

# DEKALB COUNTY BOARD OF ETHICS MEETING

## AGENDA

September 15, 2010

6:15 PM-8:00 PM

Clark Harrison Bldg. Conference Room A

**Meeting called by:** Bryan F. Smith, Board of Ethics Chair

**Board Members:** Bryan F. Smith, Chair, Teri Thompson, Co-Chair, Bobbie Sanford, Susan Neugent, Thelma Grier, Issaac Blythers

**Attendees: 29**

**Others:** Stephen Irving, Board Attorney; Delois Walton, Administrative Support; Gordon Burkette; Erica M. S.; Erica Williams; Carleen Cumberbatch, James Brunson, Dave Dixon, George Maddox, Elizabeth L. Branch, Justin Crae – WSB-TV; Richard Belcher – WSB-TV; Brian Daughdrill; Fern Garber; Dorothy Williams; Ed McBrayer; William Gowen; Doug Denton; Arrol Naik, Attorney for Dave Dixon; Matthew McClammy; Jim Walls, Atlanta Unfiltered; Jim Manacell; Angelo Fuster; Greg Worthy, Counsel for Housing Authority; Sharon Gay

### Agenda

- I. Call to Order
- II. Adoption of Agenda
- III. Review and Approval of Minutes
- IV. Old Business
  - A. Deliberations/Conclusion of McBrayer Hearing
  - B. Advisory Opinion – CEO Ellis/Neville Anderson
  - C. Advisory Opinion – Vaughn Irons/DeKalb EDA
- V. New Business
  - A. Informal Hearing – Housing/Maddox/Williams
- VI. Adjournment

# DEKALB COUNTY BOARD OF ETHICS MEETING

## MINUTES

September 15, 2010

6:15 PM – 8:00 PM

Clark Harrison Bldg. Conference Room A

**Meeting called by:** Bryan F. Smith, Board of Ethics Chair

### Minutes

#### Agenda Item I

**Discussion:** The Special Called Meeting was called to order by Bryan Smith, BOE Chair

**Opinions:** N/A

*Motion by the Board:* N/A

*Seconded By:*

**Votes:**

**Action Item:** N/A

**Person Responsible:**

**Deadline:**

### Agenda Item II

**Discussion:** The adoption of the Special Called Meeting Agenda was proposed by BOE Chair, Bryan Smith to the Board. The Board unanimously agreed on the Special Called Meeting Agenda.

**Opinions:** N/A

**Motion by the Board:** Susan Neugent moved to adopt the Agenda for the Special Called Meeting.

**Seconded By:**  
Isaac Blythers

**Votes:**  
5 - Yes  
0 - Nay

**Action Item:** N/A

**Person responsible:**

**Deadline:**

### Agenda Item III

**Discussion:**

The Board was asked to take a few minutes to review the August 11, 2010 Minutes. Afterwards, a motion was made to approve the minutes as drafted. The Board unanimously agreed to approve the August 11, 2010 Meeting Minutes.

**Opinions:** N/A

**Motion by the Board:**

A motion by Susan Neugent was made to approve the August 11, 2010 Minutes.

**Seconded By:**  
Bobbie Sanford

**Votes:**  
6 - Yes  
0 - Nay

**Action Item:** N/A

**Person responsible:**

**Deadline:**

### Agenda Item IV

**Discussion: McBrayer -** Bryan Smith opened the discussion for deliberation starting with the request for Advisory Opinion regarding an ethics violation on the part of Ed McBrayer. If any violation has occurred, under what Code and what sanction should be applied. Susan Neugent commented that after reviewing the testimony and the transcripts from the hearing she found that there was no violation on the part of Mr. McBrayer. Susan Neugent further commented that Mr. McBrayer received no extraordinary benefit from the County as payment which does not cause him to be unduly biased in his service as a governing authority/board member. Bryan Smith commented that he did not see where Mr. McBrayer gave any impression of any violation of the Ethics Code and that there was no nexus between payment to Mr. McBrayer and DeKalb County. Bryan Smith further commented that his main concern was the reimbursements made by DeKalb County for projects completed by PATH which was not payments made to Ed McBrayer. He was satisfied that there is no violation on the part of Mr. McBrayer. The other issue was the bidding process and the BOE has no jurisdiction over that process. Therefore, Bryan Smith saw no ethical violations on the part of Mr. McBrayer.

**CEO/Neville Anderson Sr. -** An Advisory Opinion #13 was drafted according to Steve Irving, Attorney for the BOE and reviewed with request for revisions by Bryan Smith. Upon final revisions the Opinion was completed and signed by the BOE Chair. A copy should be placed in the County Clerk's Office.

**Vaughn Irons/County Attorney -** A request for an Advisory Opinion was sent by Vaughn Irons to clear up a question regarding an informal opinion rendered by the DeKalb County Attorney. Mr. Irons contends that his business with DeKalb County does not mesh with his serving on the board of the Development Authority. Mr. Irons submitted to the Board a copy of his mission statement and information regarding his company as a neighborhood revitalization organization. The Request for an Advisory Opinion was filed in the Clerk's Office or Ellis' Office on or about October 30, 2009. Mr. Irving related that there is no nexus of Mr. Irons' company and the Development Authority based on the documents presented by Mr. Irons as evidence of the type of business conducted through his company. Susan Neugent commented that the letter presented by Mr. Irons is a little

**Agenda Item IV cont.**

**Discussion:** confusing in that it mentions his participation with the Development Authority and later says his participation with the Economic Development Authority. She further commented that if he is referring to the Development Authority she would agree that there is no nexus. However, if he is referring to the Economic Development Authority then she thinks it bears more scrutiny. Bobbie Sanford commented that in light of the late information presented she would like to request more information and time to discuss further that information. Isaac Blythers commented that as respects to the Development Authority, it is the Board on which Mr. Irons sits. The Economic Development Department is a department that exists within the County. The reference in the letter appears to be a typographical error.

**Opinions:** **McBrayer** – No violation occurred. **CEO/Neville** – Opinion #13 was drafted and sent to the CEO/Neville and filed with the Clerk’s Office. **Irons/County Attorney** - None rendered until additional information is heard at next scheduled meeting.

<i>Motion by the Board:</i> Susan Neugent motioned that the Board find that there was no ethics violation on the part of Ed McBrayer.	<i>Seconded By:</i> Bobbie Sanford	<b>Votes:</b> 6 – Yes 0 – Nay
<i>Motion by the Board:</i> Isaac Blythers motioned that the Request for Advisory Opinion regarding Vaughn Irons/County Attorney be rescheduled for the next scheduled meeting.	<i>Seconded By:</i> Thelma Grier	<b>Votes:</b> 6 – Yes 0 – Nay
<b>Action Item:</b> Contact Vaughn Irons to appear at the next meeting.	<b>Person responsible:</b> Steve Irving	<b>Deadline:</b> Immediate

**Agenda Item V**

**Discussion:** Bryan Smith opened the discussion on the BOE’s request for a preliminary investigation regarding Commissioners of the Housing Authority’s Board, George Maddox and Dorothy Williams. The BOE subpoenaed Mr. Dave Dixon, a housing developer and Carleen Cumberbatch also a Commissioner of the Housing Authority in order to gather more information. The informal hearing is based on the complaint that an item of communication from Mr. Dave Dixon to Mr. Sterling Bethea indicates a possible violation of the DeKalb County Code of Ethics. (Affidavits were submitted by both Commissioners Maddox and Williams.) Isaac Blythers asked Mr. Dixon to explain the relationship between him and the two Commissioners. Mr. Blythers used the term “chips” to identify what Mr. Dixon indicated in his email regarding his relationship with Maddox and Williams. He further stated that he could imagine that any “chips” that Mr. Dixon had would be cashed in with Dixon’s relationship with the two Commissioners. Mr. Dixon responded with the comment that NorSouth contracted with the DeKalb Housing Authority as their sole developer of Johnson Ferry East in early 2005. NorSouth signed a long-term master development agreement in April 2006. NorSouth still operates under that agreement to date. Within the context of that agreement Mr. Dixon commented that he considers himself as an extension of the Development Authority’s staff. NorSouth meets regularly with the Development Authority and the Housing Authority Board. NorSouth had a four (4) year relationship at the time of the aforementioned email. The purpose of the email according to Mr. Dixon was to address a stalled development project that Mr. Dixon thought the Housing Authority Board of Commissioners needed to be briefed on. Mr. Dixon asked Mr. Bethea to speak with the Housing Authority Board regarding the project and Mr. Bethea said he thought that the Board would be hostile, he did not think they would be receptive. His reference to fundraising (for charitable organizations) was that he thought he knows the Commissioners well enough and that if Mr. Bethea could not call them he could call them. Mr. Blythers posed a question to Commissioner Maddox regarding the tradition of proposals presented to them. He wanted to know if proposals are presented individually or as a group and how many Commissioners serve on the Housing Authority’s Board. Commissioner Maddox responded that the proposals are submitted to the group and he believes there are six (6) Commissioners serving on their Board. He further commented that the conversation that Mr. Dixon was

