

The Board of Commissioners of Fulton County met in Recess Session this 4th day of May, 1988. The following Commissioners were present:

Michael L. Lomax, Chairman
Tom Lowe, Vice-Chairman
Martin Luther King, III, Commissioner
Lee J. Roach, Commissioner
Gordon L. Joyner, Commissioner
Michael Hightower, Commissioner

Others present were:

Sam Brownlee, County Manager
Frederick T. Artis, Director, Department of Public Works
W. Roy Smith, Jr., Director of Finance
Wallace V. Linsey, Sr., Zoning Administrator
Elizabeth Long, County Attorney
Alice H. Smith, Clerk

The meeting was called to order by Chairman Michael Lomax at 3:55 p.m. immediately following the Regular Meeting.

(1) AMENDMENT TO ETHICS CODE

Mr. Sam Brownlee, County Manager, presented the following memorandum from Elizabeth E. Long, County Attorney, dated February 18, 1988:

To: Sam Brownlee, County Manager
From: Elizabeth E. Long, County Attorney
Subject: AMENDMENT TO ETHICS CODE

Attached is the latest version of the amendment to the Ethics Code. This version incorporates the last suggestions made to me by members of the Board of Commissioners as well as suggestions from Mr. William Schroeder.

Please see that this item is on the agenda of the Board of Commissioner on Wednesday, March 2, 1988.

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF LAWS
OF FULTON COUNTY, GEORGIA, TITLE 23,
CHAPTER 9, CODE OF ETHICS

Be it ordained by the Board of Commissioners of Fulton County, Georgia, and it is hereby ordained by the authority of same that Title 23, Chapter 9, Code of Ethics, be amended as follows:

TITLE 23, CHAPTER 9, CODE OF ETHICS

Sec. 23-9-1. Declaration of Policy.

It is essential to the proper government and administration of Fulton County (hereinafter referred to as the "County") that the members of the Board of Commissioners, officers and employees be, and give the appearance of being, independent and impartial; that public service not be used for private gain; and that there be public confidence in the integrity of the County. Because the attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private

interest and public responsibilities of County officers and employees, the public interest requires that the County protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of persons hereinabove named in situations where a conflict may exist.

It is also essential to the efficient operation of the County that those persons best qualified be encouraged to serve in positions of public trust.

Accordingly, the standards hereinafter set forth must be so interpreted and understood as not unreasonably to frustrate or impede the desire or inclination to seek and serve in public office by those persons best qualified to serve. To that end the persons hereinabove named should not, except as otherwise provided by law, be denied the opportunity available to all other citizens to acquire and maintain private, economic and other interests except where a conflict of interest situation would necessarily result. The policy and purpose of this Code, therefore, is to make clear those standards of ethical conduct that shall be applicable to the persons hereinabove named in the discharge of their official duties; to implement the objective of protecting the integrity of the County's government and to prescribe only such essential restrictions against conflict of interest as will not impose unnecessary barriers against public service.

Sec. 23-9-2. Definitions.

As used herein:

- (1) "Officers or employees" means the members of the Board of Commissioners, the County Manager, all heads of department, elected officers of the County, and all employees.
- (2) "Business" means a corporation, a partnership, a sole proprietor, or any other person or organization carrying on an enterprise for profit.
- (3) "Censure" means an expression of severe criticism or reproach.
- (4) "Confidential information" means any information which by law or practice is not available to the public.
- (5) "Contract" means any lease, claim, account, or demand against or agreement with any person, whether express or implied, executed or executory, verbal or in writing.
- (6) "Employment" means any rendering of services on request, whether paid or unpaid.
- (7) "Immediate family" means an officer or employee and the spouse of an officer or employee, and their parents, children, brothers and sisters.
- (8) "Interest" means any direct or indirect pecuniary or material benefit held by or accruing to an officer or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the County. Unless otherwise provided, the term "interest" does not include any remote interest. For the purpose of this Code, an officer or employee shall be deemed to have an interest in transactions involving:
 - (a) Any person in his or her immediate family;
 - (b) Any person with whom a contractual relationship (either written or implied) exists, whereby he or she may receive any payment or other benefit, including an agreement for employment; and

