk of the Magistrate Court for Habersham County, Georgia. The clerk shall be compensated for his services as clerk of magistrate court as provided by O.C.G.A. Section 15-10-105(b). All administrative personnel of the magistrate court (excluding the chief magistrate judge and any assistant magistrate judges) shall henceforth be under the authority and supervision of the clerk of superior court and shall be compensated accordingly. As a result, the 2014 Habersham County budget is hereby amended to provide for removal of such personnel from the supervision of the magistrate judge to the control and supervision of the clerk of superior court. The county manager is authorized to take any and all actions necessary to accomplish the above re-structuring of the clerk for the magistrate court. Commencement hereunder shall be effective October 1, 2014.

PASSED AND ADOPTED by the Habersham County Board of Commissioners for Habersham County, Georgia, this 29 th day of September, 2014.

**Board of Commissioners,
Habersham County, Georgia**

ATTEST:



County Clerk

By 

Chairman Chad Henderson

[SEAL]

