



City Council Meeting & Public Hearing

NOVEMBER 28, 2022

OFFICIAL MINUTES

Office of the City Clerk

ALPHARETTA CITY HALL
COUNCIL CHAMBERS | 2 PARK PLAZA | 6:30 PM

OFFICIAL MINUTES

The public is advised that the following minutes are not a verbatim transcription of business presented at the Council Meeting of the date shown; but are a synopsis of pertinent information. The public is further advised that the tapes recorded at said meeting are a matter of public record and are available to be heard at the City of Alpharetta's Clerk's office during normal business hours or viewed online at <https://www.youtube.com/user/alpharettagov>.

I. CALL TO ORDER

- Mayor Gilvin called the meeting to order at 6:30 p.m.
- Mayor Gilvin announced that the application for CU-22-10 / Foamworks Alpharetta / 11725 Cotton Creek Entry has been deferred by the applicant. This item will be heard during the December 12, 2022 City Council Meeting & Public Hearing.

II. ROLL CALL

- Council Members
 - Mayor Jim Gilvin
 - Mayor Pro Tem Dan Merkel
 - Donald F. Mitchell
 - Douglas J. DeRito
 - Brian Will
 - John Hipes
 - Jason Binder
- Staff
 - Chris Lagerbloom, City Administrator
 - Molly Esswein, City Attorney with Jarrard & Davis
 - James Drinkard, Asst. City Administrator
 - Lauren Shapiro, City Clerk
 - John Robison, Director of Public Safety
 - Kathi Cook, Director of Community and Economic Development
 - Pete Sewczwicz, Director of Public Works
 - Tom Harris, Director of Finance

III. PLEDGE TO THE FLAG

IV. PRESENTATIONS & PROCLAMATIONS

A. Girl Scout Troop 21675 – First Aid Badge Ceremony

- Mayor Gilvin presented members of Girl Scout Troop 21675 with their First Aid Badge.

B. Machell Stone, 911 Communications Officer, 25 Year Service Award

- Mayor Gilvin, Chief John Robison, and City Administrator, Chris Lagerbloom, presented Machell Stone with a 25 Year Service Award.

V. CONSENT AGENDA

A. Council Meeting Minutes (Meeting of 11/7/2022)

B. Alcoholic Beverage License Applications

Approval of the following alcoholic beverage license applications:

1. PH-22-AB-33 R & A Hospitality Group, LLC

d/b/a Coalition Food and Beverage

50 Canton Street Suite 108, Alpharetta, GA 30009

Restaurant

Consumption on Premises

Liquor, Beer, Wine & Sunday Sales

Owner: R & A Hospitality Group, LLC

Registered Agent: Andrea Burch

2. PH-22-AB-34 Shrisha Foods, LLC

d/b/a MH-15

3630 Old Milton Parkway Unit 120, Alpharetta, GA 30005

Restaurant

Consumption on Premises

Beer, Wine & Sunday Sales

Owner: Shrisha Foods, LLC

Registered Agent: Pratik Kasralikar

3. PH-22-AB-35 Thai Candle, LLC

d/b/a District III

7140 Avalon Boulevard Alpharetta, GA 30009

Restaurant

Consumption on Premises

Liquor, Beer, Wine & Sunday Sales

Owner: Thai Candle, LLC

Registered Agent: Billy Lewis

C. Financial Management Report: Month Ending September 30, 2022

Approval of the City of Alpharetta's Financial Management Report for the month ending September 30, 2022.

D. Contract Award: Pyro Shows East Coast, Inc. for July 4, 2023 Firework Pyrotechnics

Consideration of the contract award to Pyro Shows East Coast, Inc. for firework pyrotechnics for the July 4, 2023 event and authorize the Mayor to execute all necessary documents.

E. Cities of Alpharetta & Johns Creek Parks Without Borders Memorandum of Understanding

Consideration of a Memorandum of Understanding between the City of Alpharetta and the City of Johns Creek to allow residents and employees access to each city's softball, baseball, lacrosse, and soccer programs and facilities at the respective city's resident rate and to authorize the Mayor to execute all necessary documents.

