

**City of Milton Board of Ethics  
Regular Meeting  
Monday, October 26, 2009, 6:00 PM**

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**AGENDA**

- I. Call to Order – Chairman Todd Ashley
- II. Approval of the July 20, 2009 meeting minutes.
- III. Discussion of ethics complaint filed by Neal J. O'Brien.
- IV. Old Business
- V. New Business
  - a. Review Training on Ethics Ordinance
- VI. Next Meeting Date
- VII. Adjourn

**MEETING CALLED TO ORDER**

**Chair Todd Ashley** called the Board of Ethics meeting to order for Monday, October 26, 2009 at 6:02 p.m., Milton City Council Chambers.

**APPROVAL OF MINUTES**

**Motion and Vote:** Howard Drobos moved to approve the July 20, 2009 meeting minutes. Joe Whitley seconded the motion. The motion passed unanimously 6-0.

**ROLL CALL**

**Present:**

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

**Not present:**

Carol Cookerly

**OLD BUSINESS**

**Howard Drobos** asked if they had the Bylaws back from the attorney.

**Chair Todd Ashley** stated the bylaws were underway. He suggested that in light of recent events it would be better to wait to discuss the training on the Ordinance.

**Motion and Vote:** Clint Johnson moved to table agenda item V a, Review Training on Ethics Ordinance. Carol Lane seconded the motion. The motion passed unanimously 6-0.

**NEXT MEETING DATE**

**Chair Todd Ashley** the next meeting date should be January 25, 2010 by rule.

**Motion and Vote:** Howard Drobos moved to approve January 25, 2010 as the next meeting date. Kristen White seconded the motion. The motion passed unanimously 6-0.

**DISCUSSION OF ETHICS COMPLAINT FILED BY NEAL J. O'BRIEN**

**Chair Todd Ashley** stated that subsequent to the filing Mr. O'Brien made against Ms D'Aversa, the City Clerk is in receipt of a letter addressed to the City Clerk and to himself as the Chair of the Milton Board of Ethics wherein Mr. O'Brien requests his recusal participating in the hearing on the complaint. This presents them with a unique procedural problem. That problem is this matter would have to be resolved before any evaluation of the complaint itself was undertaken. He stated he would abstain from taking any votes while this letter is pending as it relates to anything relating to the complaint.

**Clint Johnson** stated Mr. O'Brien is alleging that Mr. Ashley has a close personal attachment to the person being complained against and if that is true a recusal might be the right thing to do but if not then they should press on.

**Chair Todd Ashley** said what he was concerned about and did not want to have happen is that any word or deed of this body be interpreted by anyone in such a way that it could conceivable have an impact on the election.

**Joe Whitley** stated he does not think this is the time or place for that libration to take place in light of the election. In regards to the letter concerning the recusal of the chairman, this will be precedent setting for the board going forward and he strongly suggests they get involvement from the city attorney.

**Clint Johnson** stated recusal is the choice of the person who is recusing himself. It is not the choice of the board to tell Mr. Ashley to step down because of this relationship. It is his decision to make.

**Chair Todd Ashley** stated he does not feel coerced or pressured into doing anything and the last thing he wants is to get this wrong. If it is not proper then he will remove himself.

**Clint Johnson** stated they have a timeline that has to be followed and nothing is going to happen before the election.

**Kristen White** stated she felt the request for recusal was vague. She felt the decision should be Mr. Ashley's decision and that they will be setting a precedent for how they handle future complaints.

**Joe Whitley** stated there is nothing in the ordinance dealing with recusal and they should process a procedure dealing with it going forward. Whether this is a healthy request for recusal or not is something for Mr. Ashley to evaluate along with the benefit of the city attorney.

**Motion:** Joe Whitley moved to adjourn until such time as this matter can be fully evaluated by the city attorney and Mr. Ashley and when he comes back about a decision of his recusal.

**Motion failed for lack of a second.**

**Carol Lane** stated she would rather give this to the city attorney to review but she did know of two others that had recused themselves as far as ethics violations were concerned. One of the persons that recused themselves was a person who was on the ethics board that filed the complaint against another ethics board member. Those two people recused themselves for very viable good reasons and she is not sure this one is.

**Clint Johnson** stated the recusal was Mr. Ashley's decision and they do not even need to discuss it however the ethics complaint that is filed must be handled in a timely fashion according to the ordinance. He asked if the person complained against has responded.

**City Clerk Marchiafava** stated that she has not responded.

**Clint Johnson** stated according to the ordinance the person being complained against has 30 days from the day she receives the complaint to respond and he does not think they can go forward with discussing the complaint until they have a response.

**Motion and Second:** Joe Whitley moved to adjourn the meeting in anticipation of receiving a response on the complaint from the person complained against in this matter, Councilmember Tina D'Aversa and that the board follow the ordinance as outlined with an expectation if she wanted to file a response the board would receive that response in the next 30 day period. Clint Johnson seconded the motion.

**Discussion:**

**City Attorney Fricke** stated he had two items before addressing the motion. The first is the clerk received an e-mail this evening from Mr. O'Brien indicating a PDF attachment that was intended to be submitted as part of the package. The second item in terms of when this board comes back to meet, Article 5, section 12 requires that in 60 days of the chairs determination that the complaint meets the requirements of 12 b & c unless such time is extended by the Board of Ethics upon good cause shown this board will convene and meet so whatever date your adjournment is set for must be within 60 days of October 21<sup>st</sup> when Mr. Ashley made his determination unless the board decides there is good cause shown to extend it beyond that 60 days.

**Chair Todd Ashley** stated this meeting was intended to satisfy that sub section of Article 5 section 12. The agenda was set prior to receiving the recusal letter and until that gets resolved they are not going to do anything. There would be no harm in maintaining the status quo at this time. There could be significant harm in undertaking something now that would have to be undone later so by maintaining the status quo at this point everyone remains on the same footing that they were on October 21<sup>st</sup> which is the rational for doing that.

**Vote:** The motion to adjourn passed unanimously 6-0.

After no further business, the meeting adjourned at 6:46 pm.

**Date Approved:** December 17, 2009

  
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Jeanette R. Marchiafava, City Clerk

  
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Todd Ashley, Chairman