

**City of Milton Board of Ethics
Work Session**

Monday, April 29, 2008 6:00 PM

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AGENDA

1. Call to Order – Chairman Todd Ashley
2. Approval of the March 24, 2008 Work Session minutes.
3. Discussion on revisions to Chapter 6, Code of Ethics and Standards of Conduct.
4. Old Business
5. New Business
6. Next Meeting Date
7. Adjourn

MEETING CALLED TO ORDER

Chair Todd Ashley:

- Called the Board of Ethics Work Session meeting to order for Tuesday, April 29, 2008 at 6:15 PM.

ROLE CALL:

Todd Ashley, Chair
Carol Cookerly
Carol Lane
Clint Johnson
Howard Drobos
Joe Whitley

City Staff: Angie Davis, City Attorney

Other Attendees: Jason Wright, Milton Herald

APPROVAL OF THE AGENDA

Motion and Second: Howard Drobos moved to approve the meeting agenda. Seconded by Todd Ashley. There was no discussion. Vote: 6-0. Motion unanimously carried.

APPROVAL OF THE MINUTES

Motion and Second: Clint Johnson moved to approve the minutes. Carol Cookerly seconded the motion. There was no discussion. Vote: 6-0. Motion unanimously carried.

AGENDA

Chair Todd Ashley:

- Called the next agenda item, Discussion on ***Revisions to Chapter 6, Code of Ethics and Standards of Conduct.***
- Everyone should have had the opportunity to review the amended and edited copy that Ms. Lane worked on and the board's comments sent to the City Attorney, Angie Davis.
- Floor opened up for further discussion on Chapter 6.

City Attorney Angie Davis:

- Provided Board Members a red-lined version of the Ordinance containing Ms. Lane's version along with a clean copy.
- Received the Board's emailed comments.
- Start working from Carol Lane's draft.
- Provided everyone the individual board member's comments.
- Beginning portions of ordinance appear to be less controversial.
- Start reviewing section by section.
- Started with the "Whereas" clauses.
- Use of the word "enforcement."
- Stated under Article One, General Provisions
- Changing globally "Elected Officials" to "City Officials" and "Government Employees" to "Employees."
- Changes referring to "Democratic Government" versus "republican."
- Completes changes on pages 1 and 2.

Clint Johnson

- Asked City Attorney if there was a need for all of the "Whereas" clauses.
- Believed there were too many "Whereas" clauses.

City Attorney Angie Davis:

- Goal is to explain what ordinance is trying to set forth and the foundation for those rules.
- Can strike any that the Board may feel are not necessary.
- Changes are a reflection of the comments she received.
- Article One, Page 3, Definitions.
- Some definitions were added to the draft she proposed.
- One of biggest changes discussed were removing any references to "CH2MHill" and just referring to employees working for the city under contract and that was accomplished.

Clint Johnson

- Stated under definitions did not see definition for Ethics Committee.

City Attorney Angie Davis:

- Next item was Article Two, Code of Ethics for Municipal Service Generally.
- Stated that the definitions for Ethics Committee can be discussed and added.
- Some of the members did not want an Ethics Committee.
- Section at end of page 4, there was a statement about Georgia law regarding conflicts of interest.
- Stated she recommended striking that language.
- We should define it and the law applies.
- Concluded the definition section.
- Following the red-lined version, on page 5, intent to adopt and incorporate ethical standards of the state code.
- Deleted the code section because it is duplicative.
- Did not receive any substantive revisions to this section.
- Article Three, page 8, Code of Ethics for City Officials and Department Directors on the red-lined version, is the same and is the companion state codes that apply to city officials and department directors who may be in a position of authority to make a vote or make a decision that may have ethical connotations.
- Adopted O.C.G.A. §45-10-3.
- Deleted the duplication in beginning.
- Did not receive any substantive revisions to this section.
- Article Four, page 10, Specific Provisions Related to Conflict of Interest Transactions and Disclosures
- Did not get too many conflicting comments.
- Bottom of Section Two(A), have changed at the Board's request the words "personal" interest to "monetary" interest.
- Stated in Section Three, Financial Disclosures, on page 11, this was something that the State Ethics Committee and Ethics Commission of the state heavily regulates, we simply stated that *state and federal laws shall apply*.
- No other changes regarding this section, as the state manages this area quite nicely.
- Board could always forward a complaint to them if needed for them to handle.
- There were some conflicts with Section Three, Financial Disclosures and Section Four so those sections were cleaned up to stated *with comply with state and federal laws*.
- No other substantive changes until page 12, Section Eight. Tried to combine where there was a paragraph (G) at the bottom that was stricken and put that up into the primary paragraph to clarify what can and cannot be used as city property (facilities, vehicles or equipment) for personal use *except to the extent such are lawfully available to the public*.

