

August 13, 2012

Dear Mayor Davis and Council Members:

The Dunwoody Board of Ethics, of which I am a member, has asked me to address certain information and requests to you for your information and your consideration.

First, we wanted to make you aware of our plan for scheduling the activities related to the complaints/allegations we have received. It is the plan of the Board to schedule a hearing date to consider the Motions to Dismiss and any other motions we receive, during the month of September. At that time we can fulfill our obligation to consider whether any of the claims are frivolous and not deserving of an evidentiary hearing. At that initial hearing all parties could be represented and make any statements they wish to (in supplement to the substantial written information already received), but no factual testimony or other evidence would be entertained at that time. Should any or all of the complaints/allegations survive this process, then it is our intent to schedule a full and final hearing which would include the testimony of any witnesses called by the parties and any documents introduced as evidence in October.

The Board of Ethics members are quite cognizant of the community's desire that these matters be dispensed with efficiently and with the least expense possible consistent with a fair and proper exercise of our responsibilities. As an example, this memo could have been prepared for us by our counsel, Mr. Carothers, but we chose to have me do this without cost to the City and its citizens. As you are no doubt aware, all members of the Board of Ethics serve without compensation.

The Board has made three decisions we believe will assist in keeping the total cost down. First, the Board has decided to hear all of the current Complaints in a single, consolidated hearing. We hope that each Complainant agrees with this format, but we have been advised and believe that we have the right to do so and have thus made this decision. It seems to us that the facts and evidence which relate to the separate Complaints are by and large the same and to hold multiple hearings to consider the same evidence would be wasteful and unnecessarily time consuming. Second, the Board has decided that the parties will not be entitled to discovery (such as depositions, interrogatories, requests to produce documents, etc.) While we are aware that it might be easier to bring or defend a Complaint after extensive discovery, the costs to the parties and the delay to resolve these claims would be counterproductive.

Michael G. Davis Mayor

Denis Shortal City Council Post 1  
Adrian Bonser City Council Post 2  
Doug R. Thompson City Council Post 3

Terry Nall City Council Post 4  
Lynn Deutsch City Council Post 5  
John Heneghan City Council Post 6

Third, after much discussion it was decided to ask the Council to approve the expense necessary to employ a hearing officer to 'run' the evidentiary hearing if it turns out to be necessary to do so. While we recognize that this would represent an expense to the City, we think it could ultimately save money by reducing the chance that a hearing would create appealable issues beyond the Board's and City's control. As you know, the hearing must be conducted applying the Georgia Rules of Evidence and a majority of the Board members you appointed do not have a legal background. In our view, a hearing officer could conduct the hearing and make evidentiary rulings, leaving the Board members to concentrate on the merits of the disputes and the evidence so as to make prompt, correct and legally defensible decisions. We would ask that you consider our employing a competent hearing officer at your earliest opportunity in order that we can meet our goal of completing the final hearing in October. We cannot give you an exact dollar cost on this, but it is our thinking that this would involve only a day or two of hearing officer time at a rate not different than what the other attorneys hired by the City are charging.

Regards,

Steven A. Blaske,  
Chair  
Dunwoody Board of Ethics