CITY OF CENTERVILLE
COUNTY OF HOUSTON
STATE OF GEORGIA

Ordinance No. 2010-3

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF "CENTERVILLE" GEORGIA RE-ADOPTING CITY ORDINANCE, ARTICLE II, CHAPTER 2, SECTIONS 2-34 THROUGH 2-50, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS the Mayor and Council of the City of Centerville may, as allowed by the laws of the State of Georgia and as authorized by City Code Section 1-5(b) "Amendments to Code", amend the Centerville Code of Ordinances; and

WHEREAS the Board of Directors of the Georgia Municipal Association has established a Certified City of Ethics program; and,

WHEREAS the City of Centerville is certified as a Certified City of Ethics under the GMA Program; and,

WHEREAS part of the certification process requires the Mayor and Council to subscribe to the ethics principles approved by the GMA Board; and,

WHEREAS Mayor John R. Harley has not previously served as a member of the Centerville governing authority; and

WHEREAS the City of Centerville desires that all newly-elected Council members join in this commitment to ethics in local government; then

THEREFORE BE IT ORDAINED by the governing authority of the City of Centerville, Georgia, that as a group and as individuals, the governing authority subscribes to the following five ethics principles and pledges to conduct its affairs according to those principles and amends ethics ordinance as follows:

FIVE PRINCIPLES

1. Serve Others, Not Ourselves
2. Use Resources with Efficiency and Economy
3. Treat all People Fairly
4. Use the Power of Our Position for the Well Being of Our Constituents
5. Create an Environment of Honesty, Openness and Integrity

ARTICLE II. MAYOR AND COUNCIL*

DIVISION 2. ETHICS CODE*

Sec. 2-34. Intent.

It is essential to the proper administration and operation of the city that the members of its governing authority be, and give the appearance of being independent and impartial; that public office not be used for private gain; and that there be public confidence in the integrity of the city governing authority. The governing authority finds that the public interest requires that they protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of the members of the governing authority in situations where a conflict may exist.

Sec. 2-35. Definitions.

As used in this division, the term:

Complaint means a written sworn statement filed with the Mayor or the Mayor Pro Tem and the City Clerk's office containing specific allegations of misconduct by a member; provided, however, such allegations must be filed within six (6) months of discovery of the alleged misconduct.

Governing authority or *member of the governing authority* means the mayor or any councilmember of the city.

Interest means any direct pecuniary benefit, which is not a remote interest, held by or accruing to a member of the governing authority as a result of a contract or transaction which is or may be the subject of an official act or action by or with the city. A member of the governing authority shall be deemed to have an interest in transactions involving:

(1) Any person in the member's immediate family;

(2) Any person with whom a contractual relationship exists whereby the member may receive any payment or other benefit, unless the member is receiving a benefit for goods or services in the normal course of business for which the member has paid a commercially reasonable rate;

(3) Any business in which the member is a director, officer, employee or shareholder, except as otherwise provided herein; or

(4) Any person of whom the member is a creditor, whether secured or unsecured.

Sec. 2-36. Prohibitions.

No member of the governing authority shall:

(1) By conduct, give reasonable basis for the impression that any person can improperly influence or unduly enjoy favor in the performance of official acts.

(2) Directly or indirectly request, exact, receive or agree to receive a gift, loan, favor, promise or thing of value for him/herself or another person if it could reasonably be considered to influence the member in the discharge of official duties.

Subsection 2 shall not apply in the case of:

1. An occasional non-pecuniary gift of insignificant value;

2. An award publicly presented in recognition of public service;

3. A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of Georgia to engage in the making of such a loan or financial transaction;

5. Campaign contributions made and reported in accordance with state law.

(3) Disclose or otherwise use confidential information acquired by virtue of his/her official position for his/her or another person's private gain.

(4) Use his/her official position to attempt to secure privileges that are not available to the general public.

(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 official duties.

Subsection 5 shall not apply to a member of the governing authority who is a licensed professional and appears on behalf of any applicant in such professional capacity so long as disclosures required by section 2-37 are made to the governing authority not less than thirty (30) days prior to any action being taken, and the member is associated with the project at the time the initial application is filed.