Chair Todd Ashley:

- Had made a comment with respect to the Section 9 relating to political activity.
- Could abandon those comments as they have been incorporated in Section 8.
- Had no problem with one candidate endorsing another as long as they did not use city property or equipment.

City Attorney Angie Davis:

- Stated Carol Cookerly had a question regarding Section 9 as well.
- Reviewed Section 9 with Todd Ashley and Carol Cookerly.
- Section 8 is pretty clear, but need to talk about what the Board wants regarding use of official title or official capacity.

Carol Cookerly:

- Agreed with Todd Ashley.
- Read portions aloud of B(2), Political Campaign Involvement.
- How is *conflict of interest* defined?
- Asked if employees would not be allowed to express their preferences.
- Did not believe their powers extend that far.

City Attorney Angie Davis:

- Limiting factor that prevents it from being a first amendment issue is that it has to constitute a conflict of interest.
- When talking about employees, you would have to think about employees that could affect people's lives.
- Agreed that this definition needs to be tightened out.

Chair Todd Ashley:

- Ways of impacting an election.
- Gave example of "This is Joe Smith of the Milton Police Department and I urge you to support a particular candidate."
- Asked the City Attorney in her legal opinion what would be the best way to handle this?

City Attorney Angie Davis:

- May want to add language that makes it clear that it does not limit your involvement in a political campaign *in your individual capacity*.
- There are two parts, *not acting in an official capacity* and in a manner *that constitutes a conflict of interest*.

Continued Board Discussion with City Attorney.

Chair Todd Ashley:

- Asked City Attorney if she would advise either treating everyone the same (ex., anybody could use their title or position with the city to urge support for any candidate) or would she advise the Board that nobody should be able to use their title?

City Attorney Angie Davis:

- Some problems with treating people different.
- There are some justifications for it.
- The main thing is using their title in a way that is coercive or creates a conflict of interest.
- Problem is in the meaning of the words coercive, *influence*, or *conflict of interest*.
- It is worded like this in the current ordinance.
- Believed it says you cannot use your title to *influence* an election.

Carol Cookerly:

- An elected official is a politician.
- Different standard than an employee.
- Elected officials are the leadership figures.

Carol Lane

- Asked if the City Council then would be the only body to be able to do this and no other boards.

Carol Cookerly:

- Stated she thought an elected official should be allowed to use their official capacity.

Chair Todd Ashley:

- Said he agreed with that statement.

Joe Whitley:

- Asked about unions.
- Agreed with Carol Cookerly and Todd Ashley about elected officials.

City Attorney Angie Davis:

- Referred Board to B(2).
- What if that said *a city official or employee shall not be involved in political activity in his or her official capacity that would constitute a conflict of interest.*

Carol Cookerly:

- Any challenger running is going to say it is a conflict of interest.
- Believe the elected officials need to have this freedom.

Chair Todd Ashley:

- Stated he believed by them not having that freedom or there being a question about whether they had that freedom led to the situation with Councilmembers D'Aversa and Thurman.

City Attorney Angie Davis:

- Asked Board if the elected official definition would be separate from city official which would include all the boards including the Ethics Board.

Carol Cookerly left the meet at 7:00 p.m.

Joe Whitley:

- Agreed with his colleagues.
- Stated they should move forward in the discussion.

Chair Todd Ashley:

- At the end of part B(2) suggested *nothing in this paragraph section shall be construed to limit an elected official from supporting any candidate in their official elected capacity.*
- Stated for the record that Carol Cookerly left the meeting just prior Mr. Whitley's comments.

City Attorney Angie Davis:

- When it is stated *nothing in this paragraph section shall be construed to limit an elected official from supporting any candidate in their official elected capacity*, needs to perhaps also have added to it *provided that city equipment, property and time is not used*.

Chair Todd Ashley:

- Stated redundancy creates safety.

City Attorney Angie Davis:

- In B(2) addressed employees and elected officials.
- There is a hole in the document is all of the Board Members.
- If the Board Members get complaints against them.
- Need to fill in this hole.

Carol Cookerly returned to the meeting at 7:04 p.m.

Chair Todd Ashley:

- Suggested *an employee or board member*.

Howard Drobos:

- Stated it should read *an employee or city official **except for elected officials***.

Carol Lane:

- Said if we think of anything else, we can email the City Attorney.

Chair Todd Ashley:

- Stated no matter what we produce here with Ms. Davis as the Board's final product, you have to remember that any document that gives direction or creates rights or exceptions is going to always be subject to interpretation.

Clint Johnson:

- Talked about his involvement in the John McCain campaign.

City Attorney Angie Davis:

- Stated that was okay as long as he was not using his official capacity as an Ethics Board member for John McCain.
- She said she would go through the sections in the ordinance and make sure there were no inconsistencies.

Carol Lane:

- Said the language then did not just apply to the City of Milton, but any campaign.

City Attorney Angie Davis:

- Told the Board unless they specified it differently.
- Currently says *any political activity including in the City of Milton*.
- Stated if they just want to say City of Milton, then that needs to be stated.

Howard Drobos:

- Stated he thought that was the only place it should be, the City of Milton.

Clint Johnson:

- Stated whenever you identify yourself as a member of any group you are also implying that the group supports you or you would not be there.
- You may not be implying that but that is the perception.

City Attorney Angie Davis:

- Asked the Board if they wanted to keep it broad or say only the City of Milton.

Clint Johnson:

- Stated he thought it was okay the way it was.

Chair Todd Ashley:

- Said he was okay with it too.

Joe Whitley:

- Thought there should be some employee education to make sure everyone understood what their rights were.

Chair Todd Ashley:

- Stated to wrap this matter up and move on to page 14, Section B(2) of Article 9, the City Attorney will add the language to the end of the paragraph exempting elected officials only from the prohibitions regarding campaigns and using one's official capacity.

City Attorney Angie Davis:

- Stated she was clear on what needed to be changed and would make sure it was consistent throughout the document.
- Moved on to Section Ten.
- No substantive comments on page 14.
- On page 15, there was Ms. Lane's addition to the previous ordinance under Exemptions, which was made for clarification purposes.
- Section 15, Abstention to Avoid Conflicts of Interests.

Clint Johnson:

- Asked about unions.

City Attorney Angie Davis:

- Stated they could say any professional society or any, labor union or any charitable, etc.

City Attorney Angie Davis:

- Abstention to Avoid Conflicts of Interests.
- Several provisions that got dropped in that meant almost the same thing.
- Stated she tried to put everything all together in (A).
- There were no substantive comments, but just for organizational purposes.
- Stated they could go ahead with discussion regarding Article Five, establishment of an Ethics Committee, which was a new concept.
- Carol Lane provided this from her draft to be proposed.

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- Summarized for the Board how the proposed committee would be established and would work from the document that Carol Lane had proposed.
- Would need to specify duties.
- Would be more of an administrative body to do training and education, advisory opinions and prescreen complaints.
- Stated the committee would exist independent and separate from what gets discussed in Article Five as the Ethics Board.
- Council would each appoint 2 people and it would become a pool of 14.

Carol Lane stated:

- The reason for this was it was so hard to get 7 people together for hearings.
- Having a committee of 3 would be more productive.
- Their function would be education and screening the complaints.
- The Ethics Board would act more like a jury which is what the former city attorney, Aaron Bovos talked about.
- The Ethics Board would not have a preconceived notion.
- The evidence would come from the 3 knowledgeable committee members.
- Currently we are like the judge and jury.

City Attorney Angie Davis:

- Engaged the Board to discuss their feeling about an ethics committee.

Joe Whitley:

- Asked if other cities had been looked at to see if their have similar type committees.

Carol Cookerly:

- Stated if this is in part due to balance or some ratio to have a quorum.
- Said to have two members to be a quorum did not feel right.

City Attorney Angie Davis:

- Stated a quorum is simply a majority.

Todd Ashley:

- With respect to the body of 14 and the parties rotating on and off, he said that appears to be cumbersome.
- Idea itself probably is a good one, but having a committee in a pool of 14 people, it seems cumbersome.

