

CITY OF JACKSONVILLE

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LEAH PALESTRANT
SCOTT SIMPSON

ETHICS COMMISSION SPECIAL MEETING MINUTES

City Hall, First Floor, Lynwood Roberts Room
Thursday, March 14, 2024

The meeting was called to order at 5:04 p.m. by Ms. Dixon. Ethics Commission attendees: Chair J.J. Dixon, Erich Freiburger, William Maule, Linda McCallum, Leah Palestrant, Robyn Blank, and LaTonya Lipscomb Smith (departed meeting at 5:57 p.m.). Excused absence: Scott Simpson and Sunny Gettinger

Others in attendance: Kirby Oberdorfer, Director of the Office of Ethics, Compliance and Oversight (OECO); Paige Johnston, Ethics Attorney (OECO); Sandy Homrighouse, Executive Assistant (OECO); Carla Miller, Senior Ethics Advisor (OECO); Andrea Myers, Program and Training Manager (OECO); and Cherry Shaw Pollock, Office of General Counsel (OGC).

Public In Attendance: Council Member Matt Carlucci, John Nooney, Tammy Jackson, Casmira Harrison, General Counsel Michael Fackler and Eunice Barnum.

Confirmation of Quorum:

Ms. Dixon confirmed quorum.

New Business:

Discussion of Senate Bill 7014 and the Potential Impact on Ethics Commissions:

Ms. Dixon referenced the documents provided to the Ethics Commission members for the meeting and provided an overview of the meeting. Ms. Dixon asked Ms. Oberdorfer to explain the documents provided to the Ethics Commission members. Ms. Oberdorfer summarized the documents before the Ethics Commission members.

Ms. Dixon then requested that the Ethics Commission consider what action, if any, it should take to SB 7014 after it was passed by the Florida Legislature on March 7, but before it is signed by Governor DeSantis or becomes law. Ms. Dixon explained that she asked Ms. Oberdorfer to draft a letter from the Jacksonville Ethics Commission to send to Governor DeSantis detailing the Commission's opposition to SB 7014. Ms. Dixon further explained that the draft letter to Governor DeSantis included prior comments the Commission made in its Press Release dated February 12,

2024, and some language from a letter sent by the Florida Ethics Institute to Governor DeSantis on Thursday morning urging him to veto SB 7014.

The Commission then discussed SB 7014, including the status of the legislation and the provision regarding attorney's fees in SB 7014 that applies to local Ethics Commissions. Dr. Freiberger concurred that the Ethics Commission should send a letter to Governor DeSantis regarding SB 7014. Judge McCallum stated that she supported sending a letter to Governor DeSantis from the Jacksonville Ethics Commission that lists each Commission Member by name and also be sent in her individual capacity.

Ms. Pollock stated that her Supervisor in the Office of General Counsel had raised an issue late this afternoon regarding whether the Ethics Commission had the authority to send a letter to Governor DeSantis as a collegial body regarding its concerns and opposition to SB 7014. Ms. Pollock explained that there had not been a decision by the Office of General Counsel regarding this issue because it was not addressed in either the City Charter or the Jacksonville Ordinance Code. Thereafter, Judge McCallum made a motion to send the draft letter to Governor DeSantis as soon as possible and add the individual names of the Ethics Commission members. Dr. Freiberger seconded the motion. There was discussion regarding potential alternative methods to provide a letter to Governor DeSantis should the Office of General Counsel conclude that the Ethics Commission cannot send a letter to Governor DeSantis as a collegial body.

Judge McCallum amended her motion to include the original motion and alternative language that if the Office of General Counsel concludes that the Ethics Commission cannot send a letter to Governor DeSantis as a collegial body, then Ethics Commission staff will send separate letters (with the same language) to Governor DeSantis on behalf of each Commission Member individually. Ms. Smith seconded the motion. With no further discussion, the vote was 7-0 in favor.

It was pointed out that no public comment was taken prior to the vote on Judge McCallum's motion. Ms. Blank made a motion for reconsideration to provide an opportunity for public comment. Mr. Maule seconded the motion. With no further discussion, the motion for reconsideration passed by 7-0 in favor.

Ms. Dixon asked for public comment on Judge McCallum's amended motion to send a letter to Governor DeSantis from the Ethics Commission or alternatively from individual members. Mr. Nooney provided public comment. With no further discussion, the Ethics Commission approved Judge McCallum's amended motion 7-0 in favor.

