

CITY OF JACKSONVILLE



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**ETHICS COMMISSION
MEETING MINUTES**

Wednesday, January 22, 2020

Don Davis Room

City Hall – First Floor

The meeting was called to order by Joseph Rogan, Chair of the Ethics Commission, at 5:06 p.m. A quorum was present.

Commission Attendees: Joseph Rogan, J.J. Dixon, Imani A. Boykin, LaTonya Lipscomb Smith, Mary Bland Love, Ellen Schmitt, Carlton DeVooght and Darcy Galnor. Excused Absence: Dr. George Candler. Other attendees: Carla Miller, Director, Office of Ethics, Compliance and Oversight (“OECO”); Kirby Oberdorfer, Deputy Director, OECO; Cherry Shaw Pollock, Assistant General Counsel, Office of General Counsel (“OGC”); and Sandy Homrighouse, Executive Assistant, OECO.

Public in Attendance:

Executive Council Assistant Taryn Roberts, David Bauerlein – Florida Times-Union and Stanley Scott.

The meeting began with Mr. Rogan leading the attendees in the Pledge of Allegiance and Ms. Miller shared the Ethics Thought.

Minutes Approval:

November 6, 2019 Ethics Commission Meeting minutes: Mr. DeVooght made a motion to approve the minutes. Ms. Boykin seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 7-0.

November 18, 2019 Ethics Commission Ad Hoc Committee Meeting minutes: Ms. Boykin made a motion to approve the minutes. Ms. Smith seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 7-0.

Staff Reports:

OECO: Ms. Miller stated OECO monitors Florida legislation on ethics. The OECO staff conducted ethics training for 120 Public Works department employees and received great feedback. The OECO staff will be training the remainder of the Public Works department employees as well as conducting other ethics training citywide. Also, the OECO staff is working on Ethics Office strategic planning. Once the strategic plan is complete, Ms. Miller will share the plan with the Ethics Commission.

OGC: Ms. Pollock did not have a report for OGC.

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Discussion on Committee Structure Assignments and Reports:

Mr. Rogan asked whether any members wanted to discuss or request reassignment concerning his 2020 committee assignments. No member raised any issue. Mr. Rogan suggested the Commission not meet in February to allow all standing committees to meet in February. Brief discussion followed.

Old Business:

JEA Update: Ms. Miller provided a summary of JEA significant events:

- The naming of new negotiators
- Conflict analysis for negotiators
- Issues about authority of Ethics Director to participate in ITN meetings and legislative ideas to prevent future issues about same
- Atlanta ITN meetings and Sunshine Law issues
- Performance plans
- Smith Hulsey & Busey selected to advise City Council and process for same
- End of ITN
- City Council Investigative Committee
- JEA Senior Leadership Team contracts and terms of same
- OGC is meeting with JEA's Senior Leadership Team about contracts

Dr. Candler commended Ms. Miller's work. Mr. Rogan commented about the various offices and issues involved in the ITN and encouraged Ms. Miller to discuss the contract issues with JEA's Senior Leadership Team so they understand the ethical issues involved with same. Ms. Love asked questions and made comments about the Senior Leadership Team contracts.

Discussion of Legislation Regarding Changes to Sections 602.401 and 602.411: Ms. Miller provided a status update on this legislation, which was introduced in City Council on November 12, 2019. At first, the administration was not in support of this legislation. On December 10, 2019, Ms. Oberdorfer spoke at the City Council meeting on behalf of the Ethics Commission legislation. Ms. Miller commended Ms. Oberdorfer's excellent work and subsequently every City Council member co-sponsored the bill. Ms. Oberdorfer explained the waiver provision changes from the initial bill from Council Member Rory Diamond during Rules Committee, which establishes a committee to decide waiver requests in a transparent manner. Mr. Rogan described the background for this legislation.

New Business:

Mr. Rogan described the public participation procedures for this meeting.

Filing of Form 1 Limited Financial Disclosure Statement: Ms. Miller and Ms. Oberdorfer reminded the Ethics Commission members to file the Form 1 Limited Financial Disclosure Statement by July 1, 2020.

2020 Strategic Planning: Ms. Oberdorfer described the Commission's last strategic planning process in 2017. Mr. Rogan asked the Ethics Commission members to review the goals and to set 2020 strategic plans at the committee level.

2020 Legislative Priorities: Mr. Rogan referred to the document titled "Summary of Ethics Commission Committee Potential Work" a list of pending items and referrals from the November 6, 2019, Ethics Commission meeting. Mr. Rogan asked the Ethics Commission members to review the list and asked the Legislative Committee and Open Government Committee to determine which priorities they want to undertake in those committees. Ms. Miller added she is helping City Council's workshop sessions on JEA's future. Ms. Miller asked for Ethics Commission members to give her suggestions for changes needed in the City Charter. Ms. Miller also mentioned she will suggest that the

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Charter Revision Commission change the charter to require funding for the independent offices, such as OEEO and the Office of Inspector General (“OIG”).

Ethics Director Contract Amendment and 2019-885: Mr. Rogan explained the change to the Ethics Director’s contract which allows flex time over a two week period by removing the restriction limiting the Executive Director to 25 hours per week and allowing the Executive Director regular part-time status (50 hours per pay period). The ordinance was passed by City Council and signed by the Mayor. Ms. Love made a motion to direct Mr. Rogan to execute the amendment to the employment contract between the Executive Director of OEEO and the Commission. Mr. DeVooght seconded the motion. There being no further discussion, Mr. Rogan opened the floor to public comment. No public comment was provided. The motion passed unanimously with a vote of 8-0.

Ethics Director Performance Review: Mr. Rogan referred to the Ethics Director Performance Review. Mr. Rogan said Ms. Miller received superb marks and has done an excellent job. For development, Mr. Rogan said he relayed his suggestions to Ms. Miller that she work on are succession planning and budget goals, including obtaining funding for two full-time ethics officers. Ms. Miller responded that Chair Aaron Bowman asked her to appear before the City Council Finance Committee on February 4, 2020, regarding the OEEO budget and needs. Ms. Miller also described the division of responsibility and staffing needs of OEEO. Mr. Rogan commended the Mayor’s administration for working to increase staffing at the OIG and expressed his hope that the administration will do the same with OEEO.

Potential Changes to Section 602.621: Mr. Rogan referred to the document titled “Sec. 602.621-Duties,” which contained his suggested changes to section 602.621. Due to the pushback Ms. Miller received during the JEA ITN process, Mr. Rogan took the verbiage from the OIG’s duties from section 602.303(d). Mr. Rogan discussed the need for the same access between OIG and OEEO. Ms. Miller provided legislative history of the OIG and OEEO duties. Ms. Love made a motion to recommend the proposed change to the City Council and to direct Mr. Rogan to draft a resolution and work with OGC on the legislation. Ms. Boykin seconded the motion. Mr. Rogan opened the floor to public comment. No public comment was provided. There being no further discussion, the motion passed unanimously with a vote of 8-0.

Potential Changes to Section 602.1205: Mr. Rogan referred to the document titled “Sec. 602.1205-Cooperation by appointed employees in official investigations,” which contained his suggested changes to section 602.1205. Mr. Rogan explained the need to expand Section 602.1205 based on two complaints against City Council members years ago, one of whom initially declined to cooperate with the Commission and explained the purpose of adding subsection b. Ms. Love asked a question about the definition of “officer.” Ms. Pollock discussed past issues with independent contractors with Mr. Rogan. Ms. Galnor discussed criminal law implications with Mr. Rogan, Ms. Pollock and Ms. Miller. Ms. Miller offered to get the OIG procedure for criminal law issues and adapt it for the Ethics Commission. Ms. Miller and Ms. Oberdorfer raised the relevance of this proposal to another ordinance Council Member Diamond introduced about responding to City Council Auditor requests. Ms. Boykin, Mr. Rogan, and Ms. Miller discussed Council Member Diamond’s legislation. Ms. Love requested simplification of the title. Ms. Love made a motion to recommend the proposed change, with the modification to the title, to the City Council and to direct Mr. Rogan to draft a resolution and work with OGC on the legislation. Ms. Smith seconded the motion. Mr. Rogan opened the floor to public comment. No public comment was provided. There being no further discussion, the motion passed unanimously with a vote of 8-0.

JEA Sunshine and Public Records Issues: Ms. Miller introduced two issues with the JEA ITN. When the JEA ITN was canceled, all Ms. Miller’s documents became public records. Ms. Miller made a spreadsheet of the bids with gross and net figures and forwarded it to OGC. Some bidders objected to release of certain documents, including some of Ms. Miller’s documents, as trade secrets. Whether or not that information is trade secrets is in dispute. Ms. Miller does not agree but she would like to release the chart with redacted information. There has not been a release

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of revised bids. The second issue is a public meeting issue. Ms. Miller referred to the document titled "286.0113 General Exemptions from public meetings." Ms. Miller introduced the issue about negotiation meetings. Under (2)(b)1., Ms. Miller said she believes a portion of the Atlanta JEA ITN meetings should have been public meetings and should have been publicly noticed. Ms. Miller notified OGC in Atlanta and will work with OGC on the Sunshine issues. Ms. Miller said the meetings involved PowerPoint presentations by JEA management to vendors during which vendors were not allowed to ask questions. Dr. Candler asked Ms. Miller questions about the Atlanta meetings. Mr. Rogan, Ms. Dixon and Ms. Love asked Ms. Miller questions about the public records/trade secret issues and discussed her answers. Ms. Miller would like OGC to set a deadline for the bidders to redact trade secrets. OGC is working with bidders regarding the public records issues.

Complaints Committee Report: Ms. Schmitt reported the Complaints Committee met on January 22, 2020. The committee dismissed three complaints and referred four cases to OIG.

Schedule of Ethics Commission Meetings: The next Ethics Commission meeting is scheduled for March 12, 2020 at 5:00 p.m. The next Legislative Committee meeting is scheduled for February 25, 2020 at 3:30 p.m. The next Open Government Committee meeting is scheduled for February 10, 2020 at 4:30 p.m.

Public Comment:

Mr. Rogan requested public comment. Mr. Scott commented.

Announcements: None.

Adjourn: There being no further business to discuss, the meeting was adjourned at 6:19 p.m.

Sandy Homrighouse

Sandy Homrighouse, Executive Assistant, OECO

9/30/20

Date of Approval

This is a summary of the meeting and not a verbatim transcription. A recording of these proceedings is available at <http://www.coj.net/departments/ethics-office/notices,-agendas-minutes> .