Carol Lane:

- Explained in detail to the Board her idea for an ethics committee.
- Some of the previous problems were from not being able to get some of the members together from the group.
- Stated having this committee would take the politics out of it.

Clint Johnson:

- Said he had to stop right there.
- He disagreed with Carol Lane's statement.
- Thought it would put more politics in it.

Carol Cookerly:

- Asked if the current procedure was broken.

Clint Johnson:

- Stated they were working fine.
- Dismissed all of the claims against people because of the board's group efforts.
- Kept things from running out of control.

Carol Lane:

- Stated the fact that the City Attorney had the power that he had showed it was broken in her opinion.
- He had the power to decide what complaints went through and which did not.
- Said she was not going to argue.

Clint Johnson:

- Disagreed with Carol Lane.
- Stated he personally talked with the City Attorney and stopped him from doing a lot of things when he was Chairman.
- He did not have any power other than in an advisory position.

Carol Lane:

- Stated that was a lot of power.

Todd Ashley

- Said the point that Clint was making was that at the end of the day, the Ethics Board had the power to completely ignore what the city attorney said.
- That is what happened four times.

City Attorney Angie Davis:

- Stated for one thing, she had no desire to be in that role.
- Believed that a city attorney passing upon his client would be a conflict of interest and that would be a problem.
- Stated that the city attorney element was separate from the Board function and separate from the ethics committee.

Clint Johnson:

- Said he was not passing on them, this Board was.
- The people that were directly involved had been recused.

Carol Lane:

- Said that is what she thought they should do, to take the city attorney out of that role.

Clint Johnson:

- Asked what you do then when you need legal advice.

City Attorney Angie Davis:

- Stated she thought legal advice was different.
- Believed the city attorney was designated as a fact-finder investigating complaints.

Clint Johnson:

- Stated the reason for that was because the ethics board was prohibited from the original ordinance from investigating.
- Somebody had to investigate the complaints and the city attorney was the most logical.

City Attorney Angie Davis:

- The Ethics Board is like a judge and jury.
- The complaint would be brought just like in a court of law.
- Did not believe the board would want to be in an investigative role.

Carol Lane:

- Explained the city attorney had 30 days to investigate.
- No rules as to the method of investigation he used.
- Took depositions for some and not for others.
- No consistency as to how much power he had.
- He had too much power for one person.
- Need to have a timeframe so it is not dragged out for so many months.
- Said it is a very costly experience and very damaging to somebody to have that done to them.
- It is like a trial and it goes out to the media.
- Said that was one of the issues - it was not supposed to go out to the media.

Chair Todd Ashley:

- Explained to the new members how the process had worked.
- Sometimes depositions may have been a good idea and sometimes they may not have been.
- Asked if the board was beginning to coalesce around the idea that the board wants the city attorney out of the fact-finding role.
- Even though if there is a city council member involved the board will be asking her to investigate her client.

Clint Johnson:

- Stated the investigation was not necessarily the beginning of one of these cases.
- The beginning is the filing of the complaint.
- Board then makes the decision to investigate it further or if they want to proceed.
- Problem was the board had the 5 day, 30-day windows.
- Forced the City Clerk and the City Attorney to be a participant before it even came to the Board.
- Stated the investigation should be down the road once the complaint has been filed and the board initially hears it.
- Further investigation can be ordered at that time.

Additional Board Discussion about investigations.

Carol Cookerly:

- Stated she liked having a gatekeeper so it would not go to the attorney first.

Howard Drobos:

- Stated the board had to decide whether they want to go with an ethics committee and an ethics board first.
- Then the procedures could be established for the board like letters of inquiry for the board's use when complaints are filed.
- Notice would be sent out to the complainant and the respondent that a complaint had been issued and the board is following up on it.
- He said it is the same way the Georgia Society of CPAs handles complaints.
- The statements are obtained and reviewed before anything proceeds.
- The decision is then made on whether to go forward.

Chair Todd Ashley

- Suggested as to the composition and makeup of this board it remains as it is today.
- Each council member and the mayor getting to appoint someone.
- The Board dissolve the city attorney's gatekeeper position.

City Attorney Angie Davis

- Stated she was hearing several things about investigations.
- Asked the Board if they were going to be an investigative body.
- There is a difference in investigating and prescreening.
- Asked if the Board was going to sit like a judge and be neutral and just hear what is presented or does the Board want to investigate.
- Nature of investigating could be a minefield for the board that could present a lot of problems.
- The evidence is brought to you and you decide based on the facts.

