THE CITY OF DORAVILLE
AGENDA ITEM SHEET

Subject: Adopt as Ordinance Hearing Procedures

Date of Meeting: _____

Budget Impact: ☐ Yes ☒ No

Budget Impact Amount: $ n/a

Funding Source:

- ☐ Annual
- ☐ Capital
- ☒ N/A

Regular Meeting ☒
Work Session ☐
Recommendation ☐
Policy/Discussion ☐
Report ☐
Other ☐

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Action Requested: Pass ordinance including previous adopted hearing procedures into Employee Manual.

History, Facts, Issues: Council decided to adopt employee appeal hearing procedures in August, 2010. This ordinance modifies the personnel policy to include the same.

Options: Adopt the procedures as an ordinance or do not.

Recommended Action: Adopt the procedures.

Department: Human Resources **Department Head:** Clerk

Administrative Comments and Recommendation: _____

Action Taken By Board: _____

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2010-____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA AS AMENDED TO AMEND SECTIONS 2-240 THROUGH 2-242, PERSONNEL HANDBOOK SECTION 10.3.3(E), ARTICLE IX PERSONNEL POLICIES, CHAPTER 2 ADMINISTRATION; TO PROVIDE SEVERABILITY; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the City of Doraville, Georgia desires to foster a healthy, efficient, and productive work environment for its staff in their mission to serve the interests of the citizens of the City;

WHEREAS, the City has a duly adopted personnel policy ordinance and corresponding employee manual;

WHEREAS, on August 23, 2010 the Mayor and Council adopted a policy for the conduct of appeals of terminations and inducements to resign;

WHEREAS, after due deliberation the Mayor and Council have elected to adopt a revision to the personnel ordinance and corresponding manual in order to update and keep current employment policies for the benefit of City employees and management; and

WHEREAS, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1.

That the Code of Ordinances, City of Doraville, Georgia is hereby amended by adding a section to be numbered Article IX, Personnel Policies, Chapter 2, Administration, Section 2-240 through 2-242, which said section reads as follows:

"Chapter 2. Administration.

. . .

Article IX. Personnel Policies.

Sec. 2-240. Adoption.

The provisions entitled "City of Doraville Employee Manual Adopted by Ordinance June 15, 2009. Adopted June 29, 2009, Effective Date July 1, 2009" consisting of eleven (11) sections, each inclusive, is re-adopted in its entirety in this article with the following section being amended on September 20, 2010. A copy of said code provision is maintained in the office of the City Clerk.

Sec. 2-241. Repealer.

All ordinances concerning personnel policies and procedures enacted on or before June 15, 2009 and not included in the aforesaid City of Doraville Employee Manual, or recognized and continued in force by reference therein, are hereby repealed.

Sec. 2-242. Prior policies and revisions.

(a) Policies not revived. The repealer provided for in section 2-241 above shall not be construed to revive any personnel policy, procedure, or part thereof that has been repealed by a subsequent personnel policy, or procedure that is repealed by this article.

(b) Revision dated September 20, 2010.

Section 10.3.3 Complaint Procedure.

. . .

E. <u>Procedures for Employee Complaint Hearings.</u>

1. *The employee is allowed to be represented by counsel at the public hearing before the City Council if he or she so chooses.*

2. *Neither the employee nor the City has the power to subpoena witness attendance.*

3. *The hearing opens with a reading to the parties of the procedural rules by the City Attorney.*

4. *Witnesses will be sworn or affirm under oath or affirmation.*

5. *The employee begins by giving a short opening statement of five minutes or less.*

6. *The City's representative then gives a short opening statement of five minutes or less.*

7. *The employee is allowed to testify, and to present any witness testimony that he or she can. Irrelevant testimony about an employee's general character or general work habits will not be allowed. Testimony should be restricted to that which directly bears upon the alleged offense upon which the termination or forced resignation is based.*

8. *The City's representative is allowed to testify, and to present any witness testimony that he or she can.*

9. *Cross-examination of witnesses will be allowed.*

10. *The formal rules of evidence will not apply. Objections should only be made as to the relevance of evidence presented, the harassment of witnesses, the possible duplication of evidence, and potentially privileged matters.*

11. *The Mayor and Members of the City Council may ask questions of witnesses when each witness is presented.*

12. *The City Council can receive and consider any relevant documents, in addition to the witness testimony.*

13. *The presentation concludes with a short five minute closing statement by the employee and then the same by the City's representative.*

14. *The Council then deliberates on the evidence, and takes a vote. The Georgia Open Meetings Act allows the deliberation of the City Council to occur in executive session. The remainder of the hearing must be conducted in public.*

. . ."

Section 2.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,

clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

Penalties provided for violations of this Ordinance as may be relevant are set out in Section 1-12, as amended, of the Code of Ordinances, City of Doraville, Georgia and are hereby incorporated as if set out fully.

Section 4.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 6.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

Section 7.

It is in the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 8.

This Ordinance shall become effective on September 20, 2010.

SO ORDAINED, this _____ day of _____, 2010.

CITY OF DORAVILLE

_____

Ray Jenkins, Mayor

First Reading

Second Reading

ATTEST:

_____(SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

_____
Murray J. Weed, City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Donna Pittman	☐	☐
Bob Roche	☐	☐