

February 13, 2007

DEKALB COUNTY BOARD OF ETHICS
ADVISORY OPINION NUMBER 10
(Request of DeKalb County
Commissioner Appointee Gary A. Cornell,
Planning Commissioner, District 2)

The DeKalb County Board of Ethics met on Tuesday, 13 February 2007 for its regularly scheduled meeting and at the time considered the request of Planning commissioner Gary A. Cornell for Advisory Opinion.

Gary A. Cornell is a DeKalb County Planning Commissioner, District 2. Commissioner Cornell requested an Advisory Opinion concerning his conduct as a person with an employment interest in Jordan, Jones and Goulding, Inc. ("JJG") and with respect to that firm's interest in the government activities, contracts, procurement and property development of DeKalb County during that time when Commissioner Cornell is a Planning Commissioner for District 2. It is anticipated that JJG, will from time to time continue to seek contracts and employment opportunities with and for DeKalb County as well as certain property developers in DeKalb County, seeking action upon development plans from the Planning Commission of DeKalb County.

In the 16 January 2007 request for an advisory opinion, that is made a part of this opinion by attachment, it is noted that there is no notation that any payments on any projects or matters of procurement with or for DeKalb County is outstanding and owing to or received by Commissioner Cornell relating to his employment or involvement with JJG.

The provisions of the DeKalb County Code of Ethics that is controlling of this issue is §§ 22A©(2), 22A©(3) and 22A©(5), which states in pertinent part that:

"No member of the governing authority shall:

- (2) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself or another person if: (i) it tends to influence him in the discharge of his official duties; or (ii) he recently has been, or is now; or in the near future may be, involved in any official act or action directly affecting the donor or lender*
- (4) Appear on his own personal behalf, or represent, advise, or appear on the personal behalf of, whether paid or unpaid, any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee of the state or of any county or municipality concerning any contract or transaction which is or may be the subject of an official act or action of DeKalb County, or otherwise use or attempt to use this official position to secure unwarranted privileges or exemptions for himself or other persons;*

- (5) *Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of his official duties. For the purposes of this paragraph, the employment of a consultant by any businesses involving matters unrelated to any contract or transaction by or with DeKalb County shall not be deemed incompatible with such consultant's official duties"*

The Board considered the nature and circumstances of the interest of Commissioner Cornell in his employment or interest in JJG and as relates to his official activities for the Planning Commission. The Board of Ethics considered the remedy for the factual scenario set forth in the 16 January 2007 request for the advisory opinion and determined that the remedy is the application of Ethics Code Sections (d) & (e) of the Code.

Sections (d) and (e) provide certain requirements for alleviating ethical violations and the appearance of impropriety or conflict of interest as contemplated by 22A (c) (1).

Subsection (e) proscribes conflicts of interest as contemplated by subsection (c) (1), et. seq. and provides a remedy for avoidance, to wit:

A member of the governing authority shall disqualify himself from participating in any official act of action of DeKalb County directly affecting a business or activity in which he has any interest, whether or not a remote interest.

Subsection (d) requires that where such interest or the appearance of conflict may appear:

A member of the governing authority who has an interest that he has reason to believe may affect his official acts or actions or by the official acts or actions of the governing authority of DeKalb County shall disclose the precise nature and value of such interest by sworn written statement to the Board of Ethics and ask for its opinion as to the propriety of said interest. Every member of the governing authority who knowingly has any interest, direct or indirect, and any contract to which DeKalb County is or is about to become a party, or any other business with DeKalb County shall make full disclosure of such interest to the governing authority of DeKalb County and to the Board of Ethics. The information disclosed by such sworn statements, except for the valuation attributed to the disclosed interest, shall be made a matter of public record for the Board of Ethics. (Emphasis added).

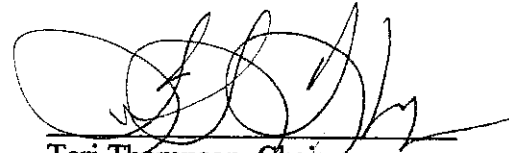
The Board concluded that a conflict of interest will not be created under 22A(c)(1) (2) (3) (4) and/or (5), as relate to the 16 January 2007 request by Commissioner Cornell, if:

Commissioner Cornell disqualifies himself from participating in any official act or action of DeKalb County which directly affects a business or activity in which he has an interest, whether or not a remote interest. Through full disclosure and disqualification as set forth below. Furthermore, it would not be an ethical violation for Commissioner Cornell to receive remuneration from JJG relative to his work on that entities business if as respects his official duties and the issues before the Planning Commission he abides by the directive below.

Therefore, the Board finds that Commissioner Cornell will be in compliance with the

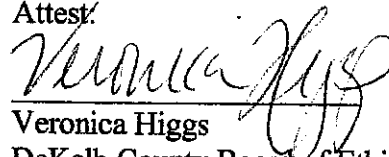
DeKalb County Code of Ethics if he:

- (1) Absent himself from any meetings, investigations, interviews, communications or discussions of the Planning Commission and/or meetings of the Board of Commissioners of DeKalb County during such time as any transaction, contracts, consultations, planning, sketch plans or issues concerning services of JJG, its agents, representatives, affiliates, subsidiaries or assigns is under consideration for DeKalb County activities;
- (2) Disqualify himself from voting as a member of the Planning Commission on any matters related to any and all transactions or services, remote or not remote, that may relate to services provided by JJG, its agents, representatives, affiliates, subsidiaries or assigns, and from participating in any discussions with the Planning Commission and/or Board of Commissioners concerning same.
- (3) The Board also concluded that Commissioner Cornell should, pursuant to section (d) fully disclose to the governing authorities any interest that he may have reason to believe may be or appear to affect his official acts or actions as a representative in the governing authority, including, but not limited to any interest he may have by reason of his association or employment with JJG as to matters under consideration by the Planning Commission or the Board of Commissioners and from which he has recused and disqualified himself. In this regard, he is to provide the precise nature, if any, of any such interest, direct or indirect. The directive, pursuant to (d), is that he shall make sworn (notarized) full disclosure of such interest to the governing authority of DeKalb County to the Board of Ethics. The information disclosed by such sworn statements, except as to value attributed to the disclosed interest, shall be made a matter of public record with the Board of Ethics.



Teri Thompson, Chair
DeKalb County Board of Ethics

Attest:



Veronica Higgs
DeKalb County Board of Ethics