

**IN THE CITY OF FOREST PARK
STATE OF GEORGIA**

Kimberly James, Complainant)	
)	ETHICS COMPLAINT
)	
vs.)	2022-01 Kimberly James
)	
Latresa Akins-Wells, Councilwoman)	

HEARING OFFICER REPORT AND RECOMMENDATION

Pursuant to the *City of Forest Park Revised Code of Ethics Ordinance*, the undersigned hearing officer was appointed, and the matter came on for hearing on February 3, 2022, at Forest Park City Hall. The above parties and various other individuals testified under oath and several members of the community attended the hearing.

COMPLAINT AND TESTIMONY

The complaint submitted by Kimberly James, a fellow councilwoman, arises from a Facebook video that was published by Wells-Atkins on September 22, 2021. A transcript of Akins-Wells' monologue video was attached to the Complaint. James alleges that Akins-Wells' statement erodes the confidence of the public in government, undermines staff, discloses confidential information, and contains a number of false claims and defamatory statements.

Alternatively, Akins-Wells counters that she has a right of freedom of speech and such statements were not made by her in her role an elected official but individually.

During her testimony, James highlighted eleven (11) statements uttered by Akins-Wells which she argues amounts to an ethics violation under the City's Code. These include but are not limited to: (1) that City Manager Cooper instructed the Police Chief to investigate Councilwoman Akins-Wells and was pursuing other investigations; (2) that several councilmembers and the

Mayor were scheming to remove her from office; (3) that individuals that are friends with Councilwoman Akins-Wells and are employed by the City were being terminated; (4) that council members' efforts in passing an amended ethics ordinance was a plot or means to restrict Akins-Wells; (5) that Mayor Butler has not undertaken any efforts to expand job opportunities for citizens; (6) that the existing elected officials do not care about their constituents; and (7) allegations about her husband's employment. James also charged that Akins-Wells disseminated or mentioned confidential information that was discussed during an executive session concerning a legal claim against the City involving the Police Chief.

Mayor Butler testified as to her reaction of the Facebook post and the lack of veracity of the various allegations. She stated she had heard from several constituents and said the accusations had damaged the City. She also detailed her efforts to notify the public about job opportunities in contradiction to Akins-Wells' statement. Former City Manager Barker testified that he was not forced to hire Akins-Wells' husband or daughter. Cassandra Thomas, a former council aide, testified as to the strained relationship between Akins-Wells and the Mayor and that employees often felt that they were forced to take sides out of fear of retaliation. She further stated that it was her belief she failed to receive a raise or advancement because of her relationship with Councilwoman Akins-Wells.

While the testimony of these three individuals provides context of the existing acrimony between elected officials, the testimony generally did not bear directly on the statements made during the Facebook post or was dispositive of the matter.

In her closing argument, Akins-Wells stated that she may be outspoken, but she is passionate for her community and has the unfettered right to investigate anything in her capacity as an elected official. James countered that the remarks in the video were blatantly false and hurt

the city and its staff.

DECISION AND RECOMMENDATION

Much discussion took place by the parties regarding the public/private nature of the Facebook account. James pointed out that the Facebook account identified Akins-Wells as a “Councilwoman of Forest Park” while Akins-Wells asserted that it functioned as her private account. While this distinction may be important under certain facts and circumstances, it is not in this case. Here, Councilwoman Akins-Wells was commenting on matters directly related to Forest Park and its governance including employees and fellow elected officials. The mode of communication does not shield an individual from a violation if the content of such communication falls under the prohibited conduct set forth in the ordinance.

Private citizens generally have robust first amendment rights in criticizing their government. However, the Mayor and Council of Forest Park voted to be bound by the dictates set forth in its *Ethics Ordinance* and *Code of Conduct*. The *Code of Conduct* addresses conduct and communications by council members with fellow elected officials, employees, and the public-at-large. By way of example, the adopted *Code of Conduct* directs elected officials to practice civility and decorum, avoid personal comments that could offend other governing body members, treat all staff as professionals, refrain from criticizing an individual employee, and to not get involved in administrative functions. It is laudable to hold elected officials to a higher standard which promotes trust and legitimacy in local government amongst its citizens and stakeholders.

Specifically, Section 2-6-5(1) of the *Code of Ethics* provides that

No City Official shall use his position in such a manner as to threaten,
intimidate or humiliate the public or City workforce.

Councilwoman Akins-Wells levied a number of accusations against the staff of the city and fellow councilmembers in her statement. Taken in its totality, the scope and remarks of the Facebook tirade seem to run afoul of the dictates of the *Code of Conduct* and the *Ethics Ordinance*. The *Code of Conduct* provides that an elected official shall “Treat all Staff as Professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior toward staff is not acceptable.” The Code also warns to “Never Publicly Criticize an Individual Employee” and “Avoid Personal Comments that Could Offend other Governing body Members.” The statements of Councilwoman Akins-Wells do seem to rise to the level of the conduct prohibited in Section 2-6-5(l). Forest Park utilizes a professional manager form of government. The City Council sets policy and direction of the City and the Manager, and his staff carries out the Council’s policies. Staff is an important resource in achieving the goals of the body. Derogatory remarks and accusations leveled at staff such as ordering an investigation of an elected official severely undermine staff’s authority and hinders the day-to-day operations of the City. These remarks also fuel inuendo amongst other employees and the community at-large. Moreover, these types of accusations when made to the public only work to harm the City’s reputation and ability to attract quality personnel. Thus, Councilwoman Akins-Wells is harming her own efforts in bringing investment to the community.

The Hearing Officer finds that the totality of the statements contained in the Facebook video and the public manner in which they were uttered equate to a violation under the City’s Ethics Ordinance and a censure or reprimand may be appropriate.¹ What is equally apparent is

¹ The City Council ultimately decides if any penalty is imposed on the elected official, and it is not bound by the Hearing Officer’s recommendation. Section 2-6-12 lists three potential penalties: (a) public reprimand or censure; (b) request for resignation; and (c) removal from office by procedures of the City Charter.

that all of the elected officials testifying before the panel have a passion for the City of Forest Park and further tribalism amongst the councilmembers will do little to advance the city. This passion must be channeled in a constructive manner to allow the city to prosper and build community. Elected officials may zealously advocate for their position, however such advocacy should not be personal in nature and should be civil and grounded in fact.

This 15th day of February 2022.



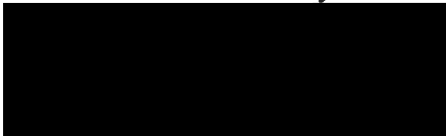
Gregory D. Jay
Georgia Bar No. 389801
P. O. Box 1749
Buford, Georgia 30515



Copies via electronic mail
and regular mail delivery to:

S. Diane White, City Clerk
Dr. Marc-Antoine Cooper, City Manager
City of Forest Park
745 Forest Parkway
Forest Park, Georgia 30297
dwhite@forestparkga.gov
macooper@forestparkga.gov

Councilwoman Kimberly James



Councilwoman Latresa Akins-Wells
City of Forest Park
745 Forest Parkway
Forest Park, Georgia 30297
Lwells@forestparkga.gov

Dr. Lawanda Folami

