



City Council Work Session
MAY 15, 2023

UNOFFICIAL MINUTES

Office of the City Clerk

ALPHARETTA CITY HALL

COUNCIL CHAMBERS | 2 PARK PLAZA | 5:30 PM

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I. CALL TO ORDER

- Mayor Gilvin called the Work Session to order at 5:30 p.m.

II. ROLL CALL

• Council Members

- Mayor Jim Gilvin
- Mayor Pro Tem Dan Merkel
- Donald F. Mitchell
- Brian Will
- Douglas J. DeRito
- John Hipes
- Jason Binder

• Staff

- Chris Lagerbloom, City Administrator
- Molly Esswein, City Attorney with Jarrard & Davis
- James Drinkard, Assistant City Administrator
- Lauren Shapiro, City Clerk

III. PLEDGE TO THE FLAG

IV. WORK SESSION ITEMS

A. Ethics Ordinance

Presentation and discussion of proposed text amendments to Article V of The Code of the City of Alpharetta, the City's Code of Ethics and Conduct.

- City Administrator, Chris Lagerbloom introduced this item.
- City Attorney, Molly Esswein, came forward to present this item.

- During the November 28, 2022 City Council Work Session, the City Attorney's office presented proposed text amendments to Chapter 2, Article V, Code of Ethics and Conduct, of the Alpharetta City Code. The proposed amendments were suggested after adjudication of the City's first ethics complaint. Since that Work Session, the City Attorney's Office removed the subpoena power of the Ethics Panel, added a provision for tolling of any complaints submitted prior to or during an election season, added provisions regarding frivolous complaints and attorney's fees.
- The main purpose of this Work Session discussion is to determine the Mayor and City Council's preferences as to the composition of the Ethics Board.
- Attached hereto as Exhibit "A" is the powerpoint presentation that was presented to Mayor and City Council.

CITY COUNCIL DISCUSSION:

- Council Member Binder shared that he would like for certain types of ethics complaints to not be subject to a tolling period, if brought forward during an election season, such as felony crimes, harassment or mistreatment of staff, or anything involving money. Additionally, he asked if the City Attorney could clarify the provision related to attorneys selected to serve on the board and their involvement in the City of Alpharetta; he would like for the provision to be more clear by stating that the attorney does not have an office or complete any business in the City of Alpharetta.
- Mayor Pro Tem Merkel shared that he would like for a provision to be added that would allow the accused official to have an opportunity to either allow the complaint to move forward, regardless of election season, or decide for it to be withheld until after election season. Additionally, he prefers the City Attorney's drafted option in terms of composition of the board (6-12 attorneys and a panel of 3 attorneys who will review and hear ethics complaints).
- Council Member Hipes shared that he would like assurances that there are significant repercussions provided in the Code and against a person who submits a frivolous and/or illegitimate ethics complaint (example: attorney's fees). Additionally, he prefers the City Attorney's drafted option in terms of composition of the board (6-12 attorneys and a panel of 3 attorneys who will review and hear ethics complaints); he also mentioned that there are vast differences from a jury trial and a bench trial, and he would not like to see someone charged with an ethics violation because of a bad jury.
- Council Member Will shared that he would like to go with the draft of the Code the City Attorney has prepared.
- Council Member DeRito shared that he believes that there should be community participation of individuals on the ethics panel and would prefer each Council Member to appoint a person to serve and have a sitting judge manage the process. However, he would be supportive of the version that the rest of Council is favoring, but he does have a personal opinion that local individuals should be a part of the process.
- Council Member Mitchell shared that he would feel better if 3 attorneys reviewed ethics complaints and hopes that we do not have ethics complaints in the City of Alpharetta.
- Mayor Gilvin shared that the ethics ordinance does not just apply to City Council, but also to the people who City Council appoints. Further, our Board and Commission appointments do not want to have their reputations destroyed if a complaint was filed

against them. He shared that he favors the City Attorney's draft of the Code, as it would be more likely to create an objective, fair process with attorneys who are experienced with these types of hearings.

V. EXECUTIVE SESSION (IF NEEDED)

- There was not an executive session, as time did not permit.

VI. ADJOURNMENT

- With there being no further items to consider or discuss, Mayor Gilvin adjourned the meeting at 6:26 p.m.

Respectfully submitted,



Lauren Shapiro, City Clerk

EXHIBIT A

Ethics Ordinance Revisions

ALPHARETTA CITY COUNCIL

MAY 15, 2023

Existing Ordinance

- 5 member board
- Randomly drawn from a panel of fourteen (14) individuals
 - Mayor and Councilmembers each appoint 2 individuals for the panel

Draft Ordinance

- On an annual basis, City Council will jointly appoint no less than six (6) and no more than twelve (12) 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 or City Council members;
 - Has not provided money or in kind campaign contributions to City Council members;
 - Has not been convicted of a felony involving moral turpitude

Alternate Compositions

- 7 citizens for a set term
- Mayor and Councilmembers each appoint one member
- Two alternates to be appointed by majority vote of Mayor and Council for service in the event of a conflict.
- Training required prior hearing a case/complaint

Alternate Compositions

- 5 members for a set term
- Each member appointed by majority vote of Mayor and Council
- 2 alternates appointed in the same manner to serve if conflicts arise
- Training required prior to hearing a case/complaint

Alternate Compositions

- 5 members for a set term
- Each member appointed by majority vote of Mayor and Council
- Composition would be varied:
 - 3 citizen members
 - 2 members from the legal profession with experience in civil litigation
- 1 citizen alternate and 1 lawyer alternate appointed in the same manner to serve if conflicts arise
- Training required prior to hearing a case/complaint