F. Private Development Agreement: Chelsea Walk Subdivision

Approval of a private development agreement for the Chelsea Walk Subdivision between the City of Alpharetta and JBGL Development, LLC.

G. Georgia Power: Governmental Encroachment Agreement for Easement

Approval of Governmental Encroachment Agreement for Easement between Georgia Power Company and the City of Alpharetta for subject property Alpharetta-Northwinds 230 KV Transmission Line right-of-way and to authorize the Mayor to execute all necessary documents.

- Mayor Gilvin requested that the Cities of Alpharetta & Johns Creek Parks Without Borders Memorandum of Understanding be removed from the Consent Agenda and be added to the agenda for the December 12, 2022 City Council meeting.
- Council Member Binder requested that the Financial Management Report: Month Ending September 30, 2022 be removed from the Consent Agenda and considered as a New Business item.

❖ Council Member Hipes offered a motion to approve the Consent Agenda.

○ Council Member Mitchell seconded the motion.

○ The motion was approved unanimously (7-0).

VI. NEW BUSINESS

A. Financial Management Report: Month Ending September 30, 2022

Approval of the City of Alpharetta's Financial Management Report for the month ending September 30, 2022.

- Director of Finance, Tom Harris, came forward to present this item and discussed the numbers provided in the Fiscal Year 2022 Financial Review and September 2022 Financial Management Report.
- A copy of the Fiscal Year 2022 Financial Review and September 2022 Financial Management Report is attached hereto as "Exhibit A."

- ❖ Council Member Binder offered a motion to approve the Financial Management Report for Month Ending September 30, 2022.
 - Council Member Mitchell seconded the motion.
 - The motion was approved unanimously (7-0).

VII. PUBLIC HEARING

A. CU-22-10 / Foamworks Alpharetta / 11725 Cotton Creek Entry

Consideration of a conditional use to allow a 'Car Wash' for Foamworks on a property previously developed and used for a car wash. The property is located at 11725 Cotton Creek Entry and is legally described as being located in Land Lot 44, 1st District, 1st Section, Fulton County, Georgia.

- Mayor Gilvin announced that the application for CU-22-10 / Foamworks Alpharetta / 11725 Cotton Creek Entry has been deferred by the applicant. This item will be heard during the December 12, 2022 City Council Meeting & Public Hearing.

B. PH-22-12 / Brookside Small Area Plan

Consideration of a resolution to adopt the Brookside Small Area Plan.

- Director of Community and Economic Development, Kathi Cook, came forward to present this item.
- The Brookside Small Area Plan was prepared in response to community feedback identifying the area as a priority redevelopment opportunity in conjunction with the Horizon 2040 Comprehensive Plan. This study area includes a 30-acre park.
- The area, consisting of a mix of office, institutional and commercial uses, has one of the highest office vacancies rates in the City. Staff and the planning services consultant, Kimley-Horn & Associates, developed the plan with input from a variety of commercial brokers, office tenants, Georgia State University, and adjacent Homeowner's Associations (Glen Abbey, Pennbrooke, and Park Brooke).
- The plan includes a review of existing conditions, development regulation recommendations, concepts and themes, development framework and an action plan. It is recommended that the plan be adopted and incorporated into the Horizon 2040 Comprehensive Plan, which will provide opportunities to seek grant funding for public improvements.
- Next steps may include an overlay for the area incorporating development regulations that promote connectivity, walkability, and retrofitting the area with amenities.
- Cost estimates are included in the Brookside Small Area Plan; however, costs have likely increased since the estimates were completed earlier this year.
- City Attorney, Molly Esswein, read the resolution title aloud.

City Council Discussion:

- Council Member Hipes asked about participation from Georgia State University, the North Point Church Bridge, and commented that it is a bargain to have a 30-acre park in this area that not too many people know of, yet.

Public Comment:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve PH-22-12 / Brookside Small Area Plan.
 - Council Member DeRito seconded the motion.
 - The motion was approved unanimously (7-0).

C. Ordinance to Amend the Charter of the City of Alpharetta, Georgia

Second Reading

Public Hearing #1 and First Reading occurred during the November 7, 2022 City Council Meeting and Public Hearing.

Approval of an Ordinance to amend the Alpharetta City Charter; to clarify and amend provisions regarding the acquisition, disposal, and leasing of municipal property; to revise provisions pertaining to contracting; to provide for an effective date; to repeal conflicting ordinances; and for other purposes.

- City Attorney, Molly Esswein, read the resolution title aloud.
- City Attorney, Molly Esswein, came forward to present this item.
- If approved, this Ordinance will amend the following sections of the Alpharetta Charter:
 - Section 1.13(6) Municipal property ownership and control;
 - Section 6.28 Contracting procedures; and
 - Section 6.30 Sale and lease of property; contracts for use, operation, or management.

Public Comment:

- There were no public comments.
- ❖ Council Member DeRito offered a motion to approve Ordinance to Amend the Charter of the City of Alpharetta, Georgia; to clarify and amend provisions regarding the acquisition, disposal, and leasing of municipal property; to revise provisions pertaining to contracting; to provide for an effective date; to repeal conflicting ordinances; and for other purposes.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion was approved unanimously (7-0).

VIII. WORKSHOP ITEMS

The following items were for discussion purposes only. No formal action was taken or requested of Mayor and City Council.

A. City of Alpharetta Community Agriculture Plan

Review and discussion of the final draft of the City of Alpharetta's Community Agriculture Plan. This item, pending discussion, is set to seek approval at the December 5, 2022 Council Meeting.

- Director of Recreation, Parks, and Cultural Services, Morgan Rodgers, came forward to present this item.
- Kate Connor (Executive Director at Food Well Alliance), Sarah Brown (Policy and Planning Manager at Food Well Alliance), Keri Stevens (Atlanta Regional Commission) came forward to speak on behalf of this item.
- In 2018, FWA launched the City Agriculture Plan program to address major findings of Metro Atlanta's Local Food Baseline Report. In 2019, FWA and the Atlanta Regional Commission (ARC) partnered to develop the region's first plan for the City of East Point, Georgia. The plan was finalized in 2021 and the two organizations began the search for a second city.
- The City of Alpharetta also came to realize the value of urban agriculture through the continued, successful development of Old Rucker Farm. With the expansion in offerings and explosion of interest in the community farm, the City applied to be considered for the region's second City Agriculture Plan and was ultimately selected from the competing cities in Food Well Alliance's five-county service area.
- The Memorandum of Understanding approved by City Council on January 18, 2022 and entered into by the City of Alpharetta in support of the City Agriculture Plan includes acceptance of a \$75,000 monetary grant from the Food Well Alliance with required matching fiscal support match from the City of Alpharetta in the amount of \$75,000. The grant and match would result in \$150,000 being applied towards implementation of the plan.
- At this time, City staff, FWA, and ARC wish to present the final draft of Alpharetta's City Agriculture Plan to the Mayor and City Council for review and discussion. Upon the Mayor and Council's review, staff will recommend approval and adoption of the plan at the December 5, 2022, Council Meeting.

Public Comment:

- James Graeme (1043 Southerby Lane, Alpharetta, GA 30004) came forward to speak about the importance of agriculture and the positive impact that this program has had on his life.

B. Ethics Ordinance Amendments

Discussion of proposed Text Amendments to Chapter 2, Article V Code of Ethics and Conduct of the Alpharetta City Code.

- City Administrator, Chris Lagerbloom, and City Attorney, Molly Esswein, came forward to present this item.
- City Attorney Esswein reviewed an Ethics Ordinance presentation which is attached hereto as "Exhibit B."

