

IN THE SUPERIOR COURT OF JASPER COUNTY STATE OF GEORGIA

MARY P. PATRICK,

*

*

Plaintiff,

*

*

V.

*

CIVIL ACTION FILE

*

NUMBER: _14CV10-211____

JASPER COUNTY WATER & SEWER
AUTHORITY, and JASPER COUNTY
BOARD OF COMMISSIONERS,

*

*

*

*

Defendants.

*

**COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

Comes now, MARY P. PATRICK, a resident and taxpayer of Jasper County, Georgia,
and files this Complaint for Declaratory Judgment and Injunctive Relief and shows the Court the
following:

1.

The Superior Court of Jasper County, Georgia has exclusive jurisdiction and venue of this
action as Plaintiff and Defendants are all residents of Jasper County, Georgia, and this action
concerns the administration of the performance of official duties in Jasper County, Georgia, all
pursuant to O.C.G.A. 9-6-20 et seq. and 9-4-1 et seq.

2.

Plaintiff, MARY P. PATRICK, is a citizen and taxpayer of Jasper County, Georgia.

FACTUAL BACKGROUND

3.

On or about November 6, 2012, Clarence Eugene (Gene) Trammell and David Craig (Craig) Salmon were elected as commissioners to the Jasper County Board of Commissioners (BOC) to serve terms starting January 1, 2013. These two men were serving and served as Chairman and Treasurer, respectively, of Jasper County Water & Sewer Authority (JCWSA) until December 31, 2012.

4.

On or about December 11, 2012 duly elected commissioners Gene Trammell and Craig Salmon met with the JCWSA and informed them that they would not be able to vote on anything about JCWSA as commissioners for at least one year “due to ethics”.

5.

On May 21, 2013, both Comm. Gene Trammell and Comm. Craig Salmon participated in and led the discussion with members of the JCWSA for almost an hour at the BOC meeting. This meeting concerned the BOC providing money to JCWSA in order for the JCWSA to pay its revenue bond note with USDA.

6.

On May 21, 2013, members of the JCWSA informed the Jasper County BOC that they would like a resolution going forward between the BOC and JCWSA until 2045, saying it would be the only way JCWSA could ever make payments on their notes, specifically their revenue bond note to USDA.

7.

On May 21, 2013 the BOC is informed by County Manager Lorri Smith that the only amount of money legally owed to JCWSA is \$8403.27, which would be paid to JCWSA when collected by the tax commissioner from the Special Tax District tax that was levied (also known as the “Fire District” or “Fire Hydrant Tax”) and proceeds given directly to JCWSA by the tax commissioner.

8.

When presented on the ballot in 1998 and the citizens of Jasper County were allowed to vote, they voted down a county water system. A group of people, outside of the Jasper County government, then went to the State Legislature to have an authority established. JCWSA is an authority set up by the State Legislature in 1999 under House Bill 972. It has all the rights and privileges of an authority as outlined in House Bill 972, which includes being able to issue Revenue Bonds. **JCWSA is considered an independent, Single-Jurisdictional water authority.**

9.

JCWSA has repeatedly come to the Jasper County BOC in attempts to get the County to pay for the Revenue Bond note payments. They have admitted that they cannot pay their Revenue Bond with the revenues from their system as required. Georgia Constitution, Article IX, Section VI, Paragraph I stipulates:

“Any county, municipality, or other political subdivision of this state may issue revenue bonds as provided by general law. **The obligation represented by revenue bonds shall be repayable only out of the revenue derived** from the project and shall not be deemed to be a debt of the issuing political subdivision. No such issuing political subdivision shall exercise the power of taxation for the purpose of paying any part of the principal or interest of any such

revenue bonds.”

10.

JCWSA came before the Jasper County BOC again on both December 9, 2013 and July 21, 2014 in attempts to have contracts signed, with Jasper County funding JCWSA in order to pay their Revenue Bond note payments. The Jasper County BOC has refused to give citizens any time to rebut statements made by JCWSA or by Comm. Trammell and/or Comm. Salmon in their supporting statements for JCWSA to influence other commissioners.

11.

