

ETHICS TASK FORCE REPORT

FEBRUARY 2002

Purpose

The Ethics Task Force was formed by then Mayor-elect Shirley Franklin in early December 2001 to evaluate the City's current Ethics Code and its enforcement. The Mayor-elect directed the Task Force to set its own scope of work, but she specifically charged the Task Force with developing recommended revisions to the Ethics Code, as well as recommendations on instilling a "culture of ethics" within City government. The Mayor-elect asked the Task Force to complete its work on these two areas by February 1, 2002.

Members

The members of the Task Force are John Chandler, Johnnetta Cole, Sharon Gay, Dorothy Kirkley (chairperson), Abner Moore, and Adam Smith.

Meetings

The Task Force met as a group four times during December and January. It reviewed numerous pages of materials, including the Ethics Codes of dozens of cities, counties and states. The Task Force also received input and advice from outside sources, including Common Cause, which met with the group on January 4, 2002.

Conclusions

Based on its review, the Task Force concluded the following:

1. The standards of conduct in the current Ethics Code are inadequate. In particular, the rules regarding outside income and gratuities, conflicts of interest, and financial disclosure must be strengthened.
2. The current Ethics Code contains ineffective enforcement mechanisms. In particular, the Ethics Board does not presently have the power necessary to effectively enforce the existing standards of the Code.
3. The City should improve communications with and the training of employees so that they understand that ethical conduct is an integral part of their job.
4. There is no single employee within City government who has the job of monitoring compliance with the City's ethical standards.

Recommendations

To address the conclusions above and to achieve an appropriate "culture of ethics" within the City, the Task Force has drafted revisions to the current Ethics Code and recommended the creation of an "Ethics Officer" within the Mayor's Office.

Revisions to the Ethics Code

The following is a summary of the recommended revisions to the Ethics Code:

1. Board of Ethics.

- a. Appointments to the Ethics Board. The five members of the Ethics Board are appointed, one each, by the following organizations: the Atlanta Bar Association, the Gate City Bar Association, the Metro Atlanta Chamber of Commerce, the Atlanta Business League, and the Mayor of Atlanta (with approval by the City Council). Of this number, no fewer than 3 will be attorneys in good standing with the State Bar of Georgia. Members serve for three years; although initially, non-attorney members serve staggered terms. This will provide more independence from the Board of Ethics.
- b. Investigative Power. The Ethics Board is granted the power to initiate investigations, as well as to investigate matters referred by the written complaint of any person.
- c. Financial Disclosures. The Ethics Board is granted the power to administer the financial disclosure process, including the development of a more precise financial disclosure form.
- d. Staff. A staff position (the "Ethics Officer") will be a full-time position created to assist in Board investigations and other work, including training for City employees.
- e. Disciplinary Authority. The Ethics Board is granted the power to assess administrative sanctions of up to \$1,000 per violation; to publicly reprimand; to recommend suspension or termination of employees; and to suspend or debar city contractors for violations of the Ethics Code.
- f. Subpoena Power. The subpoena power of the Ethics Board is continued.
- g. Advisory Opinions. The Ethics Board has the power to issue advisory opinions.

2. Gifts and Gratuities.

- a. Rule. Any gift or gratuity (regardless of amount) from a "prohibited source" to any City employee or elected official, is banned.
- b. Application. A "prohibited source" is defined as any person or entity (1) doing business with the City or seeking to do business with the City, (2) regulated by the City, (3) seeking official action from the City, (4) having an interest that could be substantially affected by an official's performance or non-performance, (5) representing a client in any of the aforementioned situations, or (6) a registered lobbyist with a contractual relationship.
- c. Exceptions. There are several exceptions to this absolute ban, including "holiday gifts" under \$50, receptions to which large groups are invited, and income earned from a prohibited source if it is disclosed.

3. Outside Income.

- a. Rule. The Mayor and certain identified employees of the Mayor's Office, Commissioners, Deputy Commissioners and Bureau Chiefs are prohibited from receiving employment or consulting income from sources other than their employment with the City, except that income from passive investments

is allowed.

b. Application. This rule specifically bans the receipt of speaker's fees and honoraria.

c. Exceptions. Any exception to this rule for persons other than the Mayor must be approved in advance by the Ethics Board. There is no exception provided for the Mayor.

4. Disclosure of Income and Assets.

a. Disclosure Forms. A simplified disclosure form will be developed by the Board of Ethics; the Board has discretion to decide to prescribe electronic filing.

b. Process. Disclosure forms are due by February 15 of each year (except in 2002, in which disclosure forms are due on April 18). Within 30 days of the disclosure report filing date, the municipal clerk forwards the financial disclosure statements to the Ethics Officer.

c. Review Procedure. The Ethics Officer submits to the Ethics Board a report of persons who have complied with the filing requirements, those who have filed a late or incomplete statement, and those who have failed to file a disclosure statement.

d. Enforcement. The Ethics Officer will be responsible for collecting all administrative sanctions levied by the Ethics Board against those not in compliance.

5. Ethics Officer

a. Selection. Appointed by Mayor from a list of 3 candidates nominated by the Ethics Board.

b. Position Requirements. The Ethics Officer will have a minimum of five year legal experience, and he or she will be a member in good standing with the State Bar of Georgia.

c. Term of employment. The Ethics Officer will serve a two-year term, which may be renewed by the Ethics Board.

d. Duties. Responsible for educating city employees on all ethical rules; establishing a culture of ethics within city government; maintaining records of the Ethics Board; enforcing financial reporting requirements of all city officials; assisting in investigations of the Board of Ethics; reporting all known violations of the Ethics Code to the Board of Ethics; and maintaining a "hotline" for reporting of ethical violations.

6. Additional Recommendations

a. Budget. Funding for the Ethics Board and Ethics Officer should be included in the 2002 budget.

b. Campaign Finance Reform. Common Cause has raised the issue of revising the City's campaign finance rules. There may be limitations imposed by state law,

but that issue was beyond the scope of our current work. We recommend that the Mayor address this issue within the first two years of her Administration.

c. Contracting and Procurement. Effective operation of the City's contracting and procurement process requires clear ethical standards. We understand that the Mayor intends to conduct an independent management audit of the existing process. We recommend that this Task Force be reconvened at the appropriate time to review the findings of the contracting and procurement management audit to ensure that appropriate ethical standards are incorporated into any recommended changes to the procurement code.

d. Background Checks. While it is not appropriate to make this a part of the Ethics Code, we do recommend that the Mayor institute a policy of conducting thorough background checks on candidates for City employment.

e. Electronic Disclosure Reports. We recommend that the City work toward an electronic filing system for all disclosure reports required under the Ethics Code. Such reports should be filed by last name for easier access by the public.