

**DAWSON COUNTY BOARD OF COMMISSIONERS  
SPECIAL CALLED MEETING AGENDA  
THURSDAY, DECEMBER 27, 2018  
DAWSON COUNTY GOVERNMENT CENTER ASSEMBLY ROOM  
25 JUSTICE WAY, DAWSONVILLE, GEORGIA  
1:00 PM**

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**A. ROLL CALL**

**B. APPROVAL OF AGENDA**

**C. NEW BUSINESS**

1. Board of Commissioners consideration and possible approval of a Retirement Agreement between Monroe Lynn Frey and Dawson County;
2. Board ratification of a Retention Agreement between Dawson County and Jarrard & Davis, LLP, to provide legal services regarding a personnel matter;
3. Board ratification of an interim Agreement between Dawson County and Jarrard & Davis, LLP to serve as interim Dawson County Attorneys for a period of 60 days.

**D. ADJOURNMENT**

*Those with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting, should contact the ADA Coordinator at 706-344-3666, extension 44514. The county will make reasonable accommodations for those persons.*

**Backup material for agenda item:**

1. Board of Commissioners consideration and possible approval of a Retirement Agreement between Monroe Lynn Frey and Dawson County;

**RETIREMENT AGREEMENT AND  
FULL AND FINAL RELEASE OF CLAIMS**

This Retirement Agreement and Full and Final Release of Claims (“Agreement”) is made and entered into between Monroe Lynn Frey, III (“Lynn”) and Dawson County, Georgia (the “County”) (collectively “the Parties”).

**1. SETTLEMENT.**

Lynn and the County wish to provide for Lynn’s resignation and to settle fully and finally any and all differences and disputes between them, including, but not limited to, any claims arising out of Lynn’s employment with and resignation from the County.

**2. CONSIDERATION.**

Lynn covenants and agrees to waive and release any and all claims relating to his employment with and separation from the County as detailed in Paragraph 3.

Lynn and the County covenant and agree that:

- A. Lynn wishes to voluntarily resign from his employment with the County, which resignation shall become effective as of December 28, 2018. That certain resignation letter (the “Resignation Letter”) is attached hereto as EXHIBIT “A” and incorporated herein; and,
- B. Upon Lynn’s execution of this Agreement he will receive compensation (payable in a lump sum) in the amount of \$25,000.

**3. FULL AND FINAL RELEASE.**

Lynn, for himself, his attorneys, dependents, heirs, executors, administrators, personal representatives, successors, beneficiaries and assigns, fully, finally, and forever releases and discharges the County, and all of its divisions, departments, offices, affiliates, officers (including Constitutional officers), elected and appointed persons, officials, employees, servants, agents, insurers, and attorneys, in their official and individual capacities, together with their predecessors, successors, and assigns, both jointly and severally (collectively the “County Released Parties”), of and from all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses of any nature whatsoever, known or unknown, suspected or unsuspected, as a result of actions, representations, or omissions occurring through Lynn’s effective separation date, as set forth in Paragraph 2 above. Specifically included in this waiver and release are, among other things, any and all claims regarding the deprivation of civil, constitutional, or equal rights under local, state, or federal law including, but not limited to, 42 U.S.C. §§ 1981, 1983, 1985, 1986 and/or 1988; Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act (“ADEA”); the Americans with Disabilities Act (“ADA”); the Older Workers Benefit Protection Act; and the Rehabilitation Act of 1973, as well as any

claims for alleged wrongful discharge, negligent retention or hiring, sexual harassment, assault, battery, false imprisonment, retaliation, negligent or intentional infliction of emotional distress, breach of contract, fraud, alleged retaliatory discharge, harassment, negligence, breach of policy and/or public policy, bad faith discharge, negligent discharge, hostile work environment, invasion of privacy, including any alleged violations or non-compliance with the Health Insurance Portability and Accountability Act ("HIPAA"), outrageous conduct, inducement, breach of duty, libel, slander, defamation and/or tortious and/or criminal conduct of any kind, interference with business relationships, contractual relations or employment relationships of any kind, personal injury, property damage, loss of consortium or society and companionship, attorneys' fees, expenses or costs pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 2000e-5(k) or as otherwise may be allowed by law, including pursuant to any statute, contract or common-law claim, any and all other claims arising under law or equity, and any other charges or claims against the County Released Parties arising out of or related to Lynn's employment with the County in alleged violation of any applicable law, rule, ordinance, regulation or order.

