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July 27, 2010

**CITY OF MORROW, GEORGIA**  
**Regular Meeting**

7:30 pm

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**CALL TO ORDER:** Mayor Millirons  
**PLEDGE OF ALLEGIANCE:** All  
**INVOCATION:** Mayor Millirons

1. **ROLL CALL**

2. **APPROVAL OF MEETING AGENDA:**

(Agenda Item 10-07-150)

To add or remove items from the Agenda:

3. **CONSENT AGENDA:**

(Agenda Item 10-07-151)

1. Approval of the July 13, 2010 Regular Meeting Minutes.

(Agenda Item 10-07-152)

2. Approval of the July 13, 2010 Work Session Minutes.

4. **REPORTS AND PRESENTATIONS:**

1. Presentation to Firefighter Paramedics James Fleming and Josh Willis  
*(Presented by Police Chief Jeff Baker)*

5. **FIRST PRESENTATION:**

(Agenda Item 10-07-153)

1. Approval of an Ordinance of the City of Morrow, Georgia to Establish a Code of Ethics for Officials; to Prescribe a Code of Conduct; to Provide for a Complaint and Hearing Process with Respect to Alleged Violations of the Code; to Provide for Discipline; and for Other Purposes.

6. **OLD BUSINESS:** (None at this time)

7. **NEW BUSINESS:**

(Agenda Item 10-07-154)

1. Approval of Pete McQueen appointment to the MHA for 2010,  
*(Presented by Jeff Eady, City Manager)*

8. **COMMENTS:**

Citizens-  
City Manager-  
Mayor and Council –

9. **ADJOURNMENT:**

STATE OF GEORGIA  
COUNTY OF CLAYTON

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY OF MORROW, GEORGIA TO ESTABLISH A CODE OF ETHICS FOR OFFICIALS; TO PRESCRIBE A CODE OF CONDUCT; TO PROVIDE FOR A COMPLAINT AND HEARING PROCESS WITH RESPECT TO ALLEGED VIOLATIONS OF THE CODE; TO PROVIDE FOR DISCIPLINE; AND FOR OTHER PURPOSES.**

IT IS HEREBY ORDAINED by the Governing Authority of the City of Morrow:

**Section 1.** The Code of Ordinance of the City of Morrow, Georgia, as amended, is further amended by the addition of a new Chapter 2 to Title 2 of the Code, to read as follows:

**Chapter 2**

**Code of Ethics**

**Sec. 2-2-1 Purpose and intent.**

(a) It is the policy of the City of Morrow that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials is adopted.

(b) This Chapter has the following purposes:

- (1) To encourage high ethical standards in official conduct by city officials;
- (2) To establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interest of the City;
- (3) To require disclosure by such officials of private financial or other interests in matters coming before the City; and
- (4) To serve as a basis for disciplining those who refuse to abide by its terms.

(c) It is the intent of this Chapter that City officials shall avoid any action, whether or not specifically prohibited by section 2-2-5 of this Chapter, which might result in, or create the appearance of the following:

- (1) Using public office for private gain;
- (2) Impeding government efficiency or economy; or
- (3) Affecting adversely the confidence of the public in the integrity of the government.

**Sec. 2-2-2 Political campaigns not covered.**

The provisions of this Chapter shall not apply to political contributions; loans, expenditures, reports or regulation of political campaigns; or the conduct of candidates in such campaigns.

**Sec. 2-2-3 Scope of persons covered.**

The provisions of this Chapter shall be applicable to the Mayor and all Members of the City Council, as well as to all members of the Morrow Planning and Zoning Board, Morrow Downtown Development Authority, the Morrow Urban Redevelopment Agency, Morrow Housing Authority, and to members appointed to any boards, authorities, commissions, or agencies of the City.

**Sec. 2-2-4 Definitions.**

As used in this Chapter, the following terms shall have the following meanings:

- (1) *City Official* or *Official*, unless otherwise expressly defined, means the Mayor and all Members of the City Council, as well as to all members of the Morrow Planning and Zoning Board, Morrow Downtown Development Authority, the Morrow Urban Redevelopment Agency, Morrow Housing Authority, and to members appointed to any boards, commissions or authorities of the City.
- (2) *Decision* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the Mayor and Council or other City board, authority, commission or agency, as well as the discussions or deliberations of the Council, board, authority, commission or agency which can or may lead to a vote or formal action by that body.
- (3) *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son, daughter, grandchild of any city official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.