(6) Engage in any activity or transaction that's is prohibited by law now existing or hereafter enacted which is applicable to him/her by virtue of being a member of the governing authority.

(7) Use his/her position to request or require an employee to:

a. Do clerical work on behalf of the member's family, business, social, church or fraternal interest when such work is not furthering a city interest;

b. Perform any work outside the employee's normal course of municipal employment; and

d. Work for the member personally without paying the employee just compensation.

(8) Use government property of any kind for other than officially approved activities, nor shall he/she direct employees to use such property for any purposes other than those officially approved.

(9) Use his/her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to himself/herself or any other person.

Sec. 2-37. Disclosure of conflicts of interest.

(a) An appointed member of the governing authority who has interest that he/she has reason to believe may be affected by his/her official acts or actions or by the official acts or actions of the governing authority shall disclose the precise nature of any such interest by sworn written statement submitted to the City Clerk not

less than thirty (30) days prior to the governing authority's taking official action on a matter affecting such interest and shall abstain from discussion and voting on such matters.

(b) An elected member of the governing authority who has interest that he/she has reason to believe may be affected by his/her official acts or actions or by the official acts or actions of the governing authority shall disclose the precise nature of any such interest by written or verbal statement submitted to the Mayor or Mayor Pro Tem at the time such matter is presented to the mayor and council for discussion. Such statements shall be recorded into the minutes of the meeting and thus become part of the public record.

(c) Following any disclosure made pursuant to this section, the member shall refrain from all ex-parte communications with other members regarding the matter in which he/she has an interest.

(d) A member who has an ongoing relationship with a business or individual arising out of the normal course of commerce for which such member receives compensation at a commercially reasonable rate shall disclose such relationship if the city has or can be reasonably anticipated to purchase goods or services from such business or individual. A disclosure of such relationship shall be made once each year during the month of January on a disclosure form provided by the city clerk. Such disclosure forms shall describe the nature of the relationship, the member and other parties in the relationship and the financial interest of the member in such relationship. Such disclosure forms shall be kept on file in city hall by the city clerk and shall be made available upon request to any member of the public.

Sec. 2-38. Disqualification.

A member of the governing authority shall disqualify him/herself from participating in any official act or action of the city which results in a pecuniary benefit to the member, or a business or activity in which he/she has an interest, when such benefit is not available to the public at large.

Sec. 2-39. Prohibited contracts.

The city shall not enter into any contract involving services or property with a member of the governing authority or with a business in which a member of the governing authority has an interest. This section shall not apply in the case of:

(1) The designation of a bank or trust company as a depository for city funds.

(2) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest in the community for such loans.

(3) Contracts entered into in accordance with O.C.G.A. 16-10-6.

(4) Contracts entered into with a member of the governing authority, or with a business in which a member of the governing authority has an interest, provided that such contract is the result of a competitive bid and disclosure of the nature of such member's interest is made prior to the time any bid is submitted.

Sec. 2-40. Restrictions on contracts with former members of the governing authority.

The city shall not enter into any contract with, or take any official act or action favorably affecting any person, or business represented by such person, when such person has been a member of the governing authority within the 12-month period preceding such action, except when the city had contract with such person or business prior to the member leaving office subject to Subsection 2-39(4) and the member did not represent the business in its discussions with or submissions to the mayor and council.

Sec. 2-41. Complaints

(a) Any person having a complaint against any member of the governing authority for an alleged ethics violation shall file in writing a verified complaint setting forth the particular facts and circumstances which constitute the alleged violation against the governing authority member. The complaint shall be filed with the City Clerk's office and the Mayor, or in the event the complaint is against the Mayor, shall be filed with the Mayor Pro Tem.

