

MINUTES
CITY OF MCDONOUGH
CITY COUNCIL MEETING
CITY HALL-136 KEYS FERRY STREET
OCTOBER 17, 2016
6:00 PM

The Regular Meeting of the City of McDonough City Council was held on October 17, 2016, at 6:00 p.m.

Mayor Copeland called the meeting to order at 6:00 p.m.

The City Clerk, Ms. Janis Price called the roll for the meeting as follows:

Mayor Billy Copeland	Present
Mayor Pro Tem Roger Pruitt	Present
Councilmember Craig Elrod	Present
Councilmember Benjamin Pruett	Present
Councilmember Rufus Stewart	Present
Councilmember Kamali Varner	Present
Councilmember Sandra Vincent	Present

Others in attendance were: City Administrator, Mr. Keith Dickerson; City Attorney, Ms. Leigh Hancher; City Clerk, Ms. Janis Price; Fire Chief, Mr. Steve Morgan; Finance Director, Mr. Mike Clark; Executive Assistant, Ms. Trisha Colpetzer; and Assistant to the City Clerk, Ms. Christy Wallace.

Mayor Copeland called for a motion to approve the Agenda as published. Mayor Pro Tem Pruitt motioned, and Councilmember Elrod seconded. Councilmember Vincent asked to amend the agenda.

After some brief discussion, Councilmember Vincent offered a substitute motion to approve the Agenda, with the amendment of requesting to move Item 13 to Item 7A; and Councilmember Varner seconded. The vote was five in favor and two opposed. Those voting in favor were Mayor Pro Tem Pruitt; Councilmember Pruett; Councilmember Stewart; Councilmember Varner; and Councilmember Vincent. Those voting in opposition were Mayor Copeland and Councilmember Elrod.

Councilmember Varner led the Pledge to the Flag; and the Reverend Bert Neal, Pastor of Wesley Chapel United Methodist Church gave the invocation for the meeting.

6. Approval of the Consent Agenda

- A. Approval of the transmittal of the 2016 (FY July 2014 thru June 2015) CIE Update for submittal in accord with 10/31/16 deadline per ARC (Atlanta Regional Commission) & DCA (Department of Community Affairs) guidelines pertaining to the city's Qualified Local Government (QLG) status; authorization for the Mayor to sign the Resolution.
- B. Approval of a contract between the City and Charter Communications to increase the City's internet bandwidth so a portion can be allocated for the Mesh WIFI & Microwave Project. The cost will be \$1100.00 monthly for increasing to 100mb and will be paid from the general fund.
- C. Approval of Councilmember Craig Elrod's recommendation of Mr. Terry Ellington to the Planning Commission to fill a vacancy due to a resignation.
- D. Adoption of a Resolution to increase the rental fees for Rufus Stewart Park; authorization for the Mayor to sign.
- E. Approval to pay Attorney James E. Elliott, Jr., Special Counsel for the Board of Ethics \$2,550.00 for legal services.

Mayor Copeland called for a motion to approve the Consent Agenda, with the omission of Item 6D. Councilmember Stewart motioned, and Mayor Pro Tem Pruitt seconded. The vote was seven in favor.

Mayor Copeland recognized Dr. Gordon Baker, Dr. Joan Jordan; Ms. Carol Dotson and Ms. Ann Jones, who were in attendance for the meeting, as he read the Proclamation for Retired Educators' Day into the record. After the Proclamation was presented, Dr. Gordon Baker offered his appreciation for the recognition on behalf of teachers both retired and still active.

Mayor Copeland called for a motion to make all of the following proclamations an official part of the Minutes for the Meeting:

Infant Loss Remembrance Day
Constitution Week
Miss Mary "Nellie" Schley Day
Extra Mile in McDonough Day
Agape International Ministries Day
Retired Educators' Day

Councilmember Pruett motioned and Councilmember Elrod seconded. The vote was seven in favor.

As a result of the vote to approve the Agenda with amendments, Councilmember Vincent discussed the findings of the City of McDonough Board of Ethics, from October 10, 2016. She offered her appreciation to the Ethics Board, and she then read the official findings into the record.

- The conclusion of the Ethics Committee as it relates to the December 21, 2015, complaint was that no valid complaint was filed in accordance with the requirements of the Ethics Ordinance; and that it has no jurisdiction to issue an advisory opinion to a citizen.
- The outcome of the Ethics Committee's investigation of the complaint dated January 19, 2016, concluded that the Board found no valid complaint was filed in accordance with the requirement of the Ethics Ordinance; and that it has no jurisdiction to issue an advisory opinion to a citizen.
- The Board further found that none of the allegations made against Councilmember Vincent constitute a violation within the prohibition set forth in Section 2.20.040 of the Ethics Ordinance.

