

# APPLICATION FOR RECALL

(FOR OFFICE USE ONLY)	
Official Application Number	001
Date of Issuance	3/18/09
Date Application Returned	4/1/09

MONTICELLO  
County or Municipality

TO: Judge Linda Mock (Name of Election Superintendent)  
Probate Judge (Title of Office)  
126 West Green St. (Address)  
Monticello Jasper Oregon 97024  
 (City) (County) (State) (Zip)

We, the sponsors of this application for a recall petition, demand the recall of:  
Bobby Jacobs Jr - Monticello City Councilman  
 (Name and Office of Person Sought to be Recalled)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office
- Has violated his or her oath of office
- Has committed an act of misconduct in office
- Is guilty of a failure to perform duties prescribed by law
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed

Filed in office this 1 day of April, 2009  
 at 10:45 AM.  
Nicholas Karp, Clerk  
 Linda M. Mock, Judge  
 Jasper Co Probate Court

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

*SEE ATTACHED STATEMENT*

Name of Petition Chairperson: David D. Moore

### OFFICIAL SPONSORS

SIGNATURE OF SPONSOR (Print Name Below Signature)	DATE OF SIGNATURE	RESIDENCE ADDRESS (Number, Street or Route and City)	COUNTY OF RESIDENCE
1. <u>Kia Bude</u> <u>Kia Bude</u>	3/20/09	765 Glen View Loop	Jasper
2. <u>Vickie Clark</u> <u>Vickie Clark</u>	3/20/09	420 Brazey Road	Jasper
3. <u>THAD NOLAN</u> <u>THAD NOLAN</u>	3/20/09	744 Glen View Loop	Jasper
4. <u>CAREY SANDS</u> <u>Carey Sands</u>	3/20/09	755 GLEN VIEW LOOP	JASPER
5. <u>Orlando Jones Jr</u> <u>Orlando Jones Jr</u>	3/21/09	767 Tanyard St	JASPER

WR

## RECALL STATEMENT

This statement is being submitted as the grounds for the recall of City of Monticello Georgia Councilman Bobby Jacobs pursuant to Official Code of Georgia Section 21-4-1 *et al.* Mr. Jacobs has conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public. Mr. Jacobs has violated his oath of office and has willfully misused, converted, and misappropriated without authority, public property and public funds entrusted to and associated with his office as city councilman.

Namely, Mr. Jacobs has misused his power as a city councilman to misappropriate public funds and property for his personal use on his private property, and he has a standing conflict of interest with his appointment as an Associate Magistrate Judge of Jasper County, to wit:

City Councilman Bobby Jacobs in his capacity as an elected official has willfully misused public property and abused his power, by illegally using city workers and equipment for personal gain. On November 10, 2007 the Jasper County 911 emergency response system in Jasper County Georgia (*county seat of Monticello Georgia*) received a call from the residence of Mr. Jacobs at 1218 Forsyth Street (Highway 83 South), Monticello, Georgia, requesting that a city worker be dispatched to his home to correct a sewer problem. It was determined by these city workers that the cause of the sewer problem was on Mr. Jacob's private property and not city or county maintained property. As such, he was informed that city workers could not work on private sewer problems, and since the sewer problem was on his private property, he would have to call a private company. Mr. Jacobs then telephoned the city manager, Hugh King and instructed him to send city workers back out to repair his sewer problem on his private property. Because of Mr. Jacob's position as a city councilperson, city manager Mr. King instructed city worker supervisor Monty Roper and several other city employees to complete the sewer work on Mr. Jacob's private property. Both city equipment and city workers spent several hours working on Mr. Jacob's private property. This unlawful use of city workers and equipment are in direct violation of Monticello City Ordinance Sections 2-153, State Ethics Laws, and Official Code of Georgia Section 16-8-5 *et al.*, Theft of Services provision. Because of Mr. Jacobs misuse of these workers and equipment, taxpayer funds used to purchase the equipment and pay the workers who worked on his private property was misappropriated and used for his personal gain. Without his position as an elected official Mr. Jacobs would not have had the power or authority to direct the city manager to send out city workers to his private property.

City Councilman Jacobs also has a direct conflict of interest in his appointed position of Associate Magistrate Judge of Jasper County. On January 8, 2009 Mr. Jacobs was appointed to this judicial position as Associate Magistrate while still serving as an elected City Council official. As a city council member, Councilman Jacobs is in direct supervision of the Monticello Police Department. The Monticello Police Department, must receive all warrants from the Magistrate Office and Magistrate Judges. This arrangement is a direct conflict and has the appearance of impropriety to his constituents

and citizens alike. As Associate Magistrate Judge, Mr. Jacobs also has the potential to hear and decide the punishment for these issued warrants. The punishments can include fines and incarceration. Mr. Jacobs being able to direct the Monticello Police Department as its direct supervisor to issue warrants for specific citizens and then potentially having the power to preside over those cases creates a conflict of interest to the highest degree. These dual roles make Mr. Jacobs the "judge, jury and executioner" of who should be arrested and what their punishment should be, a violation of state and federal Constitutional Due Process. Additionally, as the city councilman of District 2, Mr. Jacobs has to face the general public for a variety of citizen concerns, however there would be no confidence in the citizenry that a fair decision is being made by the city council if the citizen had already faced Mr. Jacobs as a Magistrate Judge on the same or similar issue. A conflict arises where there is the potential for abuse rising from the holding of two offices although there may not be "direct supervision or control." Further, because the Monticello City Council makes funding decisions concerning taxpayer money that would directly or indirectly affect the funds or administration of Magistrate Court of Jasper County, his appointment as Associate Judge is in conflict with that fiduciary duty. The test for simultaneously holding two offices is specific authorization, rather than prohibition; and since there is no law specifically authorizing a person to simultaneously hold the office of Associate Magistrate and Councilman, it is prohibited. This blatant conflict by Councilman Jacobs while holding office adversely affects the administration of his office as councilman and adversely affects the rights and interest of the public and is a direct violation of city of Monticello Canon 7 (B) and Monticello City Ordinance Section 2-154 concerning disclosure conflicts of interest. This conflict exists because one office is subordinate to another and is subject to its supervision or control or duties conflict, inviting the person to prefer one obligation to another. There need not be any actual wrongdoing to create a conflict of interests; the law is designed to preclude the opportunity, or temptation for impropriety of holding two incompatible positions as in the case of Mr. Jacobs.