- (c) Any business in which he or she is a director, officer, employee, prospective employee, or substantial shareholder.
- (9) "Official" means the County Manager, any Commissioner, or other elected officer serving in office in the County.
- (10) "Official act or action" means any executive, legislative, administrative, appointive, or discretionary act of the County Manager or Commissioners taken Pursuant to a regular or special meeting of the Board of Commissioners or of an officer or employee in the regular discharge of his or her official duties.
- (11) "Participate" means to take part in official acts or actions, or proceeding personally as an officer or employee through approval, disapproval, decision, or the failure to act or perform a duty.
- (12) "Paid" means the receipt of, or right to receive, a salary or a commission, percentage, brokerage, or contingent fee.
- (13) "Person" means any individual, business, labor organization, representative, fiduciary, trust, or association, whether paid or unpaid and includes any officer or employee.
- (14) "Property" means any property, whether real or personal, tangible or intangible, and includes currency and commercial paper.
- (15) "Reprimand" means an expression of disapproval.
- (16) "Transaction" means the conduct of any activity that results in or may result in an official act or action of the County.

Sec. 23 -9-3. Impartiality .

No officer or employee shall by his or her conduct give reasonable basis for the impression that any person improperly can influence him or her or unduly enjoy his or her favor in the performance of official acts or actions or that he or she is affected unduly by the kinship, rank, position of or association with any person.

Examples:

- (1) X, an officer, writes a letter for publication in a local newspaper that criticizes the Board of Commissioners for its decision not to employ the services of a contracting firm with which X has had substantial private business dealings in the past. X's actions constitute a violation of this section.
- (2) Y, a member of the Board of Commissioners, publicly supports the position taken by a group which represents and is negotiating with the Board of Commissioners on behalf of organizations doing business with the County and with which Y has been associated with on a professional basis in the past. Y's actions constitute a violation of this section.

Sec. 23-9-4. Gifts and Favors.

No officer or employee shall directly or indirectly request, exact, receive or agree to receive a gift, loan, favor, promise, or thing of value for himself or herself or another person if:

- (1) It tends to influence him or her in the discharge of his or her official duties, or
- (2) He or she recently has been, or is now, or in the near future will be, involved in any official act or action directly affecting the donor or lender.

This section shall not apply in the case of:

- (1) An occasional, non-pecuniary gift of insignificant value;
- (2) An award publicly presented in recognition of public service; and
- (3) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of Georgia to engage in the making of such a loan.

Examples:

- (1) W, a member of the Board of Commissioners, requests X, president of a company that is seeking rezoning before the Board of Commissioners, to find employment for W's nephew in X's company. W's request constitutes a violation of this section.
- (2) Y, an officer, enters his name in a "sweepstakes" drawing sponsored by a company that from time to time has business dealings with the County. Y's name is drawn and he wins an all-expense paid vacation valued at \$1,000. Y's acceptance of this prize constitutes a violation of this section.
- (3) Z, the president of a construction firm seeking to acquire a contract with the County, promises to purchase the necessary materials for the work from a company owned by B, an officer, if the construction firm is successful in its competitive bid for the contract. In reliance upon Z's promise, B attempts to secure the award of the contract for the construction firm. B's attempt constitutes a violation of this section.

Sec. 23-9-5. Campaign Contributions.

The provisions of this Code shall not apply to campaign contributions made to an Official in compliance with the Georgia Campaign and Financial Disclosure Act (O.C.G.A. 21-5-1 et seq.).

Sec. 23-9-6. Confidential Information.

No officer or employee shall disclose or otherwise use confidential information acquired by virtue of his or her position with the County for his, her or another person's private gain.

Example:

- (1) X, an employee, purchases land with advanced undisclosed knowledge of the route of a new road that, when completed, may substantially increase the value of the land. X's purchase constitutes a violation of this section.

Sec. 23-9-7. Representation.

No officer or employee shall appear on his or her own behalf, or represent, or appear on behalf of, whether paid or unpaid, any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee appointed by the County Manager, Board of Commissioners, or an Official concerning any contract or transaction which is or may be the subject of an official act or action of the County, except in the regular discharge of their official duties, or otherwise use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or other persons.

Example:

- (1) Z, an assistant county attorney, appears on behalf of his client, Y, an engineer, before the Library Board of Trustees to advocate the selection of Y's firm for the purpose of doing work for the Library. Z's representation constitutes a violation of this section.

Sec. 23-9-8. Incompatible Employment.

No officer or employee shall engage in or accept employment with or render services for any private business or professional activity when such is adverse to and incompatible with the proper discharge of his or her official duties.

