



**CITY OF AVONDALE ESTATES
ETHICS BOARD
PROBABLE CAUSE HEARING
August 20, 2018
7:30 p.m.**

AGENDA

Members Present: Patrick O'Connor, Chair
Mary Ann Anziano
Josh Norris

Staff Present: Gina Hill, City Clerk

Item No. 1 Meeting Called to Order

Item No. 2 Adoption of Agenda
Josh Norris moves to adopt. Mary Ann Anizano seconds. All ayes.

Item No. 3 **Probable Cause Hearing: Ethics Complaint Filed by John Pomberg Against Jonathan Elmore, Mayor; Brian Fisher, Mayor Pro Tem; Adela Yelton, Commissioner; Lionel Laratte, Commissioner; Lisa Shortell, Commissioner**
Mr. Pomberg has submitted the complaint against each member of the Board of Mayor and Commissioners for allegedly "failing to uphold Georgia's Open Meeting Law when they requested improvements valued at \$175,000.00 to city owned property from Trammell Crow Residential in a forum not open to public attendance or by other means of formal or informal communication not open to public attendance or available for review by the public."

Patrick O'Connor read the complaint before them. He invited John Pomberg, who filed the complaint, to speak before the Board. Mr. Pomberg asked if the Board had seen the latest draft Development Agreement between the City and Trammell Crow Residential. Mr. O'Connor responded that the Board cannot receive any new evidence and must base their decision on the complaint and materials submitted alone. Mr. Pomberg was seated. Mr. O'Connor invited any members of the Board of Mayor and Commissioners present to speak. Attorney Brian Deutsch spoke on behalf of Lionel Laratte, Adela Yelton and Jonathan Elmore. He argued that the complaint should be dismissed and why. The only other commissioner present was Lisa Shortell and she declined to speak.

Mr. Norris made a motion to enter into executive session to deliberate and Mrs. Anziano gave a second. All ayes. The Ethics Board exited the room. After nine minutes, Mr. Norris made a motion to end executive session and return to the public portion of the meeting. Mrs. Anziano seconded.

Once back in the public meeting, Mr. Norris made a motion to dismiss the complaint. Mrs. Anziano seconded. All ayes. Mr. O'Connor then read a statement explaining their decision:

"The Avondale Estates Ethics Board had a probable cause hearing on August 20th, 2018 regarding the above Complaint. After the required motions, the Ethics Board voted to dismiss the Complaint.

The essence of Mr. Pomberg's Complaint is that an alleged failure by the Board of Mayor and Commissioners (BOMC) to uphold the Georgia Open Meetings Act is a violation of the City Ethics Code. He states, "In summary, the Avondale Estates Board of Mayor and Commissioners....failed to uphold Georgia's Open Meeting Law when they requested improvements valued at \$175,000.00 to City-owned property from Trammell Crow Residential in a forum not open to public attendance or by other means of formal or informal communication not open to public attendance or available for review by the public." Mr. Pomberg does not allege any other material facts apart from the alleged failure of the BOMC to request the improvements to city property by Trammell Crow consistent with the Open Meetings Act.

The City Ethics Code empowers the Ethics Board to receive and hear complaints of violations of the standards required by the Code of Ethics for City Officials. Sec. 2-100(2). The applicable Standards of Conduct are provided at Sec. 2-96. The Ethics Board also has the power to hear complaints for alleged violations of the Conflict of Interest provision. Sec. 2-97. Having carefully reviewed the applicable standards and applied them to the facts alleged in Mr. Pomberg's Complaint, we find that the written Complaint does not set forth sufficient facts to constitute an alleged violation of the Standards of Conduct or Conflict of Interest provisions of the Code of Ethics for City Officials.

To the extent Mr. Pomberg is attempting to allege a violation of the Georgia Open Meetings Act, the Ethics Board does not have jurisdiction over Open Meetings Act violations. The Superior Courts of this state have jurisdiction of any alleged violation of the Georgia Open Meetings Act. See O.C.G.A. Sec. 50-14-5(a). Because of this we believe the Complaint is unjustified and it is dismissed."

Item No. 4

Discussion of General Policies and Procedures

The Board then took seven questions from audience members (including Marti Schallern, Mary Galpin, Liz Goodstein, Erika Brown, Lyda Steadman, and Martha McDermott) about their powers and procedures.

Mr. O'Connor also explained changes they would like to make to simplify the process of filing an ethics complaint.

Item No. 5

Adjournment

Mrs. Anziano moves to adjourn. Mr. Norris seconds. All ayes.