#### Agenda Item V cont.

Discussion: proposing to have with the Commissioners never happened. Isaac Blythers responded that the reason the conversation never happened was because Mr. Bethea urged Mr. Dixon otherwise. The only resolution ever voted on by the Board comes from the Executive Director. Bobbie Sanford commented that she is concerned that Mr. Bethea thought it was necessary to forward the complaint to the BOE and that Mr. Dixon would tie the fundraising with knowing the two Commissioners well enough. This causes some concerns for her. Mr. Dixon responded that it was an unfortunate phrasing on his part. He wanted to let the Executive Director know that he was following the chain of command. It was not his intention to make them feel that they owed him anything or that they would vote his way. Bryan Smith commented the he was thinking contrary to the last statement Mr. Dixon made that the Commissioners know him and of which he has responded generously. The statement gave inference in Bryan Smith's mind that Mr. Dixon thought the Commissioners owed him something. Bryan Smith further asked Mr. Dixon was there any reason in his mind that he felt that if the two Commissioners were hostile that they would be less hostile if he talked to them. Mr. Dixon responded, no, he thought that frankly Mr. Bethea thought that he couldn't. Bryan Smith responded that does this mean that based on Mr. Dixon's past relationship and past donations he could talk to the Commissioners and possibly have some influence. Mr. Dixon responded yes. His whole point was there were five (5) contributions made over a four (4) year period. Three of them made to charitable purposes and that he did not think there was anything unethical about those kinds of contributions. Mr. Dixon further commented that his purpose was not to get the Commissioners to vote but just to have a conversation with them. The Board responded with the question, what would be the purpose of the call. The proposal was drafted for NorSouth and the Housing Authority as partners. Mr. Dixon thought that it was in the best interest of the Housing Authority to move the project forward. Susan Neugent asked the Commissioners were they in fact hostile to the plan by Mr. Dixon and why. Ms. Williams responded she does not know why the word hostile was used. They only see Mr. Dixon at the various board meetings. From time-to-time Mr. Bethea would bring changes to the board and Mr. Bethea would already have made a decision that it was in the best interest of the Housing Authority. Ms. Williams commented that because of her extensive background in construction development. Therefore, she could question any information brought before the Housing Authority. Because Mr. Bethea would not have all the knowledge needed he would bring these things before the board. He did no always get the vote that he wanted. Ms. Williams further commented that Mr. Bethea knew that she would question any item brought before them. He brought the item to them the next day. Ms. Williams brought up that they could not approve the sale of a property that had an appraisal for 2006. She knew that the market was bad and the property should be held until the market improved. Ms. Williams further commented that because of her background she knew the right questions to ask when things were brought to the board and often times because of her background the other board members would vote with her. Ms. Williams commented that she felt that because of her knowledge of real estate, appraisals and so forth, Mr. Maddox has similar knowledge. That is why Mr. Bethea thought they would be hostile. When the proposal was brought to them it was not approved. Ms. Williams commented that she is involved with the Lou Walker Senior Center and this is the organization that Mr. Dixon contributed to. Ms. Williams further commented that Mr. Bethea would often allow Mr. Dixon to present to the board. Mr. Bethea would also ask us to call Mr. Dixon directly if we had any questions. I always brought up issues that I thought was not in the best interest of the Housing Authority. That's why Mr. Bethea feared us. The Commissioners have not personally benefited from anything regarding Mr. Dixon. Isaac Blythers asked Ms. Williams how long had she been on the board. She responded seven years. Mr. Blythers asked if it was normal for her to solicit contribution from companies. When you solicited Mr. Dixon for the contribution, did you somehow feel that you were setting yourself up for that "chip" to be called? Mr. Maddox pointed out that there is nothing for the Commissioners to gain from the proposal by Mr. Dixon.

Opinions: N/A

<b>Motion by the Board:</b> Thelma Grier motioned for a formal hearing at the next scheduled meeting.	<b>Seconded By:</b> Isaac Blythers.	<b>Votes:</b> 6 - Yes 0 - Nay
<b>Action Item:</b> A request is sent to all parties regarding the formal hearing on October 19, 2010.	<b>Person Responsible:</b> Board	<b>Deadline:</b> Before 20 days
<b>Meeting Adjourned at 8:00 pm.</b>		