Examples:

- (1) X, an employee charged with the supervision and approval of road maintenance work, accepts employment with the company that performs such maintenance for the County. X's employment is incompatible and constitutes a violation of this section.
- (2) Y, an assistant county attorney, advises and represents an accounting firm, also employed by Fulton County, on matters wholly unrelated to the business of the County. Y's employment does not constitute a violation of this section.

Sec. 23-9-9. Abstention.

An officer or employee who has an interest that he or she has reason to believe may be affected by his or her official acts or actions or by the official acts or actions of the County shall abstain from participating in such official act or actions affected thereby.

Example:

- (1) X, a member of the Board of Commissioners, is also a paid consultant of an agency that frequently requests funding from the County. X should disqualify himself from participating in any matters dealing with the agency.

Sec. 23-9-10. Acquiring an Interest.

No officer or employee shall acquire an interest in any contract or transaction at a time when he or she believes or has reason to believe that such an interest will be affected directly or indirectly by his or her official act or actions or by the official acts or actions of the County.

Example:

- (1) Y, an employee charged with the supervision of certain work performed by a prime contractor, acquires an interest in a company to which part of the construction work later is subcontracted. If Y had no reason to foresee that a conflict might arise, his acquisition of an interest does not constitute a violation of this section; however, Y should disclose his interest and disqualify himself from supervising the work of both the prime contractor and the subcontractor.

Sec. 23-9-11. Contracts Involving Officers or Employees.

The County shall not enter into any contract involving services or property with an officer or employee, or with a business in which an officer or employee has an interest. This section shall not apply in the case of:

- (1) The designation of a bank or trust company as a depository for County funds;
- (2) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loan;
- (3) Contracts entered into with a business which employs a Consultant, provided that such employment is not incompatible with the Consultant's official duties under Sec. 23-9-8 of this Code;
- (4) Contracts for services entered into with a business which is the only available source for such goods or services; and
- (5) Contracts entered into under circumstances which constitute an emergency situation, provided that a record explaining the emergency is prepared by the County Manager and submitted to the Board of Ethics at its next regular meeting and thereafter kept on file.

Example:

- (1) Y, an officer approves the letting of a contract to a construction firm, which, pursuant to a prior agreement, subsequently assigns at a discount the proceeds of the contract to a firm in which Y is a partner, Y's approval of the contract constitutes a violation of this section even though Y sells his partnership interest before the actual assignment of the proceeds.
- (2) Z, an officer, is the controlling shareholder of a company which performs engineering work for the County. The engineering work constitutes a violation of this section.

Sec. 23-9-12. Compliance with Applicable Laws.

No officer or employee shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office. When any provision of this Ethics Ordinance shall conflict with the laws of Georgia or the United States, such laws shall apply. If any section shall be declared by any court to be invalid, the remaining sections shall remain applicable.

Sec. 23-9-13. Board of Ethics.

- (1) Creation, Membership - There is hereby created and established a Board of Ethics which shall consist of the following members:

- (a) One (1) member to be selected from the membership of the Atlanta Bar Association by the President of said Association;
- (b) One (1) member to be selected from the membership of the Gate City Bar Association by the President of said Association;
- (c) One (1) member to be selected from among the employees by the Employees Association of the County at a duly called meeting;
- (d) One (1) member to be selected by the Personnel Board of the County from its membership;
- (e) One (1) member to be selected from the membership of the Atlanta Chamber of Commerce by the President of said organization;
- (f) One (1) member to be selected from the membership of the Atlanta Business League;
- (g) A Chairman appointed by the Board of Commissioners to serve for a for a term of three years.

The members shall serve without compensation and shall effect their own organization internally. A meeting of the Board of Ethics shall be held at least four (4) times a year. The Clerk of the Board of Commissioners and the County Attorney shall serve as staff to the Board of Ethics.