Notwithstanding any other provision of this Paragraph or of this Agreement, Lynn does not hereby waive any rights or claims for which waivers or releases are prohibited by applicable law or any rights or claims under the ADEA that may arise after the effective date of this Agreement, which for purposes of this Agreement shall be the day on which the Agreement is executed by Lynn.

4. **EEOC CHARGE.** With respect to any EEOC charge, participation in any EEOC proceeding, or non-waivable charges or claims, Lynn agrees he is waiving his right, if any, to any monetary or other relief based on the filing of any such charge or non-waivable claim or participation in any such proceeding.

5. **CONSULTATION WITH ATTORNEY.**

The County hereby advises Lynn in writing to consult with an attorney prior to executing this Agreement and waiver of claims under the ADEA.

6. **TWENTY-ONE DAY REVIEW PERIOD PROVIDED.**

Lynn hereby acknowledges that, in accordance with federal law, he has been allowed up to twenty-one (21) days to consider whether to execute this Agreement and that he has had sufficient time to read and consider this Agreement before executing it. Lynn acknowledges that he has received valuable and good consideration to which Lynn is not otherwise entitled in exchange for his execution of this Agreement and executes this Agreement voluntarily, with a full understanding of its significance, and intending to be bound by its terms.

7. **SEVEN-DAY REVOCATION PERIOD.**

Lynn may revoke and cancel this Agreement at any time within seven (7) days after Lynn's execution of this Agreement by providing written notice to the County in the manner prescribed herein. If Lynn does so revoke, this Agreement will be null and void and the County shall have no obligation to provide any consideration to Lynn including, but not

limited to that specified in Paragraph 2 of this Agreement. This Agreement shall not become enforceable until after the expiration of the seven (7) day revocation period; after such time, if there has been no revocation, the Agreement shall be fully enforceable. In the event that Lynn chooses to revoke the Agreement, Lynn or his counsel shall notify the County by facsimile and e-mail to its designated agent for this purpose, David Headley, County Manager, Dawson County Board of Commissioners, 25 Justice Way, Suite 2236, Dawsonville, Georgia 30534 with the facsimile number (706) 344-3504 and the e-mail address of [dheadley@dawsoncounty.org](mailto:dheadley@dawsoncounty.org) no later than 5:00 p.m. on the last day of the revocation period.

**8. NO OTHER CLAIMS.**

Lynn acknowledges and represents that he does not have any pending claims or charges against the County. Lynn also acknowledges and represents that he will not file, or assign to others the right to file, or make claims or charges against the County or the County Released Parties at any time for actions, representations, or omissions covered by the Full and Final Release provisions in Paragraph 3 of this Agreement.

Lynn also acknowledges and represents that he has received all leave required under the Family and Medical Leave Act of 1993, as amended ("FMLA"), and does not claim that the County violated or denied his rights under the FMLA. Lynn further acknowledges and represents that he was properly classified under the Fair Labor Standards Act of 1938, as amended ("FLSA"), has been fully paid (including any overtime to which he was entitled, if any) for work performed for the County, and does not claim that the County violated or denied his rights under the FLSA.

**8. RETURN OF PROPERTY.**

Lynn states that, in accordance with his existing and continuing obligations to the County, he has returned, or will immediately return to the County, all property of the County, including, but not limited to, keys, files, records, maps, computer access codes, and computer programs, instruction manuals, business plans, financial records, and other property which Lynn maintained, prepared or helped to prepare in connection with his employment with the County. In no event will Lynn remove any such items off the premises of the County, or duplicate any such items for removal from the County premises.

