

TASK FORCE ON OPEN GOVERNMENT

City of Jacksonville



FINAL REPORT

June 29, 2018

TASK FORCE ON OPEN GOVERNMENT

City of Jacksonville, Florida

June 29, 2018

The Honorable Anna Lopez Brosche
President
Jacksonville City Council
117 W. Duval Street, Suite 425
Jacksonville, Florida 32202

Dear President Brosche:

Pursuant to the mandate of Jacksonville City Council Resolution No. 2018-133-A, please find the report of the Task Force on Open Government.

The members of the Task Force genuinely appreciate the honor and privilege of being asked to perform this important and challenging responsibility on behalf of the citizens of Jacksonville. We trust you will find the report is both helpful and that it provides guidance for decisions to improve access to information for the people of this city, and improved interaction between our citizens and their government.

Please do not hesitate to contact any member of the Task Force should you have any questions.

Respectfully,



Henry M. Coxe III
Co-Chair



Sherry P. Magill
Co-Chair

HMC:gad
Enclosure

cc: Members of the Jacksonville City Council
The Honorable Lenny Curry, Mayor
Task Force members



REPORT OF THE TASK FORCE ON OPEN GOVERNMENT¹

CITY OF JACKSONVILLE

June 27, 2018

In our state, transparency is not up to the whim or grace of public officials. Instead, it is an enforceable right of the people.

Florida's Government-in-the-Sunshine
Manual (2018)

The Task Force on Open Government was created by a resolution adopted by City Council and was appointed by City Council President Anna Brosche to “undertake an in-depth review of Jacksonville’s legislative process and the methods by which the public accesses government.” Its members were charged with making “recommendations for how the City of Jacksonville can be more open and accessible to the public” and “suggestions for how the City of Jacksonville can institutionalize transparency.” (Resolution 2018-133).

The Resolution holds that “a transparent and open government is an essential element of a free and democratic society, enabling citizens to exercise their civic duties of influencing

¹ See appendices for Task Force members, presenters, slide presentations, and articles consulted

legislation, holding government accountable, facilitating an informed public that supports public initiatives and increasing public trust in government.”

The Task Force wholeheartedly endorses the resolution’s declaration that free and democratic government depends absolutely on the public’s access to its elected and appointed representatives and that local government must be transparent in its decision-making and actions. Our examination over three months taught us that the City of Jacksonville, especially the current Administration and City Council, should aspire to greater openness and transparency and should adopt specific measures outlined in this report toward that goal.

The City should become a leader in the open government movement taking root across the country. Specifically, the City should make it easier for the general public to understand the legislative process, participate in committee and City Council meetings, understand the City’s budgetary priorities and processes, navigate the City’s website and, perhaps most importantly, access public records. Democracy is dependent upon a free press to inform the people of the decisions and actions of their government.

We encourage local government to adopt a policy to regularly review citizen engagement and transparency in government.

FINDINGS

The Task Force, based on the presentations made, finds that the City of Jacksonville, specifically the practices of the current Administration and City Council, make it difficult for the public to understand governmental processes and decisions. While it is not suggested that local officials are violating Florida's sunshine or public records laws, nevertheless mere compliance with the law is insufficient.

Specific findings

1. The Administration requires mayoral appointees to review and sign off on public records requested by the media before they can be released even after these records are deemed public by the General Counsel.
2. The Administration (in an effort to control its message) does not allow department heads to interact directly with journalists.
3. The Citizens Planning Advisory Committees are a valuable resource for citizen input and access to information. The Task Force initially heard that the Administration was not fully engaged with the CPACs, but that appears to be improving.
4. Text messages that relate to public business are public records under Florida law. The Administration does not make them easily available, such as posting them on the city's website.
5. The City Council does not post council members' text messages on the city's website.
6. City Council no longer posts emails on the city's website, once an accepted practice.
7. City Council has abandoned its previous practice of teaching the public how the legislative process works at council meetings and how and when it may comment on legislation under consideration.

8. City Council committee chairs and subcommittee chairs are inconsistent in ensuring public comment, and printed agendas do not always allow for public comment.
9. The City's website is not user friendly, is difficult to navigate and is not oriented toward citizens.
10. The City's budget is difficult to understand, and its presentation is opaque.
11. Archiving of public records does not appear to be uniform nor a serious concern.
12. The cost of producing public records varies.
13. The method of noticing public meetings is archaic, and notices are not updated in a timely manner on the city's website or on the kiosk on the first floor of City Hall.
14. The State Attorney's Office has recognized problems in producing public records and is working diligently to correct its process.

