

**OFFICE OF THE CITY COUNCIL**

**RESEARCH DIVISION**

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**COUNCIL MEMBER ORIENTATION – ETHICS TRAINING**

**Meeting Minutes**

**June 7, 2021**

**9:00 a.m.**

**Location:** City Council Chamber

**In attendance:** Council Members Aaron Bowman, Michael Boylan, Matt Carlucci, Kevin Carrico, LeAnna Cumber, Al Ferraro, Terrance Freeman (arr. 10:50), Reggie Gaffney (dep. 10:51), Joyce Morgan (dep. 10:55), Sam