(b) Upon receipt of a complaint received under this Section, the Mayor, or in the event the complaint is against the Mayor, then the Mayor Pro Tem, shall appoint two members of council, who, along with the city attorney, shall constitute an investigation committee to determine whether the complaint sets forth significant facts and circumstances so as to warrant a hearing before the board of ethics. In the event the complaint does not set forth sufficient facts to constitute an alleged violation and is found unjustified, frivolous or patently unfounded, it shall be dismissed and the complainant notified immediately. In the event the complaint is found to state sufficient facts to warrant a hearing before the board of ethics, the board shall be appointed as provided in Section 2-42.

Section 2-42. Board of ethics.

(a) Composition of the board of ethics:
   (1) The board of ethics of the city shall be composed of five (5) residents of the city, one (1) appointed by the Mayor and one (1) appointed by each member of the council. Such board will elect one (1) of its members to serve as chairman.
   (2) The members of the board of ethics shall serve without compensation. The governing authority of the city shall provide meeting space for the board of ethics. Subject to budgetary procedures and requirements of the city, the city shall provide the board of ethics with such supplies and equipment as may be reasonably necessary for it to perform its duties and responsibilities.

(b) The board of ethics shall have the following duties and powers:
   (1) To establish procedures, rules and regulations governing its internal organization and conduct of its affairs;
   (2) To hold a hearing within thirty (30) days after the receipt of a complaint from the investigating committee established in Section 2-41(b).
   (3) To prescribe forms, approved by the city attorney, for the disclosure required in this chapter and to make available to the public any information disclosed as provided in this section.
   (4) To receive and hear complaints of violations of the standards required by this chapter.
   (5) To make such investigation and response to a complaint as it deems necessary to determine whether any person has violated any provisions of

this chapter following referral of a complaint by the investigation committee established in Section 2-41(b).

(6) To hold such hearings and make such inquiries as deemed necessary to rule on complaints.

(7) To report its finding to the governing authority for such action as the governing authority deems appropriate.

Section 2-43. Service of complaint, hearings and disposition of complaints.

The board of ethics as appointed herein, shall cause the complaint to be served on the member of the governing authority charges as soon as practicable. Service may be by personal service or by certified mail, return receipt requested. A hearing shall be held within thirty (30) days after referral to the board of ethics by the investigating committee established in Section 2-41(b), but in any event, not less than sixty (60) days after the filing of a complaint as set forth in Section 2-41(a). The board of ethics shall conduct the hearing in accordance with the procedures and regulations it establishes but, in all circumstances, the hearing shall include the taking of testimony and the cross-examination of witnesses. The hearing shall be informal and the rules of evidence shall not apply. The decision of the board of ethics shall be rendered to the Mayor and Council within five (5) business days after completion of the hearing.

Sec. 2-44. Penalty and member rights.

(a) Any member of the governing authority who knowingly violates any provision of the code of ethics provided for in this Division shall be subject to public reprimand or censure by the governing authority of the city.

(b) At any hearing held under subsection (b) of this section, the member of the governing authority who is adversely affected shall have the right to written notice of the allegations at least ten (10) business days before a hearing, to be represented by counsel, to hear and examine the evidence and witnesses, and to present evidence and witnesses in opposition or in extenuation.

Sec. 2-45. Appeals.

(a) Any member of the governing authority or the complainant adversely affected by the findings of the board of ethics may obtain judicial review of such decision as provided in this section.

(b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Houston County within 30 days after the decision of the city council becomes final.

Secs. 2-46 through 2-50. Reserved.

CONFLICTING ORDINANCES: In the event that any ordinance, or any part thereof, of the City of "Centerville", Georgia is in conflict herewith, this ordinance shall have preference.

SEVERABILITY: If any provisions of this ordinance be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this ordinance are declared to be severable.

SO ORDAINED, this 2nd day of March, 2010, by vote of the Governing Authority at a regular, open meeting of the Mayor and Council of Centerville with a quorum being present at the meeting.

CITY OF "CENTERVILLE", GEORGIA

BY: _____

MAYOR JOHN R. HARLEY

_____

COUNCILMAN

_____

COUNCILMAN

_____

COUNCILMAN

_____

COUNCILMAN

ATTEST: _____

KRISTA BEDINGFIELD, CITY CLERK