



CITY OF MORROW, GEORGIA

December 14, 2010 **Regular Meeting** **7:30 pm**

CALL TO ORDER: Mayor Millirons
PLEDGE OF ALLEGIANCE: All
INVOCATION: Mayor Millirons

1. **ROLL CALL**

2. **APPROVAL OF MEETING AGENDA:**

(Agenda Item 10-12-201)

To add or remove items from the Agenda:

3. **CONSENT AGENDA:**

(Agenda Item 10-12-202)

1. Approval of the November 18, 2010 Special Called Meeting Minutes.

(Agenda Item 10-12-203)

2. Approval of the November 18, 2010 Special Called Work Session Minutes.

(Agenda Item 10-12-204)

3. Approval of the November 23, 2010 Regular Meeting Minutes

(Agenda Item 10-12-205)

4. Approval of the November 23, 2010 Work Session Minutes

4. **REPORTS AND PRESENTATIONS:**

Presentation of 10 year pins to Gary Mosley with the Morrow Fire Department and 5 year pins to Herb Jones and Jim Hudgell with Morrow Fire Dept.

(Presented by Mayor Jim Millirons and Fire Chief Mark Herendeen)

5. **FIRST PRESENTATION:**

(Agenda Item 10-12-206)

1. Approval of an Ordinance of the City of Morrow, Georgia to provide for Procedures for Conduct of Hearings pursuant to Section 5.16 of the City Charter; To designate a Hearing Body; To specify due process requirements; to prescribe time frames; and for other purposes.

6. **OLD BUSINESS:**

(Agenda Item 10-12-206)

1. Approval of an Ordinance Amending the Code of Ordinances of the City of Morrow, Georgia; To Revise the Standards for Outdoor Watering of Landscape; to repeal conflicting provisions; and for other purposes.

(Presented by City Manager Jeff Eady)

7. **NEW BUSINESS:**

(Agenda Item 10-12-207)

1. Approval of a Resolution Authorizing the City of Morrow to prepare and present an Application for Community Development Block Grant Funds from Clayton County Housing and Community Development Program and in accordance therewith accept Grant Funds for the Community Development Block Grant (CDBG) Entitlement Program – FY 2011; This Resolution authorizes the Mayor or his designee to execute the Application and City Staff to otherwise perform all acts necessary to accomplish the intent of this Resolution; To provide an effective Date; and for other purposes.

8. **COMMENTS:**

Citizens-
City Manager-
Mayor and Council –

9. **ADJOURNMENT:**

**AN ORDINANCE OF THE CITY OF MORROW, GEORGIA TO
PROVIDE FOR PROCEDURES FOR CONDUCT OF HEARINGS PURSUANT
TO SECTION 5.16 OF THE CITY CHARTER; TO DESIGNATE A HEARING BODY;
TO SPECIFY DUE PROCESS REQUIREMENTS; TO PRESCRIBE
TIME FRAMES; AND FOR OTHER PURPOSES.**

WHEREAS, Section 5.16 of the City Charter provides a local procedure by which the Mayor, Council Members or other appointed officers provided for by the Charter may be removed from office; and

WHEREAS, said provision requires adoption of an ordinance governing the manner in which removal hearings are held; and

WHEREAS, the City has no current ordinance fulfilling this requirement; and

WHEREAS, it is the desire of the Governing Authority to establish a hearing process, including due process protections, that is available for utilization in removal proceedings.

IT IS HEREBY ORDAINED by the Governing Authority of the City of Morrow:

Section 1. That a new chapter be enacted to the Code of Ordinances for the City of Morrow, as amended, to be designated as Title 2, Chapter 2 of said Code, the contents of which shall read as follows:

Chapter 2

Removal of Elected Officials

Sec. 2-2-1 Authority; applicability.

This Chapter is enacted pursuant to the authority of Section 5.16 of the City Charter and shall apply to all removal proceedings conducted under Section 5.16(b)(1) of the City Charter.

Sec. 2-2-2 Consideration of dismissal hearing; finding of probable cause; notice of charges.

(a) When information comes to the Mayor and Council, pursuant to its investigatory powers under the City Charter or by other means, that an elected official or other official appointed under the Charter has engaged in conduct that would be grounds for removal under Title 45 of the Official Code of Georgia Annotated or under such other laws as exist or may hereafter be enacted, the Mayor and Council shall make an initial determination as to whether probable cause for removal exists. The Mayor and Council may make such a determination

based on live testimony taken by it in open session, through acceptance of a report conducted under its auspices by persons designated to make such an investigation on its behalf, or by other reliable means. To the extent information comes to the Mayor and Council suggesting grounds for removal exists, the Mayor and Council retains investigative powers under Section 2.15 of the Charter and may utilize such powers in any manner it deems appropriate to reach a decision as to whether probable cause exists. The City Attorney shall serve as a legal advisor to the Mayor and Council in making its determination.