City Council Discussion:

- Council Member Will shared that he believed that it may be difficult to find 9-15 attorneys that meet the proposed qualifications. He also asked if the City's municipal judge could lead the Board of Ethics and asked if there was any interest in eliminating the Board of Ethics.
 - City Attorney Esswein shared that the City of Milton's Ethics Ordinance prescribes nearly the same board member qualifications and requires 9-15 attorneys.
 - City Administrator Lagerbloom shared that the composition of the Board is of vital importance because of the intricacies of the hearing process.
 - City Attorney Esswein shared that if we were to eliminate the ethics ordinance, then we would have to come up with alternative procedures; she will report back to Council on this.
- Council Member Hipes shared that he liked the idea of having attorneys decide ethics ordinance complaints. He also proposed the idea of having a 3-person panel instead of 5-person panel (similar to the Court of Appeals). He shared that he believed the 6-month statute of limitations from the date of alleged ethics violation seemed appropriate. Additionally, he asked about the point of time when an ethics complaint becomes a public record. He mentioned that he does not want City Council to be charged with the responsibility of issuing subpoenas. In terms of the timeline for an ethics complaint, he would like to defer to the City Clerk on the response and review time of complaints, and he would like to consider extending the complainant's corrective action timeline to 10 days instead of the proposed 5 days. Additionally, he does not believe that the city's judge would be able to serve on the ethics panel, but suggested approaching a judge in a neighboring jurisdiction.
 - City Attorney Esswein shared that there is language from the Open Meetings Law that could address the "discovery rule" issue (of when the complainant knew or should have known about the violation). She also shared that an ethics complaint becomes a public record, subject to the open records act, at the time the ethics complaint is filed.

- Council Member DeRito shared that a charge of an ethics complaint could destroy an individual, and he shared a bit of his personal experience in dealing with an alleged ethics violation. Additionally, he asked if there are state ethics laws that would be sufficient for the City.
- Mayor Pro Tem Merkel shared that he did not believe getting rid of the ethics ordinance is an option, but also did not feel like there was enough expertise on the most recent ethics panel. Additionally, he shared that proposed ordinance amendment is much better than the current ordinance. He would like to see Council Member Hipes' suggestions added in and tweak the proposed ordinance in a way that would work best for the City.
- Council Member Binder shared that in terms of qualifications, he is fine with the panel being composed of residents or non-residents. He shared that he saw an example where the City Judge was the only member on the panel (and suggested having the Alpharetta Judge serve as the Chair of the panel). He recommended for City Attorney Esswein to come back with other examples how the ethics board could be composed (not all attorneys). He liked the proposed board qualifications and recommended that one of the qualifications be expanded to say that "he/she has no business with the city, city officials, and/or employees." In terms of the tolling period, he asked City Attorney Esswein to review and consider in situations where the charged individual is not re-elected, does the ethics complaint still move forward or is it dismissed.
 - City Attorney Esswein provided an example in another jurisdiction where based on knowledge from the City Council, the Board of Ethics received findings from an outside investigation, and the Board of Ethics authorized the Chairman of the Board to bring forward an ethics complaint. Further, she mentioned that she will look into subpoena powers.
- Council Member Mitchell shared that volunteers serve on our boards; he would like to strike the portion in the proposed qualifications that requires the board members to be an attorney in good standing and have five years of experience. He also suggested creating a manual or booklet on how to instruct the Board of Ethics, similar to instructing a jury. Further, he liked the idea of having the judge serve as de-facto Chairman.
- City Attorney Esswein shared that there is no requirement that you have to be represented by counsel. Further, the procedures that are provided in this version of the proposed ordinance are not an expansion of the powers of the board, but are written to provide clarity where the current ordinance is vague or where the current ordinance only implies acts and procedures
- Mayor Gilvin shared that he is comfortable with the proposed amendments. He shared that he would rather trust strangers that have a legal background to review ethics complaints, as opposed to a lay person with no formal instruction (similar to how a judge would instruct a jury). Additionally, he shared that there might be an

interest to have a process (council in majority) to remove someone from a board or commission, if necessary. Further, he mentioned having only the ethics ordinance apply to Council (not all board members), as they should be held to a higher standard.

- City Attorney Esswein shared that there are currently no evidentiary rules in the City's ethics ordinance, which is pretty common for ethics ordinances. Also, depending on the charter and enabling ordinances of the City's boards and commissions, appointees may have a property interest in their position and may not be able to be removed without cause (allowing for due process for the board member).

IX. PUBLIC COMMENT

- There were no public comments.