**9. COOPERATION.**

Lynn agrees to fully cooperate with the County in any and all investigations, inquiries, or litigation in any judicial, administrative, or public, quasi-public, or private forum, in which the County is involved, whether or not Lynn is a party to or a subject of such investigations, inquiries, proceedings, or litigation. Lynn shall provide such testimony, background information, and other support and cooperation as the County may reasonably request. Lynn acknowledges, agrees, and covenants that he will not voluntarily disclose any information related to personnel, payroll, risk management, claims, insurance, or attorney-client privileged matters, or any other information that is sensitive, private, and confidential, received during the course and scope of his employment to any person or

entity except the County or its designee. Lynn further agrees that he will not directly or indirectly cooperate or assist with the initiation or advancement of any claims, lawsuits, actions, or demands against the County on behalf of himself or any other individual.

Specifically, as a matter of transition, Lynn agrees to prepare a memorandum that summarizes all pending legal matters to include a status report, contact information for individuals related to the matter, and identification of relevant materials/files for each matter. All legal files shall be left in good order, labelled and organized so as to foster a professional transition of legal services.

**10. NON-DISPARAGEMENT.**

- A. Lynn agrees that he will not make statements to anyone that is in any way disparaging or negative towards the County or the County Released Parties.
- B. The County agrees that all agents and employees who have been involved in any matters involving Lynn will not make statements to employees of the County or members of the public that are in any way disparaging or negative towards Lynn.

**11. NON-ADMISSION OF LIABILITY OR WRONGFUL CONDUCT.**

The Agreement shall not be constituted as an admission of any liability, wrongdoing, retaliation, or discrimination, nor shall it be considered to be evidence of such liability, wrongdoing, retaliation, or discrimination by the Parties to the Agreement, all of whom hereby affirmatively deny any wrongdoing.

**12. CONFIDENTIALITY.**

- A. The nature and terms of this Agreement are strictly confidential and they have not been and shall not be disclosed by Lynn to any other person, except Lynn's lawyer without the prior written consent of the County, and except as necessary in any legal proceedings directly related to the provisions and terms of this Agreement, to prepare and file income tax forms, pursuant to court order after reasonable notice to the County, or otherwise as required by law.
- B. Likewise, the County has not and will not disclose the nature and terms of this Agreement at any time to any person other than County officials, lawyers, auditors, or accountants that have a legitimate business reason to know such information, except as necessary in any legal proceeding directly related to the provisions and terms of this Agreement, to prepare and file income tax or claim forms, pursuant to court order after reasonable notice to Lynn, or otherwise as required by law including, but not limited to, the Georgia Open Records Act, O.C.G.A. § 50-18-70, et seq. and during a single County Commissioners meeting where the Resignation Agreement will be approved per O.C.G.A. § 50-14-1, et seq.



13. **GOVERNING LAW.**

This Agreement shall be interpreted under the laws of the State of Georgia.

14. **SEVERABILITY.**

The provisions of this Agreement are severable, and if any part of this Agreement is found by a court of law to be unenforceable, the remainder of the Agreement will continue to be valid and effective.

15. **SOLE AND ENTIRE AGREEMENT.**

This Agreement sets forth the entire agreement between the Parties. Any prior agreements between or directly involving the Parties to the Agreement are superseded by the terms of this Agreement and thus are rendered null and void. However, any noncompete agreements or prior agreements between the Parties related to inventions, business ideas, and confidentiality of corporate information remain intact.

16. **NO OTHER PROMISES.**

Lynn affirms that the only consideration for his signing this Agreement is that set forth in Paragraph 2, that no other promises or agreements of any kind have been made to or with him by any person or entity to cause him to execute this document.

17. **ADVICE OF COUNSEL.**

Lynn acknowledges both that he fully understands his right to discuss all aspects of this Agreement with his attorney and that he has been given a reasonable period of time to consider whether he should execute this Agreement. Lynn acknowledges and represents that he has read this Agreement in full and, if desired with advice of his counsel, understands and voluntarily consents and agrees to each and every provision contained herein.

18. **SIGNATURE.**

The Agreement may be signed in counterparts.

19. **PERSONNEL DOCUMENTS**

Lynn's personnel file shall be purged as allowed by law, to remove employee evaluations and communications concerning performance.

20. **LEGALLY BINDING AGREEMENT.**

Lynn understands and acknowledges that (A) this is a legally binding Agreement that includes a full release of claims; (B) by signing this Agreement, he is hereafter barred from

instituting claims against the County and/or the County Released Parties in the manner and to the extent set forth herein and (C) this Agreement is final and binding.

**PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.**

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date shown below.

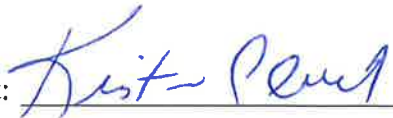
  
\_\_\_\_\_  
MONROE LYNN FREY, III

Date: 12-27-18

**DAWSON COUNTY, GEORGIA**

By:   
\_\_\_\_\_  
Its: Chairman

Date: 12-27-18

Attest:   
\_\_\_\_\_

Its: County Clerk





**EXHIBIT "A"**

(Resignation Letter)



**DAWSON COUNTY BOARD OF  
COMMISSIONERS  
OFFICE OF THE COUNTY ATTORNEY**

M. Lynn Frey III  
County Attorney

December 20, 2018

Chairman Billy Thurmond  
Commissioner Sharon Fausett  
Commissioner Chris Gaines  
Commissioner Jimmy Hamby  
Commissioner Julie H. Nix

RE: My Retirement

Dear Chairman and Commissioners:

After a great deal of thought, I have realized that I am unable to continue to serve as County Attorney for the wonderful community that is Dawson County. My health has deteriorated to a degree that prevents me from providing the level of service the County deserves and this is so despite the excellent medical care I have been provided by my doctor and his fine staff. It will be good to be with my family again even though this is a place where, in my experience, quality of life really does matter and is more than just the subject of a slogan.

The Commission and your excellent staff have demonstrated devotion to preserving and enhancing that quality of life by serving as good and faithful stewards of the many assets you hold in trust for the public. Carry on with the good work I have witnessed and which you were doing long before I arrived.

Please consider this resignation for retirement purposes to be effective December 28, 2018, the last scheduled work day of the year, though I can be available on an as needed basis in January as I arrange to relocate to my home on the river in Darien. I will miss a great many folks, too many to name here, and will leave with gratitude for the welcome I was give, for the many kindnesses I have been shown over the last couple of years, and for the opportunity you gave me to be part of something that matters.

With best wishes, I remain yours very truly,



M. Lynn Frey III

December 21, 2018

Dawson County, by and through  
Dawson County Board of Commissioners  
ATTN: Chairman Billy Thurmond  
25 Justice Way, Suite 2313  
Dawsonville, Georgia 30534

Chairman Thurmond,


After being appointed as County Attorney by the Board of Commissioners with a hire date of February 6, 2017, I now voluntarily and respectfully submit my resignation as an employee of Dawson County, effective December 21, 2018.


Sincerely,

  
\_\_\_\_\_  
Monroe Lynn Frey, III

In consideration of the mutual undertakings of the parties set forth below (the "Parties"), the sufficiency of which is hereby acknowledged, the Parties mutually agree that this resignation is voluntary and not being tendered in lieu of termination. The Parties further agree that this voluntary resignation is being submitted to Dawson County for the sole and exclusive reason that Mr. Frey has determined that it is no longer in his best interest to work for or otherwise be employed by Dawson County.

DAWSON COUNTY

  
\_\_\_\_\_  
Monroe Lynn Frey, III

By:   
\_\_\_\_\_  
Billy Thurmond, Chairman, Dawson  
County Board of Commissioners



[COUNTY SEAL]

Attest:   
\_\_\_\_\_  
Kisha Cloud  
Its: County Clerk

**Backup material for agenda item:**

2. Board ratification of a Retention Agreement between Dawson County and Jarrard & Davis, LLP, to provide legal services regarding a personnel matter;



# JARRARD & DAVIS, LLP

## Limited Liability Partnership

KEN E. JARRARD\*  
ANGELA E. DAVIS  
CHRISTOPHER J. HAMILTON  
MEGAN N. MARTIN  
KENNETH P. ROBIN

PAUL B. FRICKEY  
SARAH VANVOLKENBURGH†

222 Webb Street  
Cumming, Georgia 30040

TELEPHONE: 678.455.7150  
FACSIMILE: 678.455.7149

[KJARRARD@JARRARD-DAVIS.COM](mailto:KJARRARD@JARRARD-DAVIS.COM)

† Also Admitted in Illinois & California  
‡ Admitted in Alabama † Also Admitted in Florida  
\* Also Admitted in Tennessee

G. AARON MEYER  
MOLLY N. ESSWEIN  
SAM P. VANVOLKENBURGH  
JEFFREY M. STRICKLAND  
J. PAUL MITCHELL  
PATRICK DOYLE DODSON\*  
JESSICA H. THOMAS‡  
MELISSA A. KLATZKOW†

December 14, 2018

### VIA U.S. MAIL

Mr. David Headley  
Dawson County Manager  
Dawson County Administration  
25 Justice Way, Suite 2204  
Dawsonville, GA 30534

### **Re: Jarrard & Davis, LLP Retention Agreement**

Dear Mr. Headley:

Thank you for requesting that Jarrard & Davis, LLP represent Dawson County, Georgia in connection with certain employment law issues. It is our Firm's policy to confirm in writing the nature of the legal undertaking you have required us to perform and to inform you of our billing and payment arrangements concerning legal fees.

Jarrard & Davis, LLP (the "Firm") shall bill you for services going forward, which are rendered by the Firm based upon the amount of time spent working on your matters and the hourly billing rates charged by the individual attorneys and employees who perform services on your behalf. We periodically review our hourly rates. Partners at Jarrard & Davis, LLP bill at \$250.00 per hour. A partner will take the lead in this matter and will be supported by associates and paralegals. Associate rates are \$200.00 per hour and paralegal rates are \$75.00 per hour.



We shall send you a statement each month itemizing all services performed on your behalf and the value of those services based upon the Firm's current billing rates. Our monthly invoices will also include an itemization of all out-of-pocket expenses we have advanced. You will be responsible for the bills as they become due. Finance charges may be assessed if any invoice is not paid within thirty (30) days from the date of the invoice. Any disputes about the bill must be communicated to us within fifteen (15) days of the billing date or be deemed waived. Of course, please do not hesitate to freely discuss with us any concerns you may have or any need for alternative plans. A Statement of Client Policies regarding billing matters is attached for your review.

If the foregoing terms and conditions are satisfactory, please sign below and return the original to our office and retain a copy for your files.

Kindest regards.

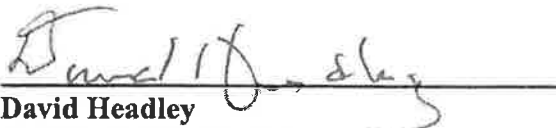
Sincerely,

**JARRARD & DAVIS, LLP**

  
Ken E. Jarrard  
  
Angela E. Davis

KEJ/dkr  
Enclosures

**PRELIMINARY APPROVAL AND ACCEPTANCE OF THE FOREGOING AND ENCLOSURES, SUBJECT TO FUTURE RATIFICATION BY THE BOARD OF COMMISSIONERS, IS HEREBY GRANTED:**

  
\_\_\_\_\_  
**David Headley**  
Dawson County Manager

## STATEMENT OF CLIENT POLICIES

Our Firm's standard policies provide for billing for our legal services on a monthly basis. Our invoices include a description of the services performed by attorneys or paralegals on a legal project. Also, we include a list of out-of-pockets expenses, which may include copying, online research, postage, filing fees, and other costs. Jarrard & Davis, LLP bills in 1/10 of an hour increments. Thus, 0-6 minutes of attorney or paralegal time is billed as a .1, 6:01 – 12 minutes is billed as a .2 and so forth.