Councilmember Vincent also discussed the recommendations made to Mayor and Council by the Ethics Board.

- City officials are urged to revise the ordinance to provide more definitive language as it relates to the "prohibitions" section (2.20.020).
- Only when a formal complaint is received should a matter be referred to the Board.
- The ordinance should make clear that advisory opinions will not be made to citizens; and alternatively, the City may wish to establish a process by which citizens can have questions related to ethical issues answered.
- Mayor and Council should consider revising the ordinance to have complaints heard by a hired attorney, rather than by a citizen panel.

Councilmember Vincent commented on the importance of having a mechanism in place where citizens have the liberty to ask questions and have those questions answered; and that council persons don't end up going through trying to defend themselves when no violations of the City's ordinance have taken place. She recommended that the Council revisit the Ethics Ordinance; and she requested that a Resolution be drafted by Mayor and Council to indicate that there was no ethics findings based on the allegations that were made against her.

Lastly, Ms. Vincent stated that it was on the advisement of the City's legal counsel that the citizens took these issues to the Ethics Board; however, the Ethics Board has expressed that they cannot make calls on certain issues, which has left the community without a mechanism in which to get their questions answered. Ms. Vincent said that although she is a council member, she is a citizen first; and as a citizen, she feels it is incumbent upon herself and the members of the governing body to ensure that the City has an Ethics Ordinance that will allow citizens the liberty of asking questions and having those questions answered. She said that she has reached out to the Georgia Municipal Association (GMA) to request that they provide technical assistance to Mayor and Council on this issue.

Mayor Copeland recognized the Members of the Ethics Board, Dr. Gordon Baker; Ms. Shirley Holloway; and Pastor Joel Stokes, and offered his appreciation for their energy and time spent on recent issues. Dr. Gordon Baker was in attendance for the meeting.

Mayor Copeland called for a motion to enter into Executive Session, pursuant to O.C.G.A. 50-14-2, in order to consult with the City Attorney pertaining to pending administrative matters; and more specifically to review the October 10, 2016, findings and recommendations of the Board of Ethics. Councilmember Stewart motioned, and Mayor Pro Tem Pruitt seconded. The vote was seven in favor.

Mayor Copeland called for a motion to return to Regular Session. Councilmember Stewart motioned, and Mayor Pro Tem Pruitt seconded. The vote was seven in favor.

Mayor Copeland read the findings of the Ethics Board related to the complaint dated December 21, 2015, into the record. He then called for a motion to dismiss the complaint issued on December 21, 2015. Councilmember Stewart motioned, and Councilmember Varner seconded. The vote was six in favor. Those voting in favor were Mayor Copeland; Mayor Pro Tem Pruitt; Councilmember Elrod; Councilmember Pruett; Councilmember Stewart; and Councilmember Varner. (Councilmember Vincent did not vote.)

Mayor Copeland read the findings of the Ethics Board related to the complaint dated January 19, 2016, into the record. He then called for a motion to dismiss the complaint that was issued on January 19, 2016. Councilmember Varner motioned, and Councilmember Stewart seconded. The vote was six in favor. Those voting in favor were Mayor Copeland; Mayor Pro Tem Pruitt; Councilmember Elrod; Councilmember Pruett; Councilmember Stewart; and Councilmember Varner. (Councilmember Vincent did not vote.)

Mayor Copeland called for a motion to make the October 10, 2016, findings and recommendations by the Board of Ethics, relevant to the specific complaints, a part of the minutes of the City Council Meeting. Councilmember Stewart motioned, and Councilmember Elrod seconded. The vote was six in favor. Those voting in favor were Mayor Copeland; Mayor Pro Tem Pruitt; Councilmember Elrod; Councilmember Pruett; Councilmember Stewart; and Councilmember Varner. (Councilmember Vincent did not vote.)
(The Board of Ethics findings submitted to Mayor and Council are attached to the minutes).

City Administrator, Mr. Keith Dickerson commented that the recommendations of the Board of Ethics presented to Mayor and Council would be added to items for discussion at the November 19, 2016, mini-retreat.

Mayor Copeland called for a motion to approve the Minutes from the September 19, 2016, City Council Meeting. Mayor Pro Tem Pruitt motioned, and Councilmember Elrod seconded. The vote was seven in favor.

Mayor Copeland called for a motion to approve the Minutes from the October 6, 2016, Workshop Meeting. Councilmember Stewart motioned, and Mayor Pro Tem Pruitt seconded. The vote was six in favor. (Councilmember Varner did not vote because she was not in attendance for the October 6 Workshop Meeting.)

Councilmember Elrod introduced Mr. Gladwyn Bowlin with One Henry Economic Alliance, who offered a presentation regarding the 501(c) 3 non-profit organization and the One Henry Business, Economic Incentive Plan. Sub-Committee Chair, Mr. Richard Sylvia, Jr., and Team Leaders, Mr. J.T. Williams, and Mr. Greg Nobles were also in attendance for the meeting. The purpose of the organization is to help build economic opportunities in the City and advance the economic prosperity and wellness of Henry County.

- Need better job opportunities so that our youth stay in Henry County
- Attract new businesses and improve or build opportunities
- What can the City of McDonough do for new businesses?
- Network within the business community; employ digital and print media; contact businesses for partnership; and use incentives to make the city attractive and competitive

Mr. Bowlin requested that Mayor and Council review the One Henry Business, Economic Incentive Plan that was presented and edit the plan to fit the needs of the City of McDonough.

- Mr. Bowlin volunteered to act as a liaison officer to assist the City.
- Please, put together a working committee.
- One Henry Economic Alliance is planning to put together a meeting of all four cities in January or February, 2017, at the Chamber of Commerce.

Councilmember Elrod shared his appreciation for the organization's time and presentation. Councilmember Vincent also thanked the committee members for their efforts in putting together this tool for the City; and she suggested the Community Development Department become engaged in this project. Mr. Dickerson confirmed that Community Development Director, Mr. Rodney Heard has been and will continue to be involved in these discussions, and that the Downtown Development Authority may become involved as well.

Finance Director, Mr. Mike Clark discussed the adoption of the Intent to Reimburse Costs of acquiring Equipment Resolution.

- Resolution meets the requirements of Treasury Regulation Section 1.50-2
- Resolution will provide optional methods of financing for the costs of equipment purchased or planned to be purchased; and will allow the City the option of spreading out the costs of acquiring equipment over 3 to 5 to 10 years at an implicit interest rate.

Mayor Copeland called for a motion to adopt the Resolution of the Intent to Reimburse Costs of Acquiring Equipment. Mayor Pro Tem Pruitt motioned, and Councilmember Stewart seconded. The vote was seven in favor.

Councilmember Varner discussed the Youth Symposium that she attended, where she was invited to address more than 100 Georgia youth at Middle State University in Macon, Bibb County. She recognized four of the McDonough Youth Advisory Council (MYAC) members who were in attendance for the council meeting as Faith Smith, Tynaia Frank, Savion Edwards and Alexcia Andrade, and she made the following comments about the MYAC:

- Open enrollment for MYAC is ongoing through October the 28th, 2016.
- Grade levels for participation have been expanded to 9th to 12th grade students.
- Participants may be enrolled in public; private; and home schools within the City.
- The program is marketed for 50 students.
- The purpose of the MYAC is to educate, challenge, inspire and support the youth of the City of McDonough.

Councilmember Varner then called on Ms. Faith Smith, a high school senior who is a member of MYAC to discuss her experience at the Youth Symposium and MYAC.

- Thank you, Mayor and Council for supporting MYAC and sending the council to the Youth Summit.
- The conference focused on leadership skills and networking with other youth councils.
- By sharing ideas with other youth councils, MYAC had the opportunity to share its core values of integrity, respect, influence and leadership.
- We learned that we are leaders, and now it's time for us to take action in improving our community.

In closing, Councilmember Varner asked the other Councilmembers for nominations to the MYAC, and stated that Councilmember Pruett would be involved in the selection and interview process.

Mayor Copeland recognized four nursing students from Clayton State University, and invited them to come forward and speak if they would like to do so. One of the students named Amber came forward to introduce the group to Mayor and Council. Mayor Copeland thanked them for their attendance at the meeting.

Unscheduled Public Comments:

Ms. Annette O'Banion addressed Mayor and Council regarding some of the issues that she has raised in previous meetings:

- The public has questions about the purchase of property and she doesn't want those questions to get lost.

- For the City to be recognized as a City of Ethics, the City adopted the model set forth by the Georgia Municipal Association (GMA), which Ms. O'Banion views as inadequate.
- The Council has discussed the public's behavior in meetings, but not their own.
- How did we get here? The public was outraged at the vote to purchase the property for an entrance at Alexander Park even though it was on the Master Plan, because the City did not have the \$52 million to execute the Master Plan.
- The public requested that the Council not vote on any more property or do anything with green space until a greenspace plan and a long-term budget were presented.
- The land purchase at Alexander Park was paid with SPLOST money, based on the idea that the Georgia Department of Transportation (GDOT) would pay some of the expenses back.
- We now know that GDOT will not be paying for any of the land purchased, so what happens to the \$335,000 of SPLOST money that was used to pay for the land?
- The over-arching concern is that there has not been a plan; there still is no answer on the ordinance; and none of the issues that the public has raised have been addressed.
- It is disingenuous to say that we have an Ethics Board and we have an Ethics Ordinance, when the ordinance was adopted directly from GMA; when the board members were appointed; and when that board cannot advise citizens.
- This process is broken, and we've asked for more than a year that it be fixed.
- During your mini-retreat, please pull out the minutes from November/December 2015, and revisit the questions that were asked, and let's get busy with answering them.

Ms. Shelly Delisle addressed Mayor and Council regarding Ethics.

- In light of the recent ethics hearing, she would love to sit down and express all of the changes she would suggest.
- She thanked the Ethics Board for their participation.
- Wants to clarify that the ethics issues that were raised were not specifically about Councilmember Vincent.
- The ethics issue is about what the community and citizens expect from their City Council, and that we don't feel like we have a voice.
- The issue started with what was perceived as unethical voting practices on Alexander Park, and the behavior of Councilmember Vincent and Councilmember Notti.
- The last discussion on these issues was regarding the behavior of citizens in front of Council; and she suggested that the Council should be held to those same expectations of behavior.
- She asked that everyone take off the armor and revisit the issue that was the basis of the of the complaints brought before the Ethics Board: Does it make sense that any council member can vote on property that they may have an influence because of their home location?

Councilmember Vincent further expressed her appreciation for the Members of the Board of Ethics, as well as the citizens who went through the year-long process along with herself and others.

Mayor Copeland also expressed his appreciation for the Clayton State nursing students who were in attendance at the meeting and extended an invitation for them to continue to attend the meetings of the City Council.

Councilmember Vincent announced that the Annual Commissioner Bruce Holmes Youth Foundation Ball is scheduled to be at the Porsche Center this year; and she invited all members of Council to attend.

In closing, Mayor Copeland thanked Mr. and Mrs. Bowlin for their attendance at the meeting and the "One Henry Economic Alliance" presentation.

Mayor Copeland called for a motion to adjourn. Councilmember Elrod motioned, and Councilmember Pruett seconded. All stood in favor.

The meeting adjourned at 7:55 p.m.

Janis E. Price
City Clerk

OPEN MEETINGS COMPLIANCE NOTICE: This is a regularly scheduled meeting of Mayor and Council of the City of McDonough duly noticed pursuant to the requirements of the Georgia Open Meetings Law (O.C.G.A. § 50-14-1, et seq). Notice of the meeting was published in the Henry Herald on December 30, 2015; and a copy of the meeting schedule was posted at City Hall and on the City's website, as required by law.

CITY OF McDONOUGH BOARD OF ETHICS
FINDINGS AND ORDER ON DECEMBER 21, 2015 ISSUE

By e-mail dated December 21, 2015 from Ms. Jea Gackowski, the following issue was referred to the Board of Ethics:

"Is it ethical for any council person to vote on any property that is adjacent to or near their property, subdivision or family property? ... Is it ethical for a council person to be a tie breaker on a vote that would allow a purchase of property next to their property or near their property."

The Board first notes that it appears Ms. Gackowski's e-mail is asking the Board to answer a question, as the e-mail fails to meet the definition of a "complaint" under city code sec. 2.20.065 as (a) it was not made under oath (2.20.065[A]), and (b) it does not allege an ethics ordinance violation on the part of any specific City of McDonough official.

The Board has specific powers and duties under the City's ordinance. Sec. 2.20.085 authorizes the Board to issue "advisory opinions," but only to "City officials" (as defined in sec. 2.20-020). The Board finds that it is without authority to issue what would be construed as an advisory opinion to a non-City official.

Notwithstanding the above, the Board references the following provisions of the ethics ordinance:

1. *A City official may not participate in a vote or decision on a matter affecting an immediate family members or any person, entity, or property in which the official has a substantial interest. (2.20.050[A])*
2. *No City official shall use such position to secure special privileges or exemption for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the City. (2.20.040[A])*
3. *No City official, in any matter before the council or other City body, related to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself/herself from such discussion or vote as applicable. (2.20.040[B]).*

CONCLUSION: The Board finds that no valid "complaint" was filed in accordance with the requirements of the ethics ordinance and that it has no jurisdiction to issue an advisory opinion to a citizen.

This 10th day of October, 2016.

Gordon Baker

Dr. Gordon Baker, Chairman

Shirley Holloway

Shirley Holloway, Member

Joel Stokes

Pastor Joel Stokes, Member

CITY OF McDONOUGH BOARD OF ETHICS
FINDINGS AND ORDER ON JANUARY 19, 2016 ISSUE

On January 19, 2016, Ms. Jea Gackowski filed the following that was referred by the Mayor and Council to the Board of Ethics:

"Is it ethical and in line with the Oath Sandra (Vincent) took upon election, to say to me, a constituent that she will not represent, take calls or meet with me and/or to post untrue comments on social media? ...

The Board first notes that it appears Ms. Gackowski's e-mail is asking the Board to answer a question, as the e-mail fails to meet the definition of a "complaint" under city code sec. 2.20.065 as (a) it was not made under oath (2.20.065[A]), and (b) it does not allege violation of a specific provision of the City's ethics ordinance on the part of Councilmember Sandra Vincent.

The Board has specific powers and duties under the City's ordinance. Sec. 2.20-085 authorizes the Board to issue "advisory opinions," but only to "City officials" (as defined in sec. 2.20.020). The Board finds that it is without authority to issue what would be construed as an advisory opinion to a non-City official.

In the course of the Board's hearing, Ms. Gackowski and others testifying in her behalf raised the following provisions:

McDonough ethics ordinance

The purpose of this chapter is to ... (1) encourage high ethical standards in official conduct by City officials; (2.20.010[A][1]); (2) encourage internal commitment by establishing and maintaining a work environment that supports integrity with pride and enthusiasm (2.20.010[A][4]);

(3) In abiding by the standards of conduct contained in this chapter, City officials should ... recognize with gratitude that the primary reason they hold a public position is to serve the public (2.20.010[B][1]); (4) require disclosure by such official of private financial or other interest in matters affecting the City;

(5) No City official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large (2.20.040[K])

Other sources cited

- (6) oath of office of Councilmember Vincent;
- (7) model ethics ordinance prepared by the Georgia Municipal Association;
- (8) Handbook for Georgia Mayors and Councilmembers prepared by the Carl Vinson Institute of Government

The Board finds that its powers are limited to those defined in the McDonough ethics ordinance and that it has authority to address allegations of violations of section 2.20.040. Accordingly, it is powerless to address nonspecific general allegations that may or may not be encompassed under the "purpose" section of the ordinance (2.20.010). Additionally, the Board finds no authority under the ordinance to reach outside of the ethics ordinance to any of the other documents cited as the basis for a claim.

The Board wishes to note its concerns about the behavior of city officials and members of the public, particularly at city council meetings, but finds that this behavior is insufficient grounds for finding a violation of the ethics ordinance. Nevertheless, those officials and citizens are urged to control their behavior and passions in the future.

CONCLUSION: The Board finds that no valid "complaint" was filed in accordance with the requirements of the ethics ordinance and that it has no jurisdiction to issue an advisory opinion to a citizen. The Board further finds that none of the allegations made against Councilmember Vincent constitute a violation within the prohibitions set forth in section 2.20.040 of the ethics ordinance.

This 10th day of October, 2016.

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Dr. Gordon Baker, Chairman

Shirley Holloway
Shirley Holloway, Member

Joel Stokes
Pastor Joel Stokes, Member

CITY OF McDONOUGH BOARD OF ETHICS
RECOMMENDATIONS TO MAYOR AND COUNCIL

After considering the first ever issues referred to the Board by the City of McDonough, the Board has several recommendations:

- The current ethics ordinance is vague and nonspecific in many different areas—specifically in the “prohibitions” section (2.20.040), and the City officials are urged to revise the ordinance to provide more definitive language in this section.
- Only when a formal complaint (meeting the requirements of sec. 2.20.065) is received should a matter be referred to the Board.
- The ordinance should make clear that advisory opinions will not be made to citizens; alternatively, the City may wish to establish a process by which citizens can have questions related to ethical issues answered.
- The Mayor and Council should consider revising the ordinance to have complaints heard by a hired attorney (sitting as a hearing officer or administrative law judge) rather than by a citizen panel. The Board notes the difficulty of assembling volunteer board members for hearings as well as the unfamiliarity non-lawyer citizens may have in applying and enforcing the ordinance and conducting hearings.

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The Board has specific powers and duties under the City's ordinance. Sec. 2.20.085 authorizes the Board to issue "advisory opinions," but only to "City officials" (as defined in sec. 2.20-020). The Board finds that it is without authority to issue what would be construed as an advisory opinion to a non-City official.

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CONCLUSION: The Board finds that no valid "complaint" was filed in accordance with the requirements of the ethics ordinance and that it has no jurisdiction to issue an advisory opinion to a citizen.

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