- (2) Term of Office - The initial term of office of those listed under subparagraphs (a) and (b) shall expire one year from the time this Code shall take effect; of those listed under subparagraphs (c) and (d), one year after the expiration of the term of those listed under subparagraphs (a) and (b); and of those listed under subparagraphs (e) and (f), two years after the expiration of the term of those listed under subparagraphs (a) and (b). Each representative selected after the expiration of such initial terms shall serve for a full term of three years or until the termination of his or her membership in the particular organization from which he or she was selected, whichever occurs first.
- (3) Vacancies - Any vacancy on the Board of Ethics caused otherwise than by expiration shall be filled for the unexpired portion thereof by the person or organization which made the original selection or appointment to the vacant position.
- (4) Duties - The Board of Ethics shall have the following duties:
 - (a) To establish procedures, rules and regulations governing its internal organization and conduct of its affairs;
 - (b) To render advisory opinions with respect to the interpretation and application of this Code to all persons who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed herein. All requests for advice shall be made in writing. Such opinion shall be binding on the Board of Ethics in any subsequent complaint concerning the person who sought the opinion and in good faith, unless material facts were omitted or misstated in the request for the advisory opinion;
 - (c) To prescribe forms for disclosures required under this Code and to make available to the public the information disclosed as provided under this Code;
 - (d) To receive and hear complaints of violations of the standards required by this Code;
 - (e) To make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Code;
 - (f) To hold such hearings and make such inquiries as it deems necessary for it properly to carry out its functions and powers;
 - (g) To recommend to the County any disciplinary action, including dismissal or censure, deemed appropriate for violations of this Code and to make such recommendations, absent the identity of the person concerned, available to the public;
 - (h) To make proposals and recommendations to the Board of Commissioners for the adoption of any revisions or amendments to this Code.

Sec. 23-9-14. Financial Disclosure.

All members of the Board of Commissioners shall file annually with the Clerk of the Commission, a report disclosing the sources of any income, whatever its nature, in excess of \$1,000 derived from any one source for the preceding calendar year. Such report shall be

filed on or before April 15 of each year for the prior calendar year. Failure by any Commissioner to file such disclosure statement shall be reflected in the minutes of the next regularly documents upon filing. Each report shall contain the following information:

- (1) The source of each of the following items received or accrued during the preceding calendar year by the Commissioner reporting or his spouse, including the name and address of the source:
 - (a) Any income for services rendered of \$1,000 or more, except as otherwise reported under the State statute covering financial disclosure statements or as reported pursuant to Paragraph 2 hereof;
 - (b) Any interest or dividend income of \$1,000 or more;
 - (c) Reimbursement for expenses of \$1,000 or more in each instance;
 - (d) Honoraria from a single source in the aggregate amount of \$500 or more, except as otherwise reported under the State statute covering financial disclosure statements;
 - (e) Any gift in the aggregate amount or value of \$500 or more from any single source received during the preceding year, except as otherwise reported under the State statutes covering campaign contributions.
- (2) The name, address and type of practice of any professional organization in which the Commissioner reporting or his spouse is an officer, director, partner, proprietor or employee, or serves in any advisory capacity, from which income of \$1,000.00 or more was derived. In the event any of the income received by the professional organization was from a client, or former client, who did business with the County during the reporting year, the name and address of such client shall be reported.
- (3) Each creditor, including the name and address, to whom the Commissioner reporting or his spouse was indebted for a period of 90 consecutive days or more during the preceding calendar year in an amount of \$5,000 or the purchase or sale of real property and payable to a financial institution regularly engaged in the making of commercial loans or to the seller of that property, and except for retail installment debt.

The first reports shall be for the calendar year 1987 and shall be due September 1, 1988.

Chairman Lomax stated this is an improved ordinance which he hopes will go a long way in restoring confidence in the Board, also to assist the Board in understanding what code of conduct is expected. Chairman Lomax stated the ordinance is only as good as the people toward whom it is directed.

Commissioner Roach asked the County Attorney to develop a financial disclosure form for filing under Section 23-9-14.

County Attorney Elizabeth Long suggested the Board do what the State requires, which is to file by April 15th, except for this year.

Chairman Lomax made a motion to approve the Ethics Resolution. He stated the date for filing annually is April 15th, and made a motion to amend the Resolution to state that this year's (1988) effective date for filing be September 1, 1988. Motion seconded by Commissioner Hightower and passed unanimously.

Hearing no objections, Ethics Resolution was approved as amended.

(2) DISCUSSION CONCERNING FUNDING PROPOSAL FOR GRADY HOSPITAL AND REQUEST FOR APPROVAL OF RESOLUTIONS FOR RENOVATIONS AND EXPANSION

Mr. Sam Brownlee, County Manager, presented a funding proposal for Grady Hospital.

Mr. Robert Lower, Attorney for the Fulton-DeKalb Hospital Authority, explained the funding and asked for the facilities of Hughes Spalding to be made available to the Authority, as needed, to serve as transition space during the renovation project. The Authority needs to have access to Hughes Spalding at the end of 1990. This would result in a saving in the construction budget of \$10 million in actual cost and 18-20 months in construction time. As part of the proposal the Authority would relinquish its claim to