At the July 21, 2014 meeting of the Jasper County BOC a motion was made with Comm. Pennamon offering an amendment to the motion that an agreement with JCWSA come before the Board by the regular meeting in September. Comm. Salmon and Luke accepted the amendment; and it passed unanimously.

12.

On the afternoon of Friday, August 9, 2014 the Jasper County BOC posted an agenda for their August 11, 2014 (Monday) meeting which was to be held at 6:00PM. Sometime after 7:30PM on Saturday, August 10, 2014, the agenda was changed and the item “*JCWSA Hydrant District – Follow Up*” was added to the agenda. On Monday morning, August 11, 2014 a copy of the meeting packet was requested and obtained. There was no mention of an Intergovernmental Agreement with the JCWSA or any other type of contract in the meeting packet. This meeting was weeks in advance of the regular meeting in September. **(Exhibit 1 and Exhibit 1A attached)**

13.

In that agenda packet, the minutes of the July 21, 2014 meeting are dated June 21, 2014 and were accepted as the official minutes of July 21, 2014. **(Exhibit 2 attached)**

14.

At the August 11, 2014 meeting the Jasper County BOC varied from its “amended” agenda and discussed **a draft of a thirty-one (31) year Intergovernmental Agreement (IGA)** between the Jasper County BOC and the JCWSA . This item was not on the agenda, and the public was not aware of any IGA, was not allowed to see or review this IGA before the meeting or during the meeting, and therefore, was not able to or allowed to comment on this agreement. Plaintiff contends that this agreement is in **violation of the Open Meetings Act**, which states the purpose of an agenda is to make the public aware of what is going to be discussed and which will give the public opportunity to contact their commissioners and /or attend the meeting of interest to them. **In particular “all matters expected to come before the agency at such meeting.”** O.C.G.A. 50-14-1 et seq. and 50-14-1(e)(1)

15.

Plaintiff contends that the late changing of the agenda and the lack of any information on the agenda or in the meeting packet about an IGA was **done solely to keep the public unaware of a 31-year agreement to fund the JCWSA** to enable the JCWSA to pay its revenue bonds. Citizens did not attend this meeting because they were unaware of what would be discussed; and those that did attend the meeting were unable to comment on the issue because the agenda was silent on the IGA issue.

16.

The IGA that was approved and signed on August 11, 2014 was brought out in the meeting as a **“draft received from the county attorney.”** The Jasper County BOC decided then to **fill in the blanks of the draft and vote** on funding JCWSA \$50,000 immediately and paying them \$42,900 per year by December 31 of each year for 31 years (through 2045).

17.

On October 15, 2014 (two months later) the JCWSA made another presentation to the Jasper County BOC with a new proposal, discussed at the 5:15PM work session. This proposal included having the Jasper County BOC become responsible for **all billing services and managing the day to day operations of the JCWSA**, including all customer service, work orders, repairs to the lines, meters, etc., collections, receiving monies, paying out monies, help with the financial statements and annual audit, etc. **The proposal also included having the Jasper County BOC sign on both an “interim” note with the local bank and a loan from GEFA to fund new water meters.** The representative of JCWSA told the Jasper County BOC that it wanted a contract with them to be effective January 1, 2015. **(Exhibit 4 attached)**

18.

The citizens of Jasper County have repeatedly questioned going into debt for JCWSA, an authority that under State Law is to stand on its own and survive from the revenue produced by operating the system. By signing for any loans for JCWSA, the Jasper County BOC will be putting the county’s full faith and credit behind the JCWSA and therefore indebting the county for an independent authority. Georgia Constitution, Article IX, Section V, Paragraph I stipulates that:

“...no such county, municipality, or other political subdivision shall incur any new debt without the assent of a majority of the qualified voters of such county, municipality, or political subdivision voting in an election held for that purpose as provided by law.”

These “loan signatures” on the proposed debt will be for long-term debt which requires a vote of the qualified voters of Jasper County in order to be valid.

19.

The new proposal brings into question the need for Jasper County Water and Sewer Authority and its Board, as it is considering transferring all its duties to Jasper County BOC in a contract.

20.

The action requested by the JCWSA at the October 15, 2014 meeting, and the anticipated action of the Jasper County BOC, which was tabled “for at least a month” per Chairman Trammell, is of great concern to the public and citizens of Jasper County for three reasons. 1. The citizens are not allowed to see any agreements beforehand and are not allowed to be knowledgeable of the agreement and able to comment on it. 2. The agreement may be for a long period of time without the ability to terminate the agreement by the next board of commissioners. 3. **The agreement has been put on the 6:00PM, November 3, 2014 meeting agenda without any response to an open records request to see the draft or any other information concerning the document as well as not having been tabled for “at least a month” as stated by Chairman Trammell at the October 15, 2014 meeting. (Exhibit 5 attached)**

GROUND FOR DECLARATORY JUDGMENT AND INJUNCTION RELIEF

21.

Paragraphs One through Twenty of Plaintiff's Complaint are hereby incorporated as if fully set out herein.

22.

The actions taken by the JCWSA and the anticipated action of the Jasper County BOC to take over the day-to-day operations and management of JCWSA is against the will of the people of Jasper County.

23.

The Jasper County BOC should be restrained and enjoined from further attempts to fund JCWSA by signing notes and indebting the county on behalf of JCWSA until and unless the qualified voters of Jasper County are allowed to have their vote to approve or disapprove of this financing agreement, these contracts should be declared to be void and unenforceable.

24.

The Jasper County BOC should be restrained and enjoined from taking any action concerning a contract with JCWSA to take over the day-to-day operations and management of JCWSA unless that contract enables each future boards of commissioners to have a right to terminate the contract.

25.

O.C.G.A. 36-60-13 (a)(1) allows each contract made by a county to terminate absolutely and without further obligation on the part of the county at the close of the calendar or fiscal year in which it was executed and at the close of each succeeding calendar of fiscal year in which it was executed. Plaintiff prays that such a stipulation is required for any contract agreed to between Jasper County BOC and JCWSA and that all of O.C.G.A. 36-60-13(a) – (j) apply to any contract for services between Jasper County BOC and JCWSA. **(Exhibit 3 attached)**

26.

As a Jasper County taxpayer, a licensed Certified Public Accountant, a former commissioner of Jasper County, and a long time advocate of government transparency, Plaintiff files this Complaint and Request for Declaratory Judgment and Injunctive Relief out of concern for the taxpayers of Jasper County that are having their tax dollars squandered on an autonomous water authority that should be responsible for its own management and for the debt it has incurred and proposes to incur. The property taxes of Jasper County have just been raised in 2014 by this BOC in the amount of 2.15 mils. By the Jasper County BOC undertaking additional financial obligations that are not their legal obligation, but the legal obligations of JCWSA, the taxpayers of Jasper County can expect more county indebtedness and more tax increases if the proposed relief sought is not granted.

RELIEF SOUGHT

27.

WHEREFORE, Plaintiff prays:

a) That service of process issue and that Defendants be served with a copy of the Summons in this action;

b) That this Court issue a Mandamus Nisi, scheduling this matter to come on for trial as soon as possible as time is of the essence being that the Jasper County BOC has the item “*JCWSA Billing Proposal*” on their November 3, 2014 meeting agenda, all in accordance with the provisions of O.C.G.A. 9-6-27;

c) That this Court enter an order requiring the Jasper County BOC to cease and desist in any action to take over the day-to-day operations and management of JCWSA until the public is allowed to review and comment in a public hearing on the proposed action;

d) That this Court enter an order requiring the Jasper County BOC to cease and desist in any action to sign and/or co-sign on loans for JCWSA now or in the future unless the voters are allowed to vote on such actions as required by law and as outlined in Paragraphs 18 and 23;

e) That this Court enter an order requiring the Jasper County BOC to cease and desist in any action to take over the day-to-day operations and management of JCWSA until the contract on the proposed action have termination stipulations as outlined in Paragraph 25, allowing future boards of commissioners the right to determine if they or able or if they want to continue the contract; and

f) For such other relief as the Court deems just and proper.

Respectfully Submitted

MARY P. PATRICK
Plaintiff, Pro Se

3501 Hwy 212 W
Monticello, GA 31064
706-468-8162