Payment of an invoice is due within thirty (30) days from receipt by a client. We reserve the right to impose an interest charge at a rate of one and one-half percent (1½ %) per month on the outstanding balance of an account. We encourage our clients to contact us if they have any questions regarding an invoice or the performance of our legal services.

Our fees for legal services are based on the amount of time expended by an attorney or paralegal on a project, to include travel time. Where possible, we attempt to have a matter addressed by an attorney or paralegal at the lowest possible billing rate, keeping in mind the risk level and complexity of an assignment.

In the case of a new client or a special project (which may include such matters as large corporate transactions, litigation or arbitration, or projects which require immediate attention), we may request an advance or special retainer. Also, in these cases, we may arrange with our client an alternate arrangement for payment, such as at the closing of a transaction.

We look forward to working with your company and encourage you to contact us if you have any questions regarding these policies.



### **JARRARD & DAVIS ELECTRONIC RESEARCH BILLING POLICY**

Jarrard & Davis, LLP currently uses Westlaw/WestlawNext as its electronic research provider. Westlaw/WestlawNext is a subscription-based service that requires payment of a fixed monthly rate that is based upon the number of users and the scope of services used. Our monthly cost for the subscription to this service is allocated to each Client/matter based on the number of transactions and the source database used for the research. Additional costs for research performed outside of our monthly subscription plan are charged to the related Client/matter. Jarrard & Davis, LLP tries to limit “out of plan” research outside whenever possible, and resorts to “out of plan” research only if such research is determined to be in the best interest of the client. No additional charges are added to the allocated research fee. Jarrard & Davis, LLP only bills the cost of our monthly electronic research fee, based on the method described above, less any “firm” or “in-house” research. Any research for in-house or “firm” related matters are not allocated to our clients.

**Backup material for agenda item:**

3. Board ratification of an interim Agreement between Dawson County and Jarrard & Davis, LLP to serve as interim Dawson County Attorneys for a period of 60 days.



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222 Webb Street  
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TELEPHONE: 678.455.7150  
FACSIMILE: 678.455.7149

[KJARRARD@JARRARD-DAVIS.COM](mailto:KJARRARD@JARRARD-DAVIS.COM)

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JESSICA H. THOMAS†  
MELISSA A. KLATZKOW†

---

December 21, 2018

### VIA U.S. MAIL AND EMAIL

Chairman Billy Thurmond  
Dawson County Board of Commissioners  
25 Justice Way, Suite 2313  
Dawsonville, GA 30534

#### **Re: Jarrard & Davis, LLP Retention Agreement**

Dear Chairman Thurmond:

Thank you for requesting that Jarrard & Davis, LLP represent Dawson County, Georgia as interim County Attorney for a period of sixty (60) days. It is our Firm's policy to confirm in writing the nature of the legal undertaking you have required us to perform and to inform you of our billing and payment arrangements concerning legal fees.

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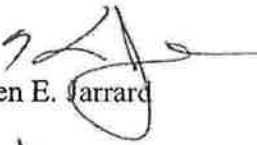
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Kindest regards.

Sincerely,

**JARRARD & DAVIS, LLP**

  
Ken E. Jarrard

  
Angela E. Davis

KEJ/dkr  
Enclosures

**AGREED TO AND ACCEPTED BY:**

  
\_\_\_\_\_  
Billy Thurmond, Chairman  
Dawson County Board of Commissioners

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