Carol Cookerly:

- Told Ms. Lane she has spoken passionately about her personal involvement.
- Asked if this would solve that situation if the city attorney was taken out of the equation and out of the gatekeeper role.

Chair Todd Ashley:

- Stated Ms. Lane's case was the perfect example.
- There was a couple of dozen exhibits brought up which almost implicated another board member.

Carol Lane:

- Stated this takes a lot of time and effort.
- She said there was a timeline.
- Not everyone could meet at the same time and there were so many scheduling conflicts.
- So much time with the City Clerk trying to schedule people that cost the city money.
- Explained what happened in her case and if there was just an error that turned into an ethics complaint.
- Said because these cases are so serious you need to have every board member there.
- You need to have all 7 people to be present and that was some of the problem.

Clint Johnson:

- Stated firmly that he wanted to speak to this issue.
- He said he had shut up for a long time.
- Said that the reason her case took so long was because of your (Ms. Lane's) lawyer.

Carol Lane:

- Said that was not true and she did not want to be defamed.

Clint Johnson:

- Said he was not defaming her.

Carol Lane:

- Said he (Mr. Johnson) was because he was speaking from something you should not address.

Chair Todd Ashley:

- Said excuse me, excuse me, that is enough. We are still professionals here and please speak one at a time and do not talk over one another.
- Told Ms. Lane to let him (Mr. Johnson) have his say and then she could rebut.

Carol Lane:

- Got up and left the meeting at 7:45 p.m.

Clint Johnson:

- Stated firmly that he did not have anything else to say but that he was against this and would vote no.
- Said he was not going to let one person run the ethics committee and that was it.
- He said his vote was no and it could be recorded now as no.
- Stated there had to be a vote on whether this ordinance was going to be passed on to the Council and he said he was voting no.

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Chair Todd Ashley:

- Stated the City Attorney was not finished with the document and that she had to go back and make the changes.

Clint Johnson:

- Stated firmly that one person is trying to run this ethics board.

Chair Todd Ashley:

- Stated first of all we have let feelings get in the way of progress.

Clint Johnson:

- Said he did not have any feelings on this.
- The feelings come from Carol Lane.
- Said he was the Chairman of the Board for a year and he tried to have her complaint dismissed 4 times before and her lawyer refused to do it.

Chair Todd Ashley:

- Said he agreed as he was there.
- Mr. Eastwood asked for at least one and he believed two continuances which caused the board to have to meet on December 21st and caused folks to have to come back into town.
- It caused Susan Campbell to have to reschedule a flight.

Carol Lane:

- Returned to meeting at 7:55 p.m.

Clint Johnson:

- Caused him to miss two reunions out of town.

City Attorney Angie Davis:

- Asked board if they had ever heard the phrase do not let bad facts make bad law.
- From what she heard from Ms. Lane's situation it was just horrible.

Carol Lane:

- Stated that is how she sees this because she is the only one that can really see it this way because she is the only one that experienced the other side.
- That was how she treated the ordinance when going through it.
- Trying to come from the board's side and the person who has the complaint filed against them.
- Looked at many ordinances and referenced them.

Chair Todd Ashley:

- Told Ms. Lane she was right about that but where he thought she got off of the rail.
- He said Mr. Johnson was making a point that the board tried to accommodate --

Carol Lane:

- Interrupted Mr. Ashley and said she did not want to discuss her case.

Chair Todd Ashley:

- Said he was going to exercise his prerogative as Chair and if she (Ms. Lane) felt she needed to leave again, she could feel free to do so.

Carol Lane:

- Said Mr. Ashley was arguing about her case.

Chair Todd Ashley:

- Said he was not arguing about her (Ms. Lane's) case.
- Discussed how many continuances her attorney asked for.

Carol Lane:

- Argued that Mr. Ashley did not have the facts in front of him to make any kind of statement.

Carol Lane:

- Asked if they could just move on.

Chair Todd Ashley:

- Asked Ms. Lane if she then abandoned her point.

Carol Lane:

- Asked what her point was.

Howard Drobos:

Made a motion that they strike the portion regarding an Ethics Committee from the Ethics Ordinance. Seconded by Todd Ashley.

