

**A RESOLUTION
OF THE
DAWSON COUNTY BOARD OF COMMISSIONERS
TO CENSURE COMMISSIONER JULIE NIX**

WHEREAS, the Rules of Procedure for the Dawson County Board of Commissioners, Section 5.0, Parliamentary Authority, provides that the latest edition of Robert’s Rules of Order shall govern the Board of Commissioners where not inconsistent with the Internal Operating Rules; and,

WHEREAS, the latest edition of Robert’s Rules of Order provides in Section 72, “A deliberative assembly has the inherent right to make and enforce its own laws and punish an offender”; and,

WHEREAS, the Rules of Procedure for the Dawson County Board of Commissioners Section 2.08.01, specifically references censure as an appropriate form of reprimand for a Commissioner acting out of order;

WHEREAS, while a full-scale investigation of Commissioner Nix’s conduct has not been undertaken to date, the Board of Commissioners finds that Commissioner Julie Nix has acted out of order in violation of the executive session privilege and in violation of the attorney-client privilege in her disclosures of information and email communications to an employee on repeated occasions;

WHEREAS, Commissioner Nix forwarded email communications that were protected by the attorney-client privilege between former County Attorney, Lynn Frey, and the Board of Commissioners, without approval of the Board of Commissioners, to an employee who had no right or authority to receive those email communications. Such communications were specifically marked as “confidential”, but were forwarded by Commissioner Nix in violation of the attorney-client privilege;

WHEREAS, Commissioner Nix also forwarded email communications that were protected by the attorney-client privilege between County Manager, Dave Headley, County Attorney, Angela Davis, and the Board of Commissioners, without approval of the Board of Commissioners, to an employee who was the subject of the email communications and who had no right or authority to receive those email communications. Such communications specifically contained this statement: “Please note that I am sending this to our legal counsel so this should be considered attorney-client privileged and not subject to distribution.” Despite this specific admonition, such communications were forwarded by Commissioner Nix in violation of the attorney-client privilege when such communications were concerning personnel issues about the very employee to whom she forwarded the communications, this employee was represented by an attorney, and this employee was taking positions adverse to Dawson County’s interests;

WHEREAS, the attorney-client privilege is recognized as “the oldest of the privileges for confidential communications known to the common law” (Upjohn Co. v. U.S., 449 US 383 (1981); Fire Ass’n of Philadelphia. Fleming, 78 Ga. 733 (1887)), is codified in state law at

O.C.G.A. § 24-5-501(a)(2), and is specifically recognized as protecting communications of local government entities in both the Georgia Open Records Act (O.C.G.A. § 50-18-71(a)(41)) and the Georgia Open Meetings Act (O.C.G.A. § 50-14-2(1));

WHEREAS, Commissioner Nix further forwarded email communications concerning privileged and confidential communications that occurred in an executive session of the Board of Commissioners concerning a potential property acquisition to an employee who had no right or authority to receive those communications;

WHEREAS, the Georgia Open Meetings Act authorizes local governing authorities to conduct certain discussions in private executive session meetings, including discussions concerning potential property acquisition (O.C.G.A. § 50-14-3(b)(1));

WHEREAS, the confidentiality of such discussions is necessary for various public policy reasons, including but not limited to the protection of the County purse and to ensure that the County can effectively negotiate potential property acquisitions in the best interests of its citizens;

WHEREAS, it is important that information discussed during such private executive session meetings remain confidential until such time as public dissemination is agreed upon by the Board of Commissioners as a whole or is otherwise required by the Open Meetings Act;

WHEREAS, the disclosure of executive session information by Commissioner Nix to an employee was without the approval of the Board of Commissioners and was in violation of the executive session privilege. Not only does this disclosure have the potential to imperil the County's ability to effectively negotiate and position itself for purposes of a potential property acquisition, but importantly, Commissioner Nix's violation of the executive session privilege has significantly chilled the ability of the Board of Commissioners to have candid executive session discussions for fear of such discussions impermissibly being shared with individuals outside of the executive session;

WHEREAS, the above-described actions by Commissioner Nix are believed to be in violation of the Code of Ethics for government servants as set forth in O.C.G.A. § 45-10-1, Canon I, which requires a public employee to "put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department" and Canon X, which requires a public employee to "uphold these principles, ever conscious that public office is a public trust";

WHEREAS, the above-described actions of Commissioner Nix in divulging confidential and privileged communications to an employee who has no right or authority to receive such communications undermine the chain of command and the County Manager form of government and impede the effective operations of Dawson County;

WHEREAS, the Board of Commissioners believes that all of the above-described activities require condemnation of this governing body.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Dawson County does hereby censure Commissioner Julie Nix for repeatedly divulging confidential information in violation of the attorney-client privilege and the executive session privilege; and,

BE IT FURTHER RESOLVED, that should this practice of breaching the attorney-client privilege and the executive session privilege continue, the Board of Commissioners will be left with no choice but to take legal action against Commissioner Nix to ensure that its ability to have candid and forthright attorney-client privileged communications and executive session discussions is protected for the benefit of the citizens of Dawson County and in support of the County's interests.

Duly adopted this _____ day of February, 2019.

**DAWSON COUNTY BOARD
OF COMMISSIONERS**

Billy Thurmond, Chairman

Sharon Fausett, Member

Chris Gaines, Member

Tim Satterfield, Member

Julie Hughes Nix, Member

Attest:
