

**City of Milton Board of Ethics  
Work Session  
Monday, July 21, 2008, 6:00 PM**

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**AGENDA**

- I. Call to Order – Chairman Todd Ashley
- II. Approval of the June 18, 2008 Work Session minutes.
- III. Discussion on revisions to Chapter 6, Code of Ethics and Standards of Conduct.
- IV. Old Business
- V. New Business
- VI. Next Meeting Date
- VII. Adjourn

**MEETING CALLED TO ORDER**

**Chair Todd Ashley:**

- Called the Board of Ethics Work Session meeting to order for Monday, July 21, 2008 at 6:07 PM.

**ROLL CALL:**

Todd Ashley, Chair  
Carol Lane, Vice Chair  
Clint Johnson  
Howard Drobos  
Kristin White  
Joe Whitley

Not Present: Carol Cookerly

City Staff: Paul Frickey, City Attorney's Office  
Francesca Ivie, City Clerk's Office

**APPROVAL OF THE MINUTES**

Todd Ashley noted one change to the minutes.

**Chair Todd Ashley:**

- Called for approval of the June 18, 2008 meeting minutes with the correction. There was no discussion. Vote was unanimous to approve the June 2008 minutes.

**Chair Todd Ashley:**

- Called the next agenda item, Item III, Discussion on revisions to Chapter 6, Code of Ethics and Standards of Conduct.

**Attorney Paul Frickey:**

- Provided Board Members the latest version of the Ordinance.
- Provided Board Members with Version 1, 2 and 3 regarding how complaints were to be handled.

**Chair Todd Ashley:**

- Opened floor for discussion.

**Clint Johnson:**

- Page one, suggested changing *ITS* in the preamble paragraph to *BOARD*.

**Carol Lane:**

- Page one, suggested changing *INVESTIGATION* to *DISPOSITION*.

**Howard Drobos:**

- Page two, grammar change in second sentence of Whereas paragraph ...*so as to not* instead of *so as not to*.

[No changes to draft ordinance on pages 3-9].

**Board discussion starting on page 9 and continuing on page 10, Section Nine, Political Recrimination and Activity, (3), *Solicitation of contributions*.**

**Carol Lane:**

- Questioned whether a Board member could be involved in a campaign for an elected official.

**Chair Todd Ashley:**

- Stated as long as they do not solicit, accept or receive political contributions from any candidate running for a position in the City of Milton.

**Board decided after brief discussion on this topic Section Nine (3) was okay.**

**[No changes to draft ordinance on pages 11-13].**

**Board discussion on page 14, Section Five, Organization and Internal Operating Regulations, (D). After brief discussion, it was decided Section Nine (D) was okay.**

Suggestion: Perhaps the City could come up with an approved attorney list in the event of conflict with our acting city attorneys.

**[No changes to draft ordinance on pages 15, 16].**

**Board discussion on page 17, Section Twelve (B), Complaints. After brief discussion, it was decided in the second paragraph to add:**

*...payment of costs and attorney's fees associated with the hand, processing and **defense** of the complaint.*

**Board discussion on page 17, Section Twelve (D), Complaints. After brief discussion, it was decided that:**

Any reference in (D) and (E) of written notification shall be by **certified mail, return receipt requested**. Also in (E), ...the City Clerk shall **immediately** forward *the complaint by certified mail*.

**Board discussion on page 18 Section Twelve, Complaints.**

Board had been provided with **Version One, Version Two and Version Three** to implement in this section.

**Chair Todd Ashley:**

- Polled the board members about which version they believed they thought was the best to use.
- It was unanimous for **Version One**.

**Carol Lane:**

- Raised question regarding **Section Twelve (H), Complaints** about the time periods for responding to Complaints and how long before holding a hearing.
- Stated all members did not need to be present as long as there is (4) members for a quorum.
- Said there are 30 days between the time the person receives the complaint and 30 days to respond.

- Her concern was about not having a time period specified for how long until the hearing would be set.

**Attorney Paul Frickey:**

- Stated the way it is set up now was to give the Board maximum flexibility if they need to go outside of a time period because of holidays or other reasons.
- Mr. Frickey said it states that notice of the hearing has to go out within the 60 days.
- The hearing can take place whenever down the line after that.
- Told the Board they could set a time if they wanted to.

**Carol Lane:**

- Thought things would move along more quickly if there was a definite timeline.

**Kristin White:**

- Asked Ms. Lane if she was concerned that it would be unfair to the parties by not knowing a set deadline.

**Carol Lane:**

- Just that the Board should have a time period if they decide to go forward as soon as possible so it is not put off for a long period due to scheduling of everyone involved.
- She just did not want it to drag on.

**Howard Drobos:**

- Believed that Version Two and Three was not effective at all.

**Chair Todd Ashley:**

- Polled the Board that everyone was okay with Version One and not Versions Two and Three.

**Board unanimously agreed on Version One.**

**Chair Todd Ashley:**

- Asked Ms. Lane if after the discussion was she okay with leaving (H) as it was.

**Carol Lane:**

- Stated she accepted it.
- Said if it were to drag on the expense would be to the person who was complained against.

**After additional Board discussion about setting a definite time period for a hearing date, it was decided to leave Version One (H) as it currently is written.**

**Board discussion on page 19 and 20, Section Twelve, Complaints, (I) and (J) Subpoenas.**

**Carol Lane:**

- Questioned in (J) the "superior court" language, stating the Board is not the superior court.

**Paul Frickey:**

- Advised the Board that the subpoena language is in the ordinance because the parties have to request a subpoena from the Board.
- Board has the power to command people to come before them.
- It is their request, but the Board does not consider whether it is a good idea or not.

**Todd Ashley:**

- They just get a blank subpoena from us and they write in the name and service address and return a return a service to it.
- We just hand out the blank subpoenas.

**Carol Lane:**

- Stated her concern was they just do not need to get into any "investigating."

**After lengthy Board discussion, it was agreed to leave the Subpoena portion the way it is currently written.**

**Carol Lane:**

- Questioned the portion in the first sentence of **Section Twelve, Complaints, (K)**, ... *written findings of fact and conclusions of law*.
- Who would write the *findings of fact and conclusions of law*?
- Asked if it would have to be an attorney.

**Attorney Paul Frickey:**

- Advised the Board that anyone can write it, but it is written in accordance with the opinion of the Board based on the Board's vote.
- He stated that they could draft it for the Board's review and approval to edit, as long as the instruction was the majority decision of the Board.

**Clint Johnson:**

- Said the Board would just want to make sure it would be iron clad.

**Todd Ashley:**

- Stated clear and convincing is what the Board says it is, like with a jury.
- Said it is what the trier of the facts says it is.
- Mr. Ashley said he was okay with leaving it undefined.

**Joe Whitley:**

- Stated preponderance of evidence would be the civil standard.
- Said he was more of a preponderance person.
- Mr. Whitley said he would agree with raising the standard to clear and convincing.
- Stated it is subjective and will always be subjective.

**Kristin White:**

- Stated in same paragraph (K), the Board at their last meeting had discussed the definition of *clear and convincing*.
- Asked Board what their feeling where in on leaving in *clear and convincing* and also whether they wanted to add a definition.

**Kristin White:**

- Stated she would read the definition from Black's Law Dictionary:

*Clear and convincing is evidence indicating that the thing to be proved is higher probable or reasonably certain. There is a greater burden than preponderance of the evidence, the standard that applies to most civil cases and less than the evidence beyond a reasonable doubt.*

**Todd Ashley:**

- Stated he did not believe it should be put in the ordinance.

**Carol Lane:**

- Stated she had a couple of comments from a previous Board member.
- Asked where the Board should they go after the new Ordinance is completed.
- The Ordinance should minimize violations.
- The Ordinance could mirror the State Ethics Board.
- Objective is to make it harder to file a complaint.

**Kristin White:**

- Said maybe not more difficult to file a complaint but more difficult to be successful.

**Joe Whitley:**

- Stated he believed the Board had done what they needed to do.

**Chair Todd Ashley:**

- Stated clear and convincing evidence is that quantum of proof that satisfies the rationale reasonable inquiries of a person of ordinary intelligence.

**Clint Johnson:**

- Stated clear and convincing evidence is okay for the Board because the matter will probably be passed if it is anything that is really serious.

**Chair Todd Ashley:**

- Took an inventory on where they were in the Ordinance.
- Stated they had reached the end of the most recent proposed Ordinance.
- Said everyone had agreed that Version One was what they were going with.
- He said regarding (H), the city attorneys will fix the language regarding *certified mail, return receipt requested* and *shall be in writing*.

**After board discussion, it was decided that pages 22-end of the Ordinance were good.**

**Chair Todd Ashley:**

- Recommended they now take the Boards changes back with Mr. Frickey and have them another month to make the remainder of the changes.
- Said when the Board meets again in August, the Board can vote on approving the Ordinance and be prepared at a September Council meeting to give a nutshell version for City Council.

**Attorney Paul Frickey**

- Stated they would be voting to approve presenting to Council to be adopted.

**Chair Todd Ashley:**

- Asked the Board to look at their calendars for possible August meeting dates.

**Board took some time to look at their calendars.**

**Joe Whitley:**

- Stated Mondays work best for him because of his flying schedule.

**Dates proposed were August 11 and August 18.**

**Chair Todd Ashley:**

- Asked if the Board thought they needed a PowerPoint when they present the Ordinance to City Council.
- It would need to be presented timely to get on their Agenda.

**It was decided not to use a PowerPoint, but just provide a brief synopsis.**

**Clint Johnson:**

- It would have to be on their Work Session Agenda in September before they could vote on it.

**Kristin White:**

- Stated she remembered there were some questions about involvement in campaigns and that Councilmembers wanted this Ordinance before the elections.

**Todd Ashley:**

- Called the next agenda item, Old Business.

**OLD BUSINESS:**

There was no old business.

**Todd Ashley:**

- Called the next agenda item, New Business.

**NEW BUSINESS:**

**Carol Lane:**

- Stated there were two things, (1) drafting of By-laws and (2) drafting of a complaint form.
- She stated she had copies of forms used in other jurisdictions.

**Todd Ashley:**

- Asked Ms. Lane to circulate what information she had to the Board via email for their review and that could be address at their August 11th meeting.

**Howard Drobos:**

- Stated he recalled at the last work session, it was decided that Ms. Lane would draft up a form to use for complaints.
- He stated the form was just supposed to have 4 or 5 items like the name of the complainant, stating the charge or violation, a notarization provision, etc.

**Todd Ashley:**

- Asked Attorney Paul Frickey if the Board needed By-laws.
- Asked if the Board would be safe without By-laws.
- Reminded the Board of the problems they had with the inconsistencies in the Ordinance and the By-laws.

**Attorney Paul Frickey:**

- Stated he generally recommended them, but this Ordinance does cover a lot of the Board's purview and duties.
- He stated the Board could be operated without By-laws.

**Todd Ashley:**

- Stated if the attorney felt the By-laws were not a requirement based on the content of the Ordinance as rewritten, he would be okay with that.
- He said the less the better and *do not let perfect be the enemy of good*.

**Joe Whitley:**

- Asked attorney Paul Frickey how he felt about preparing just some very brief By-laws to cover just some very minimum items.

**Todd Ashley:**

- Asked attorney Paul Frickey if his firm had a form they could adopt for the City of Milton that would accomplish Mr. Whitley's request.

**Attorney Paul Frickey:**

- Stated they had many, but it would depend on what the Board wanted them to include.

**Joe Whitley:**

- Stated duties of the member, duties of the chair and vice chair, attendance of meeting, missing meetings, state laws and things of that nature.
- Said he was also okay with not having any By-laws.

**Attorney Paul Frickey:**

- Stated the significant things to keep you from getting into trouble are covered in the Ordinance as to the operation of the Board.

**Clint Johnson:**

- Stated they worked hard to have the Ordinance be complete and thorough and did not feel that they should have anything else to make it less simplified.

**Todd Ashley:**

- Stated at their next meeting they should perhaps talk about some proposed By-laws and consider the necessity of the By-laws.
- Perhaps have some samples to look at from the attorney.

**Clint Johnson:**

- Stated one item that should be in the By-laws if they do decide to have By-laws is missing meetings.

**NEXT MEETING DATE**

**Todd Ashley:**

- Asked if the Board had all agreed on August 11th at 6:00 p.m. for those members that could attend.

**Kristin White:**

- Said after checking her schedule, August 11 she would be out of town.

**Todd Ashley:**

- Asked the Board about August 18th.

**Joe Whitley:**

- Stated that would give him a little more time to maneuver his calendar.

**It was decided the Board would meet on Monday, August 18, 2008 at 6:00 p.m.**

**Todd Ashley:**

- Called the last agenda item, Adjournment.

**ADJOURNMENT:**

**Motion and Second:** Clint Johnson made a motion to adjourn. Seconded by Carol Lane. There was no discussion. Vote: 6-0. Motion unanimously carried.

Milton Board of Ethics  
Work Session Minutes  
July 21, 2008 Meeting  
Page 11

After no further business, the Ethics Board Work Session meeting adjourned at 7:30 pm.

Date Approved: \_\_\_\_\_

Approved By:

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Francesca Ivie  
City Clerk's office

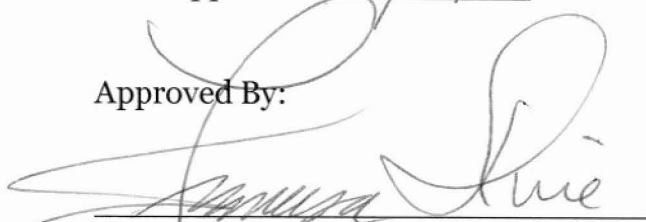
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Todd Ashley, Chairman  
Board of Ethics

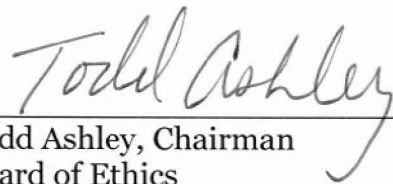
After no further business, the Ethics Board Work Session meeting adjourned at 7:30 pm.

Date Approved: 8/18/08

Approved By:



Francesca Ivie  
City Clerk's office



Todd Ashley, Chairman  
Board of Ethics