



# CITY OF ATLANTA

## BOARD OF ETHICS

Shukura Ingram Millender, Chair  
Brent Adams, Vice-Chair  
Carol Snype Crawford  
Jessica Stern  
Patricia Upshaw-Monteith  
Kate Wasch  
Kai Williamson

68 MITCHELL STREET SW, SUITE 12130  
ATLANTA, GEORGIA 30303-0312  
(404) 330-6286  
FAX: (404) 658-6077

## ETHICS OFFICE

Nina R. Hickson, Ethics Officer  
[ethicsofficer@atlantaga.gov](mailto:ethicsofficer@atlantaga.gov)

April 3, 2015

The Honorable Keisha Lance Bottoms,  
Council Member, District 11  
68 Mitchell Street, 4<sup>th</sup> Floor  
Atlanta, Georgia 30303

**SUBJECT:** April 1, 2015 Request for Ethics Opinion

Dear Council Member Bottoms:

I am writing this letter in response to your request for an ethics opinion regarding the following question:

*Would a sitting member of the Atlanta City Council's appointment and service as Interim Executive Director, and potentially, permanent Executive Director of the City of Atlanta and Fulton County Recreation Authority constitute a per se conflict of interest under the City's Ethics Code?*

### **CONCLUSION:**

My review of the Code indicates that there is no per se conflict of interest under the City's Ethics Code that would prohibit this appointment.

### **ANALYSIS:**

The Atlanta Fulton Country Recreation Authority ("AFCRA") is an entity created by an act of the Georgia General Assembly in 1960. It was created and authorized to "obtain, construct, equip,

maintain and operate sports and recreation facilities; acquire, lease and sell property; and issue revenue bonds or obligations. Pursuant to Article IV of the Bylaws of the AFCRA, the board is composed of nine (9) members: six (6) of these members are appointed by the Mayor of the City of Atlanta and three (3) are appointed by the Fulton County Board of Commissioners. The AFCRA Board hires and determines the terms of employment of an Executive Director, who is responsible for the day-to-day operations of AFCRA.

Funding for the AFCRA is derived from the revenue generated by the properties which are overseen by the Authority. (Ga. L. 1996, p.3791 Section 25) There is no city funding provided for the operations of the AFCRA with the exception of occasional fees derived from the issuance of revenue bonds on the City's behalf. (Ga. L. 1937, p.761 *et seq.*) The AFCRA issues revenue bonds for which it can serve as a conduit borrower for the City or the County. In those transactions, the AFCRA receives fees from the borrowers. Additionally, neither the Mayor nor the City Council is involved in the day-to-day operations of AFCRA, which includes the hiring and supervision of its Executive Director. Also, neither the City nor the Mayor approves the budget of this entity.

The provision of the Ethics Code that may be implicated in this scenario is Section 2-820(b) which states the following:

*No official or employee shall engage in or accept private employment or render services for private interests when such employment or service is adverse to and incompatible with the proper discharge of official duties of the official or employee.*

A careful evaluation of the activities and interests of the AFCRA and the City of Atlanta does not reveal a patent or *per se* conflict of the interest between these two entities that would prohibit a sitting City Council member from serving as Executive Director of AFCRA. On the occasions that matters involving AFCRA would come before the City Council for a vote, the City Council member who serves as Executive Director would need to disclose the potential conflict of interest, refrain from participating in any discussion or recuse oneself from the vote. See Section 2-813(a) of the Atlanta Code of Ethics.

This situation is distinguishable from the situations contemplated by the Atlanta Charter and Code of Ordinances which requires a one year "cooling off" period between the time a former elected official can serve as an employee of the City, unless waived by a  $\frac{3}{4}$  vote of the City Council. See Section 5-404 of the Charter. Additionally, AFCRA differs from the Atlanta Development Authority, now known as Invest Atlanta, in that although Invest Atlanta is an authority, it exists solely for the purpose of carrying out economic development activities on behalf of the city. Also, Invest Atlanta is largely funded by the City.

Although the Ethics Code may not prohibit a sitting Council member from serving as Executive Director of AFCRA, a complete ethical analysis of this issue requires the Council person as well as the AFCRA Board to evaluate whether this arrangement creates an appearance of impropriety or causes a reasonable taxpayer to question whether the interest of a Council Member serving in this position impairs that person's ability to act in the best interest of the City. The Ethics Code does not specifically regulate "appearances of impropriety."

Sincerely,



Nina R. Hickson,  
Ethics Officer