(b) The Mayor and Council shall conduct a vote on the probable cause determination. Such determination may be made by adoption of a resolution finding probable cause to exist. Alternatively, a voice motion and vote may be used to make a finding of probable cause.

(c) Once probable cause has been found to exist, a written notice shall be prepared detailing the grounds for removal. In addition to detailing grounds for removal, the notice shall provide the time, place and date for hearing of the charges and reference the procedures adopted by this Ordinance. A copy of the notice shall be served on the officer against whom removal is sought no less than 10 days before any scheduled hearing. The notice may be served by hand delivery or by certified mail. The Mayor and Council shall convene a hearing as provided for in section 2-2-4 or may appoint a Hearing Board as provided for in section 2-2-3 to conduct the hearing.

Sec. 2-2-3 Hearing Board.

(a) The Mayor and Council, in lieu of conducting a hearing directly, may appoint a Hearing Board to hear evidence and make a final determination as to whether the official shall be removed from office. The Hearing Board shall be composed of three impartial persons, each of whom shall (i) be either an attorney licensed to practice law in Georgia or a city manager, (ii) possess no less than 10 years' experience in local government, and (3) not be involved in any current official capacity with the City of Morrow.

(b) Members of the Hearing Board shall be compensated at the rate of \$____ per day, with a maximum of \$___ per hearing.

(c) In the event a Hearing Board is constituted, any action taken by a majority of the Hearing Board shall be considered final action of the Board.

Sec. 2-2-4 Hearing on charges.

(a) Hearing on the charges shall be convened at such time, day and place as described in the notice of hearing. The Hearing Board, if such a board is conducting the hearing, shall designate one of its members as a Chairperson to preside over the hearing. The hearing of evidence shall be open to the public.

(b) At the public hearing, the official charged shall be entitled:

- (1) to be represented by privately retained counsel of his or her choice,
- (2) to present his or her case or defense by oral or documentary evidence, to be given under oath or by affirmation;
- (3) to submit rebuttal evidence; and
- (4) to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(c) Any oral or documentary evidence may be received, but the Hearing Body as a matter of policy shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. The Hearing Body shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.

(d) A full record of the hearing shall be prepared and maintained by the City, which record shall be open to the public and available for inspection. Any person may request a copy of the record upon payment of the full cost thereof.

(e) The City Attorney may serve as legal advisor to the Hearing Body.

(f) Upon conclusion of the hearing, the Hearing Body shall deliberate upon the evidence presented. Deliberations shall be closed to the public. The Hearing Body shall make findings of fact based on the evidence presented. Where the Hearing Body determines, by a preponderance of the evidence, that the official has committed the conduct as alleged in the notice, the decision shall be for removal. Where the Hearing Body determines the official has not committed the alleged actions by a preponderance of the evidence, the action shall be dismissed.

(g) The Hearing Body shall prepare a written decision, including findings of fact, its conclusions and its final decision. A copy of the notice shall be provided to the official upon its completion by either hand delivery or certified mail. The Hearing Body's notice shall be a final action of the City.

Sec. 2-2-5 Appeals.

An official disputing the action of the Hearing Body shall have 30 days to appeal the decision to Superior Court of Clayton County by writ of certiorari.

Sec. 2-2-6 Definitions.

For the purpose of this Chapter the following terms shall have the meanings respectively ascribed to them:

(1) "Hearing Body" shall mean either the Mayor and Council or a Hearing Board designated pursuant to Section 2-2-4 by the Mayor and Council and designated to act in the Mayor and Council's stead.

(2) "Official" shall mean the elected official or officer appointed pursuant to the City Charter against whom removal is sought prior to the expiration of that official's term of office.

Section 2. It is the intent of this Ordinance to serve as a general process for removal of all officials subject to that action as well as to govern procedures for the hearing of removal charges against Council Member John Lampl pursuant to the City Council's action of Nov. 23, 2010. To the extent that probable cause has already been found by the Mayor and Council as a result of a report prepared by Elarbee Thompson, the intent of this Ordinance is to utilize that finding and proceed with further steps in the removal process.

Section 3. All ordinances and parts of ordinances in conflict with this Ordinance are, to the extent of conflict, hereby repealed.

Section 4. Should any words, phrases, sentences or paragraphs of this Ordinance be declared invalid by a court of competent jurisdiction, such ruling shall not affect the remaining words, phrases, sentences or paragraphs of this Ordinance, but the offending provisions shall be severed from the remainder to the extent allowable by law.

Section 5. This Ordinance shall be effective immediately upon its adoption.

So Ordained this _____ day of _____, 2010.

Jim Millirons, Mayor

Attest:

Evyonne Browning, City Clerk

Prepared by:

Laurel Henderson, City Attorney

(Seal)

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF MORROW, GEORGIA; TO REVISE THE STANDARDS FOR
OUTDOOR WATERING OF LANDSCAPE.**

WHEREAS, the City of morrow (hereinafter “City”) recognizes an imminent need to create a culture of water conservation and to plan for water supply enhancement during future extreme drought conditions and other water emergencies;

WHEREAS, reasonable restrictions on the outdoor watering of landscape are necessary to address this in furtherance of addressing this need;

WHEREAS, the General Assembly of the State of Georgia has required all counties/cities in Georgia to adopt an ordinance to be in effect no later than January 1, 2011 to allow outdoor watering of landscape to between the hours of 4:00 p.m. and 10:00 a.m. (with certain exceptions); and

WHEREAS, pursuant to O.C.G.A. § 12-5-7, the Mayor and City Council have prepared an ordinance to address outdoor watering of landscape.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Governing Authority of the City of Morrow, Georgia:

“Sec. 1. Restriction on Outdoor Water of Landscape. Outdoor watering for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants may occur only between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation upon the following outdoor water uses:

(A) Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aqua cultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;

(B) Capture and reuse of cooling system condensate or storm water in compliance with applicable state guidelines;

(C) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations;

(D) Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;

- (E) Watering personal food gardens;
- (F) Watering new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- (G) Drip irrigation or irrigation using soaker hoses;
- (H) Hand watering with a hose with automatic cutoff or handheld container;
- (I) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (J) Watering horticultural crops held for sale, resale, or installation;
- (K) Watering athletic fields, golf courses, or public turf grass recreational areas;
- (L) Installation, maintenance, or calibration of irrigation systems; or
- (M) Hydro seeding.

Sec. 2. Enforcement.

- (a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in ordinance.
- (b) The City of Morrow's Code Enforcement and Police Department shall be the enforcement authority for this ordinance. The City Manager may also authorize other departments as may be deemed necessary to support enforcement.
- (g) Criminal and alternative penalties. Any violation of this section may also be enforced by a citation or accusation returnable to the municipal court or by any other legal means as set forth in this Code.

Sec. 3. Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are, to the extent of such conflict, hereby repealed.

Sec. 4. Effective Date. This ordinance shall be effective upon the date of adoption.

So Ordained this 14th day of December, 2010.

Jim Millirons, Mayor

Attest:

Evyonne Browning, City Clerk
(Seal)

A RESOLUTION AUTHORIZING THE CITY OF MORROW TO PREPARE AND PRESENT AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FROM CLAYTON COUNTY HOUSING AND COMMUNITY DEVELOPMENT PROGRAM AND IN ACCORDANCE THEREWITH ACCEPT GRANT FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT PROGRAM-FY 2011; THIS RESOLUTION AUTHORIZES THE MAYOR TO EXECUTE THE APPLICATION, AND CITY STAFF TO OTHERWISE PERFORM ALL ACTS NECESSARY TO ACCOMPLISH THE INTENT OF THIS RESOLUTION; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Morrow, through the Community Development Block Grant (CDBG) Entitlement Program-FY 2011, will submit to the Clayton County Housing and Community Development Program, its Grant Application to provide funding for program services to be used in connection with the Community Development Block Grant (CDBG) Entitlement Program FY 2011 for an approved project; and

WHEREAS, the Council Members have approved the Grant Application; and

WHEREAS, the Mayor and Council Members deems it in the best interest of the City of Morrow to meet the National Objectives and Eligible Activities for Entitlement Communities, and the City of Morrow will agree to meet the requirements of the Clayton County Housing and Community Development Program for the stated purpose.

NOW THEREFORE, BE IT RESOLVED that the Council Members of the City of Morrow hereby authorizes the City to submit a Grant Application to the Clayton County Housing and Community Development Program, and in accordance therewith accept Grant Funds for the Community Development Block Grant (CDBG) Entitlement Program-FY 2011. The Council Members hereby authorize the Mayor approve the Application, and otherwise direct City Staff to perform all acts necessary to accomplish the intent of this Resolution.

THIS RESOLUTION shall be in full force and effect immediately upon and after its final passage.

So resolved this 14th day of December, 2010.

Jim Millirons, Mayor

Attest:

Evyonne Browning, City Clerk
(Seal)