Next, Ms. Oberdorfer discussed the new requirements under SB 7014 for local Ethics Commissions and explained the specific changes to the Jacksonville Ethics Commission's duties in Jacksonville Ordinance Code Chapter 602 Part 9 that will be necessary to comply with the requirements in Senate Bill 7014. The proposed changes to Chapter 602, Part 9 include removing any reference to self-initiation and anonymous complaints. Ms. Oberdorfer further discussed the timing of the proposed changes to Chapter 602 Part 9, the effective date of the proposed legislation,

the impact of the proposed changes on the hotline, and whether changes to complaints and self-initiation are retroactive.

Summary of the proposed changes to Chapter 602 Part 9 include:

- a. Amend the Ethics Commission duties and powers in section 602.921(a) as follows:
 1. Include requirement that complaints be based upon personal knowledge or information other than hearsay (**See SB 7014 Section 112.326(2)(b)**)
 2. Delete/eliminate the Ethics Commission’s authority to initiate a complaint and include a specific prohibition that the Commission shall not initiate a complaint or investigation (**See SB 7014 Section 112.326(2)(c)**)
 3. Clarify the purpose of the hotline to answer questions about complaints process and delete/eliminate authority to receive anonymous tips and information on the hotline (**See SB 7014 Section 112.326(2)(a)**)
 4. Include IG as entity that can assist Ethics Commission with investigations to be consistent with City Charter and current practice
 5. Clarify that the Ethics Commission can accept referrals from the IG or State Attorney’s Office to be consistent with the legislative intent of SB 7014 and memorialize current practice
 6. Delete section 602.921(c) (**See SB 7014 Section 112.326(2)(c)**) and replace it with authority currently in the City Charter for the Ethics Commission to recommend legislative changes to City Council in certain ethics areas. This change was also previously approved by unanimous vote at 7-27-2023 Ethics Commission meeting.
- b. Amend description of types of complaints the Ethics Commission can investigate by deleting “citizen, hotline, employee and self-initiated” required by SB 7014 (**See SB 7014 Section 112.326(2)(a), (c)**)

General Counsel Michael Fackler arrived at the meeting and answered questions regarding the authority of the Ethics Commission to send a letter to Governor DeSantis as a collegial body. Mr. Fackler explained that the powers of the Ethics Commission are limited by the City of Jacksonville Charter (specifically Section 1.202 (a)-(f)) and that the Charter does not specifically authorize the Ethics Commission as a body to communicate with state officials regarding changes in the ethics laws. However, he clarified that Ethics Commission members may communicate with state officials as individual citizens and advocate for ethics issues in their individual capacity. In response to questions, Mr. Fackler distinguished the rights of the Ethics Commission members as individuals versus the rights of Ethics Commission as a collegial body, which are limited to the specific rights given to the Ethics Commission in the Charter and the Jacksonville Ordinance Code.

Council Member Carlucci then voiced his opposition to the new requirements in SB 7014 for “personal knowledge” to initiate complaints and prohibiting self-initiation of complaints by local Ethics Commissions. He noted that the grand jury that convened in Jacksonville in the 1960s to investigate governmental corruption prior to consolidation of the local government had to rely on information from multiple sources that may not be considered “personal knowledge” under SB 7014.

Dr. Frieberger asked Mr. Fackler what changes the Ethics Commission would need to make to the draft letter to Governor DeSantis to permit the Ethics Commission to send out the letter as individual members of the Ethics Commission and citizens? Mr. Fackler confirmed that revising the first sentence of the draft letter to state, “We the undersigned citizens and members of the Jacksonville Ethics Commission” is acceptable as long as the draft letter does not state the “Ethics Commission advocates for x, y and z, etc.” Dr. Frieberger then motioned that the Ethics Commission use the language that Mr. Fackler described to revise the opening sentence of the draft letter to Governor DeSantis. The Ethics Commission determined that this language was consistent with Judge McCallum’s prior amended motion.

Mr. Maule asked for clarification whether the Ethics Commission has authority to issue a press statement as a body. Mr. Fackler confirmed that Jacksonville Ordinance Code section 602.911 specifies the power of the Ethics Commission to serve as a vehicle or forum for local conversation on ethics, which includes the ability to issue press releases.

Dr. Frieberger made a motion to issue a press release to the local media along with the letter to Governor DeSantis attached. Judge McCallum seconded the motion. With no further discussion, the vote was 6-0 in favor. (Ms. Lipscomb Smith had left the meeting).

Ms. Dixon noted that public comment was not taken on Dr. Frieberger’s motion. Ms. Palestrant made a motion for reconsideration so that public comment could be offered and Dr. Frieberger seconded the motion. With no further discussion, the vote was 6-0 in favor of reconsideration.

Ms. Dixon asked for public comment. None was provided. With no further discussion, the vote on the motion to issue a press release attaching a copy of the letter to Governor DeSantis was 6-0 in favor.

The Ethics Commission then returned to the discussion of the proposed changes to Chapter 602 Part 9.

Judge McCallum made a motion to conditionally approve the draft legislation that includes changes to the Jacksonville Ethics Code Chapter 602 Part 9 required by SB 7014 to be filed for consideration by the City Council if SB 7014 becomes law. The filing of the draft legislation will be conditioned upon SB 7014 being signed by the Governor and enacted into law. Dr. Frieberger seconded the motion. Ms. Blank proposed an amendment to the proposed legislation to strike language on page 3, line 18-19 after “hotline,” which was agreed to by Judge McCallum. After no

public comment was provided, the Ethics Commission approved the amendment to the hotline language proposed by Ms. Blank.

Ms. Dixon returned to Judge McCallum's motion to conditionally approve the filing of the draft changes to Chapter 602 Part 9, including the amendment to the hotline language. Ms. Barnum provided public comment. With no further discussion, the vote was 6-0 in favor.

Next, Ms. Dixon and Ms. Oberdorfer discussed the draft changes to the Ethics Commission Complaint Procedures required by SB 7014 if it is signed by Governor DeSantis.

Ms. Oberdorfer reminded the Ethics Commission that Complaint Procedures Rule 1(d) requires that any proposed amendments be provided to the Commission ten (10) days prior to the meeting in which the Commission will take up the amendments. Thus, the Ethics Commission will conditionally approve the proposed amendments to the Complaint Procedures at the next Commission meeting, but the Commission will review and discuss the proposed changes at the meeting today.

Summary of the proposed changes to the Ethics Commission Complaint Procedures:

- a. Delete Rules 8 and 9 governing self-initiation of complaints and investigations based on hotline tips/complaints and any references to self-initiated complaints and hotline tips (**Complaint Procedures pages 3, 5, 6, 7, 8, 15-17, 18**) (See **SB 7014 Section 112.326(2)(a), (c)**)
- b. Clarify the only type of complaints the Ethics Commission can receive and investigate under SB 7014 by deleting differentiation between Complaints and Sworn Complaints (**Complaint Procedures pages 2, 5, 8, 10-11, 18**) (See **SB 7014 Section 112.326(2)(a), (c)**)
- c. Revise definition of Complaint (**Complaint Procedures page 6**) to include limitations in SB 7014 of written complaint based upon personal knowledge or information other than hearsay (See **SB 7014 Section 112.326(2)(a), (b)**)
- d. Include definition of personal knowledge or information other than hearsay to be consistent with legislative intent and standard set forth in 4th DCA case cited by SB 7014 House sponsor (**Complaint Procedures page 8**)
- e. Include requirement from SB 7014 that complaints be based upon personal knowledge or information other than hearsay and add procedure for legally sufficiency review of basis of information included in complaint (**Complaint Procedures page 12**)
- f. Clarify that any attorney in Office of General Counsel can be investigator for Ethics Commission Complaints to be consistent with Jacksonville Ordinance Code section 602.921(a) (**Complaint Procedures pages 7, 17**)

The Ethics Office will renumber and update cross-references in other sections of the Complaint Procedures when it distributes the proposed amended Complaint Procedures for the next meeting. Ms. Dixon thanked the Ethics Office staff for their work on SB 7014.

Public Comment:

Ms. Dixon requested public comment. Mr. Nooney and Ms. Barnum provided public comment. Ms. Dixon thanked all members of the public who support the Ethics Commission.

Announcements:

There were no announcements.

The Chair adjourned the meeting at 6:40 p.m.

Sandy Homrighouse

5-13-24

Sandy Homrighouse, Executive Assistant, OECO 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> .