RECOMMENDATIONS

Culture and Leadership

Local government should commit to be open to public engagement and transparent in its decision-making and processes. The public should have easy access to local government. Encouraging the public's involvement in its government will make that government stronger, accountable and transparent.

Local governments should design and regularly evaluate the processes they have in place to ensure openness, accountability and transparency. Governmental leaders who hold these values take action to investigate opportunities to ensure the ease of the user experience and periodically use quality-control mechanisms to allow continuous improvement.

The Legislative Process

Public Engagement

Former City Council members serving on the Task Force recalled the City Council previously used video and pamphlets to help the general public understand how legislation is made and when members of the public may comment. We recommend that these be reintroduced.

Notice of public meetings should be available not only on the kiosk in City Hall but also in a searchable form on the city's website. A system should be established to notify members of the public who have expressed interest in a bill as to when that bill will be considered. The majority of respondents in the Task Force's Access to Government Survey, 64 percent, said it usually gets information about the City of Jacksonville's new laws, programs or policies from

local television news; 52 percent usually gets information from the City's website; and 49 percent usually gets information from local newspapers.

We recommend that the Planning Department continue its pilot program of informing the CPACs of land use and zoning changes as early in the process as possible (see appendices).

To ensure transparency, the Administration should allow journalists direct access to City department heads, following the practice of past mayors.

Public Comment

The public should have an opportunity to speak at City Council committee and subcommittee meetings on matters pending and not simply at the end of the process before the full City Council. Ensuring such opportunity should not be at the discretion of the chairs but should be explicitly set forth in the rules of City Council.

TRANSPARENCY

Public Records

In releasing public records, the goal should be to follow the spirit of the law, not simply the letter of the law. We urge public officials to release requested records once they are deemed to be public.

Florida's Public Records Law, Chapter 119, Florida Statutes,

provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. In the absence of a statutory exemption, this right of access applies to all materials made or received by an agency in connection with the transaction of official business that are used to perpetuate, communicate or formalize knowledge. Access to public records has been described as a "cornerstone of our political culture."

Furthermore, public records include

all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of its physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency

(quoted in *Government-In-The-Sunshine Manual*, volume 40, 2018 edition, pp. 54-55).

The Task Force heard presentations from public records staff from the City Council, the Mayor's Office, the Jacksonville Sheriff's Office and the State Attorney's Office.

The cost of producing public records varies widely from agency to agency. The cost to people who request public records should be readily available, and the method for producing records should be done in the most efficient and cost-effective way possible.

The **redaction** of information exempt by Florida law was a concern for all persons who appeared before the Task Force. Reviewing documents takes time and care and understandably

can be costly in terms of the human hours employed. All said their offices use redaction software. We encourage all public records staff to continue to research and introduce technological tools to ease the burden and costs of redaction and to expedite the response to requests.

Email and text messages constitute important public record categories as people increasingly use such technology to communicate. Florida law makes it clear that electronic communications concerning government business – email, text, Twitter, Facebook and any newer electronic communication tools – constitute public records and must be made available to the public. City Council member email messages should once again be placed on the city’s website just as the Mayor’s emails are. We note that posting text messages is not practiced by any part of local government that we could discern. We urge our local government to make text messages available.

Archiving Public Records is of particular concern. Florida law states that all public records, no matter their form, must be retained “in accordance with retention schedules established by the Division of Library and Information Services of the Department of State” (*Government-In-The-Sunshine Manual*, volume 40, 2018 edition, p. 79). Retaining text message communication is of particular concern throughout Florida. We recommend that each entity store its text messages and make them easily available to the public. We recommend that local government ensure that retention policies and practices follow the guidance of The Division of Library and Information Services and that all forms of communication follow these guidelines.

We also recommend implementing a strategic plan that streamlines archiving across all city departments. This can help ensure continuity despite changes in administration.

Gift Policy

According to the City's Ethic Director, the public can review a list of gifts to the City of Jacksonville via the gift registry on *coj.net*. We learned that officials may receive combined gifts over the course of a year that are valued at \$250 or less. Certain gifts (for example tickets to concerts and Jaguars football games) are negotiated as part of City contracts and are not considered gifts by the office of General Counsel and do not appear on the City's website.

While public officials traveling on private business financed by private citizens are not required to disclose such trips and given our recommendation that the City of Jacksonville become a leader in the open government movement, we recommend that such officials voluntarily disclose these trips. We recommend that the receipt of any gifts given as part of City contracts be recorded and available on the City's website and include the names of individual officials receiving the gifts.

City Budget

The City's budgeting process should encourage public engagement, and its printed version should be understandable. We encourage the Administration to once again publish an easy to understand public version of the annual budget, a common practice of the John Peyton Administration (see appendices).

Public Access

Public Access via City Website

We learned from an outside website developer that it's very difficult and cumbersome for users to search the City's website for three reasons: lack of search engine optimization, lack of website optimization and lack of a hierarchy directory. In terms of searches (search engine optimization and website optimization), *coj.net* uses a third-party tool offered by Google to

perform a search. The website does not use a “sitemap file,” which is the industry standard for any website and search engine to identify and categorize all data (individual pages, documents, images, etc.). Because *coj.net* uses a third-party search tool, a lack of the sitemap file and metadata details make it impossible to consistently find the data users are looking for. An additional website issue is the lack of a hierarchy directory (i.e., everything is dropped into one root folder and not separated into logical subfolders).

In addition, the City of Jacksonville should create a “subdomain” data portal, making it easy for citizens to access data (e.g., crime reports, trash pickup schedules, past budgets, calendars, etc.). Examples include *data.boston.gov*, *spending.data.boston.gov*, *data.cityofchicago.org*, *opendata.lasvegasnevada.gov* and *sandiego.nextrequest.com*.

Public Access via Citizen Planning Advisory Committees

We recommend CPACs be reinvigorated, and that the Mayor and department heads hold regular town hall meetings. Both actions would foster greater transparency and encourage public engagement. The Task Force received information that the Administration is doing more with CPACs, and we hope that continues.

The six CPACs were established by the Ed Austin Administration in 1993. According to the City’s website, the “primary purpose of the CPAC is to maintain open and effective communication between Jacksonville residents, businesses, neighborhoods, community organizations, educational institutions and city government.”

CPAC members are appointed by the Mayor. Members are nominated through a variety of community, civic or government organizations located in their districts. Eligibility for appointment is determined by the director of the Neighborhoods Department and the Planning

and Development Department. Per CPAC chairs, CPACs currently struggle with attendance, membership and participation from younger community residents.

We recommend that the Mayor and department heads regularly attend CPAC meetings and re-establish regular town hall meetings with citizens with department heads in attendance.

CPAC meeting agendas should be posted at least a day prior to noticed meetings. We also recommend simplifying CPAC membership criteria in order to achieve greater community participation.

City Council members should make an effort to hold more town hall meetings to provide an opportunity for civic engagement.

METHODOLOGY

The Task Force met 10 times over three months, heard presentations by twenty-three people and conducted a survey with 258 people responding.

The Task Force wants to acknowledge the work of Colleen Hampsey of the City Council's Research Division who served as staff for the Task Force.

The Task Force also thanks those who made presentations:

Lori Boyer, Jacksonville City Council District 5

Dr. Cheryl L. Brown, Council Secretary/Director, Jacksonville City Council

Greg Bugbee, Chief Technology Officer Novus Insight Inc.

Agnes J. Carswell, Jacksonville Sheriff's Office Public Records Manager

Bridgett Burgess, Tameka Dyer, Amanda Carter, Vanessa Opel, Jacksonville Sheriff's Office Public Records Coordinators

Craig Feiser, Office of General Counsel, City of Jacksonville

Pat Gleason, Attorney General-Special Counsel for Open Government, State of Florida

Brian Hughes, City of Jacksonville Mayor's Chief of Staff

Ken Lathrop, City of Jacksonville Chief of Informational Technologies

Media Panel –

AG Gancarski-Florida Politics;

Jessica Palombo-WJCT;

Mary Kelli Palka-The Florida Times-Union

Carla Miller, City of Jacksonville Ethics Director

Melissa Nelson, 4th Judicial Circuit State Attorney

Miriam Nelson, SAO Public Records Administrator

Marsha Oliver, City of Jacksonville Mayor's Office Director of Public Affairs

Peggy Sidman, Managing Deputy and Deputy General Counsel Legislative Affairs Department, City of Jacksonville

Michelle Tappouni and Bruce Tyson, CPAC Chairs

Bill Killingsworth, Director of City of Jacksonville's Planning
Department

The Task Force invited the incoming City Council leadership to meet with the Task
Force, but we were told they were unavailable.

Respectfully Submitted,

CO-CHAIRS:

Hank Coxe
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.

Dr. Sherry Magill
Jessie Ball duPont Fund

MEMBERS:

Ywana Allen
City of Jacksonville Ethics Commission

Rachael Fortune
Jacksonville Public Education Fund

The Honorable Alberta Hipps
Hipps Group, Inc.

Ron Littlepage

Michael Lockamy
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.

Audrey Moran
Baptist Health

The Honorable Jim Overton
ERA Davis & Linn

Sabeen Perwaiz
Florida Nonprofit Alliance

Cleve Warren
Florida State College at Jacksonville Foundation

From: Killingsworth, William [<mailto:BILLK@coj.net>]

Sent: Tuesday, June 26, 2018 1:18 PM

To: Alberta Hipps

Subject: RE: Request information on the new procedure for CPAC to see Land Use and Zoning applications

Alberta,

See below

CPAC Information Meetings Process

- Meetings are held the Wednesday after every City Council meeting
- Location: Ed Ball Building, 214 N. Hogan St., Suite 300, Room 3112
- Time: 5:30 p.m. – 7:30 p.m.
- Meetings are noticed and open to the public
- Planning Staff will present each request in order by Planning District and answer questions about the specific request. No staff recommendations will have been formulated prior to the meeting.
- Items presented at meetings include:
 - Bills introduced at the preceding City Council meeting
 - Applications where Planning Commission (PC) takes the final action and that are filed complete for the next scheduled PC meeting
 - Administrative Deviation (AD) applications that are filed complete for the next scheduled AD hearing
- Meeting information is compiled into an online document and posted the Monday prior to the CPAC LUZ Information Meeting (Link: <http://www.coj.net/departments/planning-and-development/community-planning-division.aspx> - Link is listed at the bottom of the webpage as is a link to the schedule)

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Colleen Hampsey Jacksonville City Council

Research Division

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Special Counsel for Open Government, State of

Florida

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Jacksonville Sheriff's Office Public Records

Manager

Correspondence of June 19, 2018 to Honorable 346-350

Aaron L. Bowman and Honorable Scott Wilson

John A. DeVault, III
Charles P. Pillans, III
Henry M. Cox, III
C. Warren Tripp, Jr.
Allan F. Broske II
R.H. Farnell II
O. David Barksdale
Brian T. Coughlin
Michael E. Lockamy
Ashley Wells Cox
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Chester Bedell (d. 1981)
Nathan Bedell (d. 1982)
C. Harris Dittmar (d. 2009)

June 19, 2018

The Honorable Aaron L. Bowman
Council President-elect
Jacksonville City Council
117 W. Duval Street, Suite 425
Jacksonville, Florida 32202

The Honorable Scott Wilson
Council President-elect Designate
Jacksonville City Council
117 W. Duval Street, Suite 425
Jacksonville, Florida 32202

Dear Mr. Bowman and Mr. Wilson:

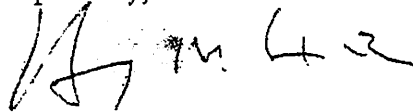
On behalf of the Task Force on Open Government, please consider this an invitation for you to consider appearing before the committee at its last meeting on Wednesday, June 27, 2018 at any time convenient from 1:00 p.m. - 4:00 p.m. This will be the last meeting of the committee for the term for which it was appointed by City Council President Anna Lopez Brosche. (See attached Resolution.)

The task force has undertaken to receive and review a significant amount of information from numerous entities, both public and private, and believes that serious consideration should be given, in the best interests of the citizens of Jacksonville, to a commitment to continue the process. The greatest value of the process is, of course, access to government information by our citizens. It is with this commitment in mind that we extend this invitation in the hopes that we would hear from both of you in furthering this process.