X. REPORTS

- Council Member Hipes shared that Friday, December 2nd at 6:30 p.m. is the lighting of the Evans Family Christmas Tree at the Season of Celebration event on the Town Green.
- Council Member Will shared that the week before Thanksgiving, 911 Communications Officer, Karen Walker, coached a caller on CPR and assisted with saving someone's life.
- Council Member Mitchell shared that his appointment to the Board of Zoning Appeals, Mike Fowler, will step down from the Board and thanked him for his service. Additionally, he would like to appoint Dereje (DJ) Teshale to the Board of Zoning Appeals.

XI. EXECUTIVE SESSION

- There was not an Executive Session.

XII. ADJOURNMENT

- ❖ Council Member Binder offered a motion to adjourn.
 - Council Member Mitchell seconded the motion.
 - The motion was approved unanimously (7-0).
- With there being no further items to consider or discuss, Mayor Gilvin adjourned the meeting at 9:00 p.m.

Respectfully submitted,



Lauren Shapiro, City Clerk

EXHIBIT A



Fiscal Year 2022 Financial Review and September 2022 Financial Management Report



FY 2022 Financial Review



General Fund

	<u>Actual</u>	<u>Over/(Under) Budget</u>
• Operations		
– Revenues	\$81.1M	\$ 9.7M
– Expenditures		
• Operations	(66.4M)	(3.3M)
Surplus from Operations	\$14.7M	↑
• Appropriated Capital Transfer	(1.7M)	<i>% of Budget Spend Statistics</i> Salaries/Benefits (95%) Maint./Operations (99%)
• PY Fund Balance Capital Transfer	(5.8M)	
Net increase in Fund Balance	\$ 7.2M	*

• Fund Balance

– Beginning Fund Balance	\$35.7M
– Result from Operations	<u>7.2M</u>
– Ending Fund Balance	\$42.9M

*FY 2022 Total
Capacity to cover
Capital = \$14.7M

Deep Dive into Fund Balance



General Fund

- \$42.9M Total Fund Balance @ 6/30/2022*
- (19.7M) Emergency Reserve**
- (12.6M) Capital Contribution in 2023*** (currently being spent)
- \$10.5M Remaining Fund Balance

* Represents 54% of Budgeted Revenue; same % as Median/Peer AAA cities; Projected to drop for FYE 2023.

** Represents Emergency Reserve target at 25% of Budgeted Operating Expenditures.

*** Current/Best Practice is to use remaining fund balance for capital/one-time investment in the next budget cycle.

Annual Recurring Capital Needs



- Goal is to fund Recurring Capital from General Operations (between current year appropriation and prior year fund balance) and not unsustainable sources such as TSPLOST, bonds, impact fees, grants, etc.
- Annual Replacement (“Recurring”) Needs: >\$15M
 - \$3.6M Milling & Resurfacing
 - \$4.2M Stormwater
 - \$2.2M Fleet
 - \$5.0M Technology, Facilities, Recreation Fields/Courts/Turf and Playgrounds, Sidewalks, Non-PS Fleet/Equipment, Transportation Infrastructure, etc.
 - Figures above do not include new capital investment

Funding Annual Recurring Capital Needs



Sources	2022	2023	2024	
	Prior Year	Current	As-Is	Goal
Annual Capital Appropriation	\$1.7M	\$3M	\$3M	\$5M to \$7.5M
Fund Balance Carryforward (year)	\$5.8M (2020)	\$12.6M (2021)	\$10.5M (2022)	\$10.5M
Total:	\$7.5M	\$15.6M	\$13.5M	\$15.5M to \$18M

To more appropriately meet Minimum Annual Recurring Capital Needs with annual appropriations, Finance recommends increasing Annual Capital Appropriation by at least \$2M in the 2024 budget (from \$3M to \$5M), or more.

As noted in our 10-year CIP, the annual capital requests are greater than forecasted funding. Additional sources will be needed. Example – the FY 2024 Preliminary CIP requests exceed the funding goal above by \$11 million.

Performance Dashboard

September 2022

GENERAL FUND DETAIL	Revenues	Performance Status	Forecasted Gain/Loss
	Top-10		
	Property Taxes (incl. Motor Vehicle taxes)	↑	\$950,000
	Local Option Sales Tax	↑	\$2,325,000
	Franchise Tax	↓	(\$350,000)
	Insurance Premium Tax	↑	\$593,627
	Alcohol Beverage Excise Tax	↑	\$200,000
	Building Permit Fees	↑	\$150,000
	Business and Occupational Tax	↔	\$0
	Court/Traffic Fines	↑	\$280,500
	Recreation/Special Event Fees	↔	(\$100,338)
	Hotel/Motel Tax (City portion)	↑	\$618,750
	Other Revenues	↔	(\$66,937)
Minimum Surplus Goal Needed to Fund Capital:			\$12M
<i>(\$15M Annual Capital Need less \$3M allocated in the budget)</i>			
Less: Projected Revenue Gain			(\$4.6M)
Less: Projected Expenditure Savings			(\$3.5M)
Favorable (Unfavorable) Net Surplus vs \$15M Capital Need:			(\$3.9M)

\$4.6M

Performance Dashboard

September 2022

FUND SYNOPSIS		Revenue	Expenses	Non-Allocated
	General Fund ⁽¹⁾	↑	↑	\$772,892
	Special Revenue Funds			
	Confiscated Assets Fund (DEA)	↔	↔	\$93,901
	Confiscated Assets Fund (State)	↔	↔	\$0
	Emergency 911 Fund ⁽¹⁾	↔	↔	\$96,224
	Impact Fee Fund	↔	↔	\$118,471
	Hotel/Motel Fund ⁽¹⁾	↑	↑	\$417,821
	Debt Service Fund	↑	↑	\$767,968
	Proprietary Funds			
	Solid Waste Fund ⁽²⁾	↔	↔	\$0
	Risk Management Fund	↔	↔	\$1,434,177
	Medical Insurance Fund	↔	↔	(\$633,196)

Please Note: Current year revenue in excess of budgeted amounts may be available to augment Non-Allocated balances upon City Council approval (e.g., Impact Fee Fund collections).

- General Fund value represents Contingency balance. Hotel/Motel Fund value represents Debt Service Reserve (target is \$1.5 million). Other Funds represents amounts in excess of the 25% fund balance target.*
- Solid Waste Fund operational trends will remain neutral despite the recent rate adjustment as it will take multiple years to replenish the fund balance target.*

Performance Dashboard



September 2022

FUND SYNOPSIS		Non- Allocated	BOND RATING
	Grant Funds		AAA
	Operating Grant Fund (3)	\$23,377	<i>strongest rating available</i>
	Capital Grant Fund (3)	(\$9,179)	
	Capital Project Funds		EMERGENCY RESERVE
	Capital Project Fund (3)	\$2,277,177	General Fund
	Stormwater Capital Fund	\$72,863	\$19.7M est. (25%)
	Series 2016 Bond Fund (Parks)	\$17,682	Emergency 911 Fund
	Series 2022 Bond Fund (Parks)	\$62,055	\$1.25M est. (25%)
	TSPLOST I Capital Fund	\$38,446	Sanitation Fund
	TSPLOST II Capital Fund	\$0	\$116K est. (2%)
	American Rescue Plan Act Capital Fund	\$0	<i>rate adj. improving reserve</i>
	Development Authority Fund	\$64,551	

3. Does not include amounts, if any, currently set aside for matches on active grant applications.

EXHIBIT B

Ethics Ordinance Revisions

ALPHARETTA CITY COUNCIL

NOVEMBER 28, 2022

Existing Ordinance

- No requirements for when ethics complaints must be filed.
- Provides for appointment of fourteen (14) individuals, from which five (5) members are drawn to compose the Ethics Board.
- Drawing must occur during a Council meeting
- Requires the Ethics Board to determine the validity of the complaint within 30 days of filing. If not dismissed within 30 days, the Ethics Board must hold a hearing.
- At the ethics hearing, both the complaining party and charged official may present evidence and witnesses, and may cross-examine witnesses.
- The Ethics Board makes a finding regarding the complaint and may make a recommendation to the City Council regarding any adverse action to be taken.
- The City Council takes final action, which may include public reprimand/censure or a request for resignation.

Proposed Changes: Ethics Complaints

- Complaints must be filed within six (6) months of when the alleged violation is said to have occurred (or within six (6) months of when such violation was or should have been discovered).
- Requires complaints to identify the specific provisions of the ethics ordinance alleged to be violated.
- Requires complaints to be supported by affidavits based on personal knowledge.
- Requires separate complaints to be filed for each person alleged to have engaged in any action violating the ordinance, even if the allegations arise from the same factual basis.
- Prohibits action from being taken when a complaint arises out of the same facts or circumstances serving as the basis of a prior complaint.

Proposed Changes: Ethics Panel Composition

- On an annual basis, City Council will jointly appoint no less than nine (9) and no more than fifteen (15) individuals from which to draw members of ethics panels.
- Qualifications:
 - Attorney in good standing;
 - At least five (5) years experience, with at least three (3) years experience in general civil litigation;
 - Does not reside in or maintain an office in the City;
 - Is not, and has never been, an employee or City official, and not the spouse, parent, child or sibling of an existing or former City employee or official;
 - Has no business or contractual relationship with the City;
 - Has not provided money or in kind campaign contributions to City Council members;
 - Has not been convicted of a felony involving moral turpitude

Proposed Changes: Processing a Complaint

- The City Clerk has five (5) business days to review the complaint to determine if it is valid on its face
 - If the complaint is not valid, the Clerk shall notify the complainant in writing of the defects and the complainant has the opportunity to cure by resubmitting within five business days.
- When the Clerk determines a complaint is valid, the Clerk must promptly forward a copy to the charged official, who has 30 days from receipt of the complaint to submit a written response.
- The Clerk must also draw the names of five (5) individuals to serve on the Ethics Panel.
 - Must be witnessed by another staff member or the City Attorney
 - The validity of the selection must be memorialized in writing and the legitimacy shall be attested by the Clerk and witness.
- Selected Panel members must sign an affidavit regarding their qualification to serve on the Ethics Panel.

Proposed Changes: Processing a Complaint

- Within 60 days of the determination that the ethics complaint is valid, the Ethics Panel must meet to conduct an initial review to determine whether specific, substantiated evidence from credible source(s) exists in the ethics complaint to support a reasonable belief that there has been a violation.
- The Panel may either dismiss the complaint (in writing) or may or set a hearing for further consideration of the ethics complaint.
- If a hearing is set, the Clerk shall provide written notice of the hearing time, date, and location to the complainant and respondent by certified mail.

Other Changes

- Provides for removal, resignation, and replacement of Ethics Panel members.
- Authorizes the issuance of subpoenas.
- Expands possible action on complaints:
 - Written warning, censure, or reprimand
 - Request for resignation from office
 - Removal from office to the extent provided by Georgia law
 - Repayment to the City of any unjust enrichment.
- Prohibits ex parte communications

Wrongful Use of Ethics Complaints

- A wrongful use occurs if and when a frivolous, false, or politically motivated ethics complaint is filed in a negligent, reckless, or purposeful manner without a basis in law or fact and for purpose other than reporting a violation.
- An ethics complaint is not frivolous if the complainant reasonably believes that facts exist to support the claim and either reasonably believes that under those facts the ethics complaint is valid under this article or acts upon the advice of counsel sought in good faith and given after full disclosure of all relevant facts within his/her knowledge and information.
- Allegations of a wrongful use an ethics complaint must be raised by the charged official in their formal response to the complaint.
- If the Panel determines there was a wrongful use of an ethics complaint, the City Council may impose penalties including:
 - Public reprimand
 - Criminal prosecution for perjury
 - Payment of costs and attorneys fees.

Proposed Changes: Attorney's Fees

- If a complaint is dismissed, the charged official may seek reimbursement from the City of attorney's fees, up to \$5,000.
- The charged official must submit itemized documentation of attorney's fees to the City Administrator with a sworn statement from the attorney verifying the amount submitted.