Carol Cookerly:

- Asked about removing the attorney as the gate keeper.

City Attorney Angie Davis:

- Stated the Board had given her some direction and she needed to go back and draft it with that model.

Chair Todd Ashley:

- Stated they were moving forward and thought they were on page 18 and there was much more after this portion.

City Clerk Representative: Advised the Board that they had made a motion and it was seconded on striking the Ethics Committee portion out of the ordinance and they would need to vote. Vote: 5-0, with Carol Lane abstaining.

City Attorney Angie Davis:

- Asked the Board if there was a consensus on removing the City Attorney from the gatekeeper role.

Board unanimously agreed.

City Attorney Angie Davis:

- Reiterated that the composition of the Board would remain the same.
- City Attorney aspect would come out and the Board would prescreen their own complaints that would come directly to the Board.
- The Board would review the evidence that comes before them from both sides and make a decision and not be involved in investigations.
- Stated in Article Six on page 23, would go to the old ordinance as to how the board is appointed.
- Need to decide on the qualification portion. Could use the new proposed or under the old ordinance.

Clint Johnson:

- Asked about subparagraph (d) as that pertained to him.

City Attorney Angie Davis:

- Stated on page 23 and continuing on page 24, Qualifications, they could delete *does not hold any elected office and is not a candidate for an elected office*.
- Thought if they just deleted *appointed* it would be fine the way it is.
- Said the qualifications under the old ordinance were very similar to the newly proposed.
- Read the exemption portion aloud to Board.
- Stated she would take the best of the old and the new and combine those qualifications.

Joe Whitley:

- Asked if the Board would be able to have a copy of the comments being discussed tonight and what the Board decided.

Chair Todd Ashley:

- Should be captured in the minutes to be approved.

Clint Johnson:

- Discussion about his position as a poll manager.

City Attorney Angie Davis:

- Moved to Terms and Vacancies.
- Did not think the old ordinance was very clear about resignations and vacancies.
- Need to make provisions for any vacancies.
- Probably would want the person being placed in the vacancy position to be appointed in the same manner as you were initially appointed.

Clint Johnson:

- Stated he thought there should be a timeframe on how long a vacancy should be left unfilled after someone voluntarily resigns or is removed.
- Perhaps it should say if a Councilperson does not choose to replace their appointee after a certain period of time (perhaps 45), then the mayor will have the right to appoint someone.

City Attorney Angie Davis:

- Stated she would put in the 45 day period to fill any vacancy on the Board or the mayor shall have the right to appoint.

Chair Todd Ashley:

- Asked who they are supposed to resign to and when does the clock start running.

Clint Johnson:

- Stated you were supposed to resign to the City Council and notify the Clerk of the Court.
- Believed resignation should be effective upon tender.
- Also thought there should be language added regarding how many times a member would be allowed to miss a scheduled meeting and the consequences associated with same.

City Clerk Representative:

- When you early spoke about accepting the complaints directly and having them come to you as a Board, would they then not come to the Clerk for her to clock them in.

City Attorney Angie Davis:

- Said as a matter of logistics, they will have to come in to the Clerk first.
- Will have to fine tune this language.
- The Board does have sit here in City Hall and receive mail.

Howard Drobos:

- Said he believed it was supposed to go to the City Clerk to be date stamped in and notarized and then gets distributed to the Board.

Carol Lane:

- And then it goes to the media.

City Attorney Angie Davis:

- Asked if that was right.

Chair Todd Ashley:

- No, no that is not right.

Carol Lane:

- Said it is not supposed to but it does.

Howard Drobos:

- Stated it was supposed to go to the media 5 days after the Board gets it.

Carol Lane:

- It is not supposed to be released to the media, but it is.

Clint Johnson:

- The 5 day period is the City Clerk's 5-day waiting period.

Carol Lane:

- Stated that cannot be controlled, because if somebody wants to leak it out it gets leaked out.

City Attorney Angie Davis:

- Stated that honestly, the moment it gets filed with the Clerk it becomes a public record and under the Public Records law it is subject to disclosure.
- You cannot disclose information if it is under investigation, but just the complaint is subject to immediately disclosure.
- Did not believe anyone would be interested in "kicking it out," but if the press comes and asked for it, did not think it would be the Clerk's role to disseminate it.

Carol Lane:

- Said that somebody called them up.

Joe Whitley:

- Did not believe they should look back, as there were a lot of injustices, but he did not feel it would be helpful to rehash any of those old issues.
- Stated he thought they all needed to remain positive about moving forward in the future.

City Attorney Angie Davis:

- Said the next section was Removal of Members.
- May want to put language in regarding what would constitute negligence or failure to neglect your duty.

Carol Lane:

- Asked another question about tender of resignation.
- Regardless of whether the Board wants to accept their resignation or not it should be accepted upon the resignation being tendered.
- This contributed to delaying the appointment of a new member.

City Attorney Angie Davis:

- Discussed the resignation of the last Ethics Board Member that resigned.
- Stated in her opinion, the moment she tendered her resignation, she was off of the Board.
- She would have had to have been reappointed if she changed her mind.
- You can say that you can be removed *only by the City Council and only on the grounds of neglect of duty or misconduct* or an option of being removed *for any reason by majority vote of the Council*.

Discussion on possible language for removing a board member.

Clint Johnson

- Stated on the library board it states if you missed 3 consecutive meetings you would be removed from the board.

Carol Cookerly

- Asked how many meetings the Board wanted to have.

Carol Lane:

- Thought it would be best to have their meetings on a specific day and specific time of the month so everyone would know when it was going to be and could arrange their schedules.
- Need to meeting also regarding education.

Board discussion regarding meeting possibilities.

City Attorney Angie Davis:

- Stated the board could set their required meetings and then a meeting could be called at any time with the Chairman and a second and vote.

Carol Lane:

- Stated she believed they need to have some procedure for cancelling a meeting.

City Attorney Angie Davis:

- Need to put as much as possible like the basics on the meeting, removing a member, etc.
- Could put in a provision that the board could adopt their own internal operating procedures.
- This would be like the by-laws.
- Also need to consider how the board wants to elect a chair and vice chair.

Chair Todd Ashley:

- Suggested a standing meeting the fourth Monday of January, April, July and October.

Discussion about possible days of the week and it being discussed that the City Council meetings that are held the first, second and third months of each month. Several members stated that the fourth Monday of the month would work for them and Council does not meet on that last Monday.

City Attorney Angie Davis:

- Asked the Board about term limits.
- It was agreed that the board would not serve more than two successive complete terms.
- Stated she had to go back and redraft the document so was trying just to hit some topics.
- Said she would draft the second document for their review under the framework they discussed.
- Not all of the document is controversial.
- Asked the board to look at Section 9 on page 26.
- Talked about the provision about Council and whether they were okay with the language set forth there.

Chair Todd Ashley:

- Stated that the Council provision looked fine to him.

City Attorney Angie Davis:

- Stated they were deleting all of the qualification issues in terms of political activities and partisanship.
- Moving to page 29 there is a limitation of liability statement she thought everyone was okay with.
- Said on page 30 there was the notion about the burden of proof.
- Ms. Lane's version stated "proof beyond a reasonable doubt."
- Stated that some of the members said this is a civil proceeding and not a criminal proceeding, so perhaps it should be just a "preponderance."
- She stated she made that change and believed that made sense.

Discussion about difference of "reasonable doubt" and "preponderance."

City Attorney Angie Davis:

- Explained the difference in the definition.
- State there was a pretty good mix in other jurisdictions.

Chair Todd Ashley:

- Instructed the City Attorney to go ahead and make the change and they will revisit it later.
- Stated Carol Cookerly had to leave the meeting early due to a prior engagement she had scheduled at 9:00 p.m.

City Attorney Angie Davis:

- Stated she had some good direction this evening and the only thing remaining may be future meetings.

Chair Todd Ashley:

- Stated the last Monday in May was going to be Memorial Day, so if they wanted to meet before June, they had to schedule again in May.

**City of Milton Board of Ethics
Work Session Meeting
April 29, 2008**

Discussion about possible date to review the new drafted document and whether City Attorney would have enough time if they met again in May.

City Attorney Angie Davis:

- Thought she just needed a few weeks.
- The most difficult part was just trying to extract from the comments and put together a model.

Board agreed on Monday, May 12, 2008, for their next work session.

City Attorney Angie Davis:

- Stated the only other issue was on page 31 there was a new provision added in Ms. Lane's copy as to reimbursement of legal fees.
- Asked if the board wanted to put this language forth to Council.
- Did not believe Council would approve this due to budget restrictions.

Todd Ashley:

- Stated he thought the loser of a case should pay the legal fees.

Howard Drobos:

- If the complaint was frivolous.

City Attorney Angie Davis:

- Stated in a civil court action that is probably a common practice.
- Has not ever seen an ethics board endeavor to do this.
- Some comments were it may chill someone thinking of bring a complaint.

Carol Cookerly left the meeting at 8:10 p.m.

Discussion about frivolous complaint language.

Chair Todd Ashley:

- Reiterated he liked the "loser" pay legal fees.
- May prevent the frivolous filing of complaints and keep people from having their names dragged through the mud.

City Attorney Angie Davis:

- Will put in the new ordinance that the complaints will come to you to determine if there are any facts to support the allegation.

Additional discussion about legal fees.

Clint Johnson:

- Stated he believed the only way to protect people is to give the ethics board the power to kill these complaints early on if they are not founded.

Joe Whitley:

- Asked if City Council had the discretion to reimburse someone for legal fees in certain situations.
- Stated for example a mayor or city council member who may have spent \$15,000-\$20,000 defending a case brought against them that was found to be frivolous.
- Perhaps this would be something that we could recommend to City Council and ask how the City can protect their employees.
- Asked if there were insurance policies that cover this type of issue.

Carol Lane:

- Stated there was a policy, but what would be a covered employee?

Board discussion about insurance for employees.

Howard Drobos:

- Stated he wanted to bring to the City Attorney's attention in the old ordinance, Duties and Powers, Custodian of Records and Procedures for Hearing Complaints.
- Did not appear to be in the new ordinance.

City Attorney Angie Davis:

- Stated she thought when the documents got separated there were a mixing of some of the items.
- Said she would go through and make sure there are a set of rules that deal with the complaint through the hearing.
- Stated she would draw from the old ordinance and her ordinance and come up with what she feels is the best of both.

Carol Lane:

- Said she thought due to the timeframe, she turned in something that had not been finished.

Howard Drobos:

- Stated one thing they may want to mention to the Council is as they are going to basically be sitting as judge and jury, they probably should not also be the ones educating the employees.
- Council may want to consider employing a compliance officer for the City of Milton or have somebody on staff working in that capacity that would be responsible for the training of the employees regarding ethics matters.

Discussion about ethics training.

Carol Lane:

- Asked about advisory opinions.

City Attorney Angie Davis:

- Stated that was what she was tasked with now that there is a model.
- Advisory opinion was provided for in the old draft and the new so she would review that language.

**City of Milton Board of Ethics
Work Session Meeting
April 29, 2008**

Joe Whitley:

- Stated he liked the idea of a compliance officer as a "go to" person.
- Thanked Carol Lane for the time and labor she put into working on the ordinance.
- Also thanked the City Attorney.

Chair Todd Ashley:

- Called for any old or new business.
- Stated the next meeting decided was going to be Monday, May 12, 2008, at 6:00 p.m., Suite 107-G.

ADJOURNMENT

There being no further business, the Ethics Board Work Session adjourned at 8:30 p.m.

Date Approved: _____

Francesca Ivie
City Clerk's office

Todd Ashley, Chairman
Board of Ethics

City of Milton Board of Ethics
Work Session Meeting
April 29, 2008

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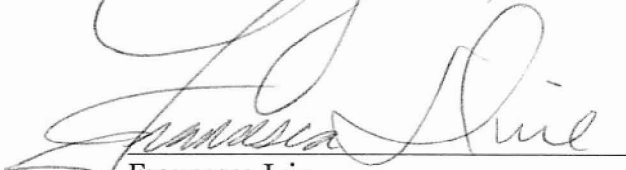
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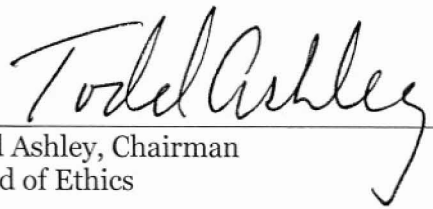
There being no further business, the Ethics Board Work Session adjourned at 8:30 p.m.

Date Approved:

June 18, 2007



Francesca Ivie
City Clerk's office



Todd Ashley, Chairman
Board of Ethics