The Honorable Aaron L. Bowman
The Honorable Scott Wilson
June 19, 2018
Page 2

Please do not hesitate to contact either of us.

Respectfully,

A handwritten signature in black ink, appearing to read "H. M. Cox, III". The signature is written in a cursive style with a large initial "H" and a long, sweeping underline.

Henry M. Cox, III

A handwritten signature in black ink, appearing to read "Sherry P. Magill". The signature is written in a cursive style with a large initial "S" and a long, sweeping underline.

Sherry P. Magill

1 Introduced by Council President Brosche and amended on the Floor of
2 Council:

3
4
5 **RESOLUTION 2018-133-A**

6 A RESOLUTION FINDING A NEED FOR AN EXAMINATION
7 OF THE JACKSONVILLE CITY GOVERNMENT'S
8 OPENNESS, ACCESSIBILITY AND TRANSPARENCY TO
9 ITS CITIZENS; CREATING A TASK FORCE ON OPEN
10 GOVERNMENT; PROVIDING AN EFFECTIVE DATE.

11
12 **WHEREAS**, a transparent and open government is an essential
13 element of a free and democratic society, enabling citizens to
14 exercise their civic duties of influencing legislation, holding
15 government accountable, facilitating an informed public that
16 supports public initiatives, and increasing public trust in
17 government; and

18 **WHEREAS**, currently, the public engages with its government
19 through phone calls, letters, e-mails, community meetings, and 3-
20 minute public comment periods at City Council meetings, and these
21 methods often involve one-way communication to the legislators and
22 not meaningful two-way dialogue on issues. The public also engages
23 with government through consuming media reporting on public sector
24 activities, also one-way communication and not true engagement with
25 representative government; and

26 **WHEREAS**, the legislative process is designed to allow direct
27 public involvement through the typical 5-week cycle through which a
28 piece of legislation must travel in the form of formal public
29 hearings and opportunities for public participation and public
30 comment, but these opportunities take place only at City Hall in

1 the center of an 840 square mile city; often at committee meetings
2 held during the normal business day; with the opportunity for
3 public input on many items being at the discretion of the committee
4 chair unless mandated by state law; and with the dates on which
5 legislation will be debated in committee meetings requiring intense
6 monitoring and being changeable with a little notice as finding
7 out while sitting in a committee meeting that action on a
8 particular piece of legislation has been deferred to a future date;
9 and

10 **WHEREAS**, ultimately, government has a responsibility to
11 represent the people and the people's interests, and ensuring an
12 open and transparent government is a basic building block to
13 effective governance; now therefore

14 **BE IT RESOLVED** by the Council of the City of Jacksonville:

15 **Section 1. Task Force Created.** The City of Jacksonville
16 hereby establishes the Task Force on Open Government. A copy of the
17 Council President's Second Amended Charge Memorandum is attached
18 hereto as Second Revised Exhibit 1, labeled as "Second Revised
19 Exhibit 1, 2nd Rev Charge Memo, March 27, 2018 - Floor".

20 **Section 2. Membership of the Task Force on Open**
21 **Government.** The Task Force on Open Government shall be led by Hank
22 Coxe and Dr. Sherry Magill as Co-Chairs, and shall consist of
23 twelve members. A list of the members, who have wide experience and
24 a variety of valuable perspectives on this issue, is contained in
25 the Charge Memorandum attached hereto as Second Revised Exhibit 1,
26 labeled as "Second Revised Exhibit 1, 2nd Rev Charge Memo, March 27,
27 2018 - Floor".

28 **Section 3. Scope of Task Force on Open Government.** The
29 Task Force shall undertake an in-depth review of Jacksonville's
30 legislative process and the methods by which the public accesses
31 government; shall make recommendations for how the City of

1 Jacksonville can be more open and accessible to the public, while
2 maintaining a healthy perspective of the costs and benefits of such
3 recommendations; and shall include in its recommendations
4 suggestions for how the City of Jacksonville can institutionalize
5 transparency.

6 Section 4. Effective Date. This Resolution shall become
7 effective upon signature by the Mayor or upon becoming effective
8 without the Mayor's signature.

9

10 Form Approved:

11

12 /s/ Paige Hobbs Johnstor

13 Office of General Counsel

14 Legislation Prepared By: Jeff Clements, City Council Research

15 GC-#11992EI-v1-2018-133-A.doc

16