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Memo

To: City Commission
From: Peggy Merriss, City Manager
Date: March 31, 2016
Re: Resolution Reaffirming the Ethics Ordinance

The purpose of this memorandum is to recommend adoption of Resolution R-16-YY that reaffirms the City Commission's commitment to the five ethics principles as outlined in the resolution and embodied in the City's Ethics Ordinance. Adoption of the resolution would allow the City to remain in good standing with the Georgia Municipal Association's "Cities of Ethics" program and would reaffirm the City Commission's dedication to open and honest government.

A copy of the City's existing ordinance is attached. It was adopted in January 2000 and there have been no complaints that members of the City Commission have violated the ordinance and no complaints have been filed with the Ethics Committee.

The initial Ethics Committee was appointed in May, 2001 and the members were Davison Philips, Walt Drake and Elizabeth Wilson. Their initial terms were set at three years. Because there have been no issues to address, there has never been a meeting. Currently there are two vacancies on the Committee and it is recommended that those positions be filled.

Ordinance O-00-01

Code of Ethics

Decatur City Commission

*When a man assumes a public trust, he should consider himself as public property.
Thomas Jefferson*

*All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people and are at all times amenable to them.
(Georgia Constitution, Article I, Section II, Paragraph I)*

ARTICLE A

Section I. Foundation.

The public trust requires public servants to fulfill their duties faithfully and honestly and to subordinate any personal interest which conflicts with the public interest. A public servant is a trustee of the people and should strive to further the general welfare and not use public office in order to improve his or her own private standing. The principal policies which form the foundation of this Code of Ethics are:

- (A) Public trust in the integrity of government is cultivated when individual public servants act with integrity and when the public is aware that its servants act with integrity.
- (B) In speaking about the conduct of those in public service, or in responding to others who speak about it, express approval of positive ethical principles and behavior and refrain from unjustly despairing or demeaning those who advocate ethical principles or practice ethical behavior.
- (C) Recognize that the most effective way to eradicate unethical practices is to consistently act ethically and to consistently react appropriately with respect to the ethical decisions of others.
- (D) Exercise sound judgment to act ethically in situations where others may be inclined to act unethically.

ARTICLE B

Section I. Intent.

It is the intent of this Code of Ethics that a City Commissioner shall not knowingly engage in any activity which is incompatible with the proper discharge of his or her official duties or which would tend to impair his or her judgment or actions in the performance of his or her official duties. Furthermore, City Commissioners should avoid any action, which might result in or create the appearance of the following:

- (A) Using public office for private gain.
- (B) Impeding City efficiency or economy.
- (C) Affecting adversely the confidence of the public in the integrity of the City.

Section II. Definitions.

- (A) *Benefit* shall mean:
 - 1. Anything regardless of its monetary value, perceived or intended by either the one who offers it or the one to whom it is offered, to be sufficient in value to influence a City Commissioner in the performance or non-performance of an official action; or,
 - 2. Anything, regardless of its monetary value, which, under the circumstances, a reasonably prudent person would recognize as being likely to be intended to influence a City Commissioner in the performance or non-performance of an official action.
- (B) *Employee* shall mean any person who is employed in a position covered by the position classification plan of the City of Decatur; any person who is employed part-time by any operating department of the City of Decatur; and any person who is employed through a contractual agreement with the City of Decatur.
- (C) *City Commissioner* shall mean any person who is an elected city official, including any person who has been elected but whose term of office has not started.
- (D) *Government* or *City* shall mean the City of Decatur, Georgia.
- (E) *Interest* shall mean any direct or indirect financial gain accruing to a member of the City Commission as a result of a contract or transaction that is, or may be, the subject of an official act or action by, or with, the City. *Interest* shall not mean any direct or indirect financial gain which is remote or insignificant.

Section III. Acceptance of Gifts.

City Commissioners shall not solicit or accept, directly or indirectly, any benefit from any person, corporation or group which has, or is seeking to obtain, contractual or other business or financial relationships with the City of Decatur.

Section IV. Financial Interests.

(A) A City Commissioner may not:

1. Have a direct or indirect financial interest that conflicts with his or her responsibilities and duties as a trustee of the public good.
2. Either directly or indirectly engage in financial transactions as a result of, or primarily relying upon, information obtained in the course of his or her office or received due to his or her position.

(B) A City Commissioner shall be deemed to have a financial interest in transactions involving the following:

1. Any person in the City Commissioner's immediate family.
2. Any person with whom a contractual relationship exists whereby the City Commissioner may receive any payment or other benefits.
3. Any business in which the City Commissioner is a director, officer, employee, agent, or shareholder.

Section V. Use of public property.

A City Commissioner shall not use City of Decatur property of any kind for other than officially approved activities, nor shall he or she direct employees to use such property for other than official purposes.

Section VI. Use of confidential information.

A City Commissioner shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, City information not made available to the general public.

Section VII. Coercion.

- (A) A City Commissioner shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any benefit to him or her or to persons with his or her immediate family, or for those with whom the City Commissioner has business or financial ties.
- (B) A City Commissioner shall not use his or her position in any way to coerce, or give the appearance of coercing, a City employee, an appointed official of the City or a contract employee to provide any benefit to him or her or to persons with his or her immediate family.
- (C) A City Commissioner shall not use his or her position in any way to coerce, or give the appearance of coercing, a Municipal Court Judge in the outcome of matters before the municipal court.

Section VIII. Purchases.

A City Commissioner shall not order any goods or services for the City of Decatur or on behalf of the City of Decatur without prior authorization from the City Commission or its designee.

Section IX. City employees.

A City Commissioner shall not use a City employee or employees for personal or private business during regular business hours or during the employee's scheduled shift. A City Commissioner shall pay just compensation and shall not receive or expect a discount or special rate.

Section X. Travel expenses.

A City Commissioner shall not draw per diem or expense money from the City of Decatur to attend a seminar, convention, conference or similar meeting and then fail to attend the seminar, conference, convention or similar meeting.

Section XI. Commitments.

A City Commissioner shall not act or create the appearance of acting on behalf of the City Commission by promising to authorize or prevent any future official action of any nature, without prior authorization from the City Commission or its designee.

ARTICLE C

Section I. Disclosure.

A City Commissioner shall disclose the nature of any interest or benefit he or she has at the time such matter is presented to the City Commission for discussion and/or action. Such disclosure shall be recorded into the minutes of the meeting and become part of the public record. Following any disclosure made pursuant to this Code of Ethics, the member shall not participate in any ex-parte communications with other members regarding the matter at hand.

Section II. Deliberation and Vote Prohibited.

No City Commissioner shall participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any agenda item, any official act or action in which he or she has a conflict of interest.

Section III. Duty to Leave Meeting.

To avoid the appearance of impropriety, after any City Commissioner is determined to have a conflict of interest or a potential conflict of interest in any matter, the City Commissioner shall leave his or her regular seat as a member of the City Commission and not return to it until deliberation and action on the matter is completed.

Section III. Penalties.

Any violation of this Code of Ethics shall subject the offender to:

- (A) Disciplinary action which may include public or private reprimand, censure or impeachment.
- (B) A fine up to \$1,000.

ARTICLE D

Section I. Ethics Committee.

The City Commission shall appoint an ethics committee consisting of three (3) persons. At least one member shall be in good standing with the State Bar of Georgia. All members shall be residents of the City of Decatur and shall serve a three year term. Members of the ethics committee must be approved by at least a four-fifths vote of the City Commission.

Section II. Receipt of complaints.

- (A) All complaints against City Commissioners shall be filed in writing with the ethics committee in such form as may be prescribed by the ethics committee.
- (B) Upon receipt of a complaint in proper form, the ethics committee shall:
 - 1. Review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary action or is to be considered for further investigation.
 - 2. Be empowered to dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Commission; provided, however, that a rejection of such complaint by the ethics committee shall not deprive the complaining party of any action he or she might otherwise have at law or in equity against the respondent government servant.
 - 3. Be empowered to collect evidence and information concerning any complaint and to add to the findings and results of its investigations to the file containing such complaint.
 - 4. Be empowered to conduct probable cause investigations, to take evidence and hold hearings.
 - 5. Make recommendations to the City Commission to invoke disciplinary action as described in Article C, Section III.

Section III. Right to Appeal.

Decisions of the City Commission pursuant to this Code of Ethics for City Commission members shall be reviewable by the Superior Court of DeKalb County. Review by the Superior Court shall be limited to an inquiry of whether there was any evidence before the City Commission which supported the decision of the City Commission. Provided, however, no action of the City Commission refusing or failing to take action pursuant to this Code of Ethics shall be reviewable by the Superior Court.

Adopted the 18th day of January, 2000.

William F. Floyd, Mayor

Attest:

Acting City Clerk