- (4) *Remote interest* means an interest of a person or entity, including a City Official, which would be affected in the same way as the general public. For example, City utility charges or a comprehensive zoning ordinance or similar matter is deemed remote to the extent that the Official would be affected in common with the general public.
- (5) *Financial interest* means any an interest, either directly or through a member of the immediate family, in another person or entity, where:
- a. The interest is ownership of five percent (5%) or more of the voting stock, shares or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity; or
  - b. The funds received by the person from the other person or entity during the previous 12 months either equal or exceed (i) \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in payment for goods, products or services, or (ii) ten percent (10%) of the recipient's gross income during that period, whichever is less;
  - c. The person serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a corporate entity owned or created by the City Council; or
  - d. The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.
- (6) *Thing of value* means any item, consideration, or benefit other than those exempted under O.C.G.A., § 16-10-2(a)(2). Thing of value shall not include the following:
- a. Food or beverage consumed at a single meal or event;
  - b. Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's non-public business, employment, trade, or profession;
  - c. An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service;
  - d. Food, beverages, and registration at group events to which all members of the Council, board, authority, commission or agency is invited;

- e. Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to permit participation or speaking at the meeting;
- f. A commercially reasonable loan made in the ordinary course of business;
- g. Any gift with a value less than \$100.00;
- h. Promotional items generally distributed to the general public or to City Officials;
- i. A gift from a member of the City Official's immediate family; or
- j. Food, beverage, or expenses afforded City Officials, members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

**Sec. 2-2-5 Prohibited conduct.**

(a) No City Official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the City.

(b) No City Official, in any matter before the Council or other City body, relating to a person or entity in which the Official has a Substantial Interest or from whom the Official has received a Thing of Value, shall fail to disclose for the record such Interest or receipt of such Thing of Value prior to any discussion or vote or fail to recuse himself or herself from such discussion or vote, as applicable.

(c) No City Official shall act as an agent or attorney for another in any matter before the City Council or other City body.

(d) No City Official shall directly or indirectly receive, or agree to receive, any Thing of Value in any matter or proceeding connected with, or related to, the duties of his office except as may be provided or exempted by law.

(e) No City Official shall enter into any contract with, or have any interest in, either directly or indirectly, the City except as authorized by state law. Any Official who has a proprietary interest in an agency doing business with the City shall make that interest known in writing to the City Council and the City Clerk.

(f) All public funds shall be used for the general welfare of the people and not for personal economic gain.

(g) Public property shall be disposed of in accordance with state law.

(h) No City Official shall solicit or accept other employment to be performed, or compensation to be received, while still a City Official if the employment or compensation could reasonably be expected to impair such Official's judgment or performance of City duties.

(i) If a City Official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the Official shall disclose the fact to the City Council and shall recuse himself or herself and take no further action on matters regarding the potential future employer.

(j) No City Official shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

(k) 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.

(l) No City Official shall use his position in such a manner as to threaten, intimidate or humiliate the public or City workforce.

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

(n) A City Official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the Official's immediate family, or those with whom the Official has business or financial ties amounting to a Substantial Interest.

(o) A City Official shall not order any goods and services for the City without prior official authorization for such expenditure. No City Official shall attempt to obligate the City nor give the impression of obligating the City without proper prior authorization.

(p) No City official shall draw travel funds or per diem from the City for attendance at meetings, seminars, training or other education events and fail to attend such events without promptly reimbursing the City therefore.

(q) No City Official shall attempt to unduly influence the outcome of a case before the Municipal Court of the City of Morrow.

(r) No City Official shall use the attorney or attorneys who are employed by or appointed by the City for personal or private business without paying just compensation therefor.

(s) No City Official shall use his superior position to request or require an employee of the City to:

(1) Do clerical or other work on behalf of his or her family, business, social, church, or charitable or fraternal interests;

(2) Purchase goods and services to be used for personal, business, or political purposes; or

(3) Work for him or her personally without offering just compensation.

(t) No City Official shall grant or make available to any person or entity any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large. No City Official shall ask or require any City employee to grant or make available to any person or entity any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large, or to exercise any discretionary authority except in accordance with established law.

(u) No City Official may participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the official has a substantial interest.

(v) No City Official who serves as a corporate officer or member of the board of directors of a nonprofit entity shall fail to disclose that interest to the Mayor and Council prior to participating in a vote or decision regarding funding of that entity by or through the City.

(w) No City Official shall violate any provision of the City Charter or ordinances of the City.

**Sec. 2-2-6 Remote interests need not be disclosed.**

Where the interest of a City Official in the subject matter of a vote or decision is remote or incidental, the City Official may participate in the vote or decision and need not disclose the interest.

**Sec. 2-2-7 Board of Ethics.**

(a) The Board of Ethics of the City shall consist of three (3) residents of the City, one appointed by the Mayor, one appointed by the City Council Members and a third appointed by the Mayor and approved by a majority of the City Council. The members of the Board of Ethics shall designate one of their members as Chairperson and another member as Recording Secretary.

(b) All members of the Board of Ethics shall be residents of the City for at least one (1) year immediately preceding the date of taking office and shall remain a City resident while serving on the Board. No person shall serve on the Board of Ethics who has been convicted of a felony involving moral turpitude in this state or any other state, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude. No person shall serve on the Board of Ethics who is less than 21 years of age, who holds a public elective office, who is physically or mentally unable to discharge the duties of a member of the Board of Ethics, or who is not qualified to be a registered voter in the City. No person shall be eligible for membership on the Board of Ethics who, within the preceding one year period, has had any interest in any contract or contracting opportunity with the City or has been employed by the City.

(c) Upon appointment, members of the Board of Ethics shall sign an affidavit attesting to their qualifications to serve as a member of the Board.

(d) Members of the Board of Ethics with any permit or rezoning application pending before the City, or any pending or potential litigation against the City or any City Official charged in the complaint shall be disqualified from serving on the Board of Ethics for that complaint. An alternative member of the Board of Ethics shall be selected in the same manner as the disqualified individual for that particular complaint.

(e) All members of the Board of Ethics shall serve a term of two (2) years.

(f) Members of the Board of Ethics shall serve without compensation. The City shall provide meeting space for the Board of Ethics and, subject to budgetary procedures and requirements of the City, such supplies, equipment and staff assistance as may be reasonably necessary for the Board to perform its duties and responsibilities.

(g) Members of the Board of Ethics may be removed by affirmative vote of the City governing authority for cause, including, but not limited to, failure to maintain any requirement for qualification to serve on the Board of Ethics, failure to meet or participate in hearing of complaints pursuant to the procedure adopted by this Chapter, or the commission of conduct prohibited by this Chapter.

### **Sec. 2-2-8 Complaints.**

(a) *Standing and time for filing complaints.* Any complaint alleging a violation of this Chapter shall be filed within 90 days of the occurrence of the violation alleged. A complaint alleging a violation of this Chapter may be filed only by:

- (1) An individual who is a resident registered to vote in the City at the time of filing; or

- (2) An applicant who has sought any decision or exercise of discretionary authority by the City within the 90 days immediately preceding filing of the complaint.

(b) *Form of complaints; representation.* All complaints against City Officials shall be typewritten and signed and verified by the complainant and filed with the City Clerk. All complaints shall be filed and signed by an attorney licensed to practice law in Georgia and representing the complainant. All complaints shall state, clearly and with particularity, the sections and subsections of this Chapter alleged to have been violated, the name of the City Official alleged to have violated this Chapter, and substantially all facts and sources of information pertinent to the allegations. Upon receipt of a complete complaint, the City Clerk shall formally serve the Official against whom complaint was made with a complete copy of the complaint. The complainant shall be represented by a licensed Georgia attorney, at his own cost, at all stages of the complaint process; where the complainant's attorney withdraws from representation of the complainant, the complainant shall cause a replacement attorney to file a written notice of representation for the complainant within five business days after withdrawal; failure to comply with this requirement shall be grounds for dismissal of the complaint. The respondent City Official may be represented by an attorney at law, but may not be represented by the City Attorney nor any attorney employed by the City.

(c) *Probable cause to proceed with complaint.* Upon receipt of a complaint, the Mayor, or in the event the complaint regards the Mayor, the Mayor Pro Tem, shall appoint one non-interested member of Council along with the City Attorney, which shall constitute an investigating committee to determine whether the complaint sets forth significant facts and circumstances so as to warrant a hearing before the Board of Ethics. In the event the complaint does not set forth sufficient facts to constitute an alleged violation and is found unjustified, frivolous, or patently unfounded, it shall be dismissed and the complainant notified. In the event the complaint is found to state sufficient facts to warrant a hearing before the Board of Ethics, a copy of the complaint shall be provided to each member of the Board of Ethics within seven (7) day of such determination.

#### **Sec. 2-2-9 Hearings before Ethics Board.**

(a) Upon receipt of a complaint found sufficient to establish a charge of ethics violation, the Board of Ethics shall establish a hearing date. Such hearing shall be scheduled within 30 days of receipt of the ethics complaint by the Board of Ethics. The complainant and respondent City Official shall each be given no less than 10 days' notice of the hearing date.

(b) All meetings of the Board of Ethics other than deliberations shall be subject to the provisions of the Open Meetings Act, and the City Clerk shall facilitate the Board of Ethics in perfecting all necessary notices and postings for such purpose.

(c) The Board of Ethics shall review the complaint and hold a hearing and such deliberations as are necessary and advisable to investigate the matter and to render a finding. The Board of Ethics has the power to compel attendance of City officers and employees. The

complainant and respondent Official each have the right to be present at any hearing, but not at deliberations of the Board. Both the Complainant, through counsel, and the respondent City Official, with or without counsel, shall have the right to present evidence and to cross-examine witnesses. The Board of Ethics shall disregard hearsay evidence, except as permitted by law, and witnesses shall give testimony under oath, subject to penalties for perjury.

(d) Upon completion of hearing and its deliberations, the Board of Ethics shall render its decision. The decision shall be in writing, signed by all members, and delivered to the City Clerk. In no event shall the written decision of the Board of Ethics be rendered later than 20 calendar days following the hearing date. If the Board finds, by a preponderance of the evidence, that the allegations of the complaint have been sustained and that a violation of the standards of conduct of this Chapter has occurred, the Board shall forward to the Mayor and Council a written “finding of violation,” which shall specify the section and subsection of this Chapter violated and the conduct of the respondent City Official which caused the violation, and shall include a recommendation for any appropriate sanctions against the City Official found to be in violation. If the Board finds that the complainant has failed to meet his or her burden, it shall forward to the Mayor and Council a “finding of no violation” and the matter shall be dismissed. Provided, however, that a “finding of no violation” on any complaint by the Ethics Board shall not deprive the complaining party of any action he might otherwise have at law or in equity against the respondent City Official. The City Clerk shall notify the Mayor, all Council Members and the respondent City Official of any decision of the Ethics Board.

(e) Upon receipt by the City Clerk of a written “finding of violation,” the Mayor and Council shall schedule the matter for public hearing upon the issue of sanctions. The Mayor and Council may, in their sole discretion, make such inquiry and take such evidence upon the matter as they deem relevant to the issue of an appropriate sanction, and thereafter shall either impose a penalty authorized by this Article or make a finding that, notwithstanding the “finding of violation” by the Ethics Board, no penalty is appropriate. Any respondent City Official may make a statement or offer evidence to the Mayor and Council relevant to the issue of an appropriate penalty. The Mayor shall have no vote, except in the case of a tie vote by the Council. No respondent City Official shall vote or participate in the process for imposition of sanctions with regard to any “finding of violation” for which he or she has been found to be in violation.

(f) Any person violating any provision of this Chapter is subject to the following range of penalties:

- (1) Censure;
- (2) Written or oral reprimand;
- (3) A fine greater than \$100.00 but less than \$1,000.00;
- (4) Request for resignation;

- (5) Removal from office for appointed positions to City boards, commissions, authorities and agencies;
- (6) Removal from elected office pursuant to the procedure established by Section 5.16 of the City Charter.

**Sec. 2-2-10 Appeals.**

Any final decision by the Mayor and Council shall be reviewable by the Superior Court of Clayton County by writ of certiorari; provided that no failure or refusal of the Ethics Board or the Mayor and Council to take action pursuant to this Chapter shall be reviewable by superior court.

**Sec. 2-2-11 Bar against subsequent complaint.**

Where a complainant files a complaint for which the Ethics Board fails to make a “finding of violation” or for which the Mayor and Council fails to determine that any penalty is appropriate, the complainant shall be barred from filing any subsequent complaint against the same respondent Official for a period of 12 months after termination of the original complaint proceeding. Where a complainant files a complaint for which the Ethics Board fails to make a “finding of violation” or for which the Mayor and Council fail to determine that any penalty is appropriate, the complainant shall be barred from filing any subsequent complaint against the same respondent City Official alleging substantially the same facts and circumstances as the basis for the subsequent complaint.

**Sec. 2-2-12 Respondent’s attorneys fees.**

For any complaint which the City does not determine, on its face, to be unjustified, frivolous, patently unfounded, or failing to allege facts sufficient to invoke the jurisdiction of the Ethics Board, the City shall pay reasonable attorney fees not to exceed \$5,000.00 for representation and defense of the respondent City Official before the Ethics Board and before the Mayor and Council. Defense attorney fees up to \$5,000.00 shall be approved or disapproved as to reasonableness by the City Attorney; reasonable defense attorney fees in excess of \$5,000.00 may be approved only by the Mayor and Council, in their sole discretion, upon request of the respondent City Official.

**Sec. 2-2-13 Cumulative nature of provisions.**

This Chapter shall be cumulative to any other ordinance, resolution or act now existing. Specifically, this Chapter is in addition to Section 2.14 of the Charter of the City of Morrow regulating conflicts of interest.

**Section 2.** In the event any word, phrase, sentence or paragraph is determined by a court of competent jurisdiction to be unconstitutional, the offending provisions shall be severed from the

ordinance and the remaining words, phrases, sentences and paragraphs shall continue in effect as fully as though no challenge had been brought, it being the intent of the Council that severability be applied to the maximum extent allowed by law.

**Section 3.** All ordinances or parts of ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 4.** This ordinance shall be effective immediately upon its adoption.

**So Ordained** this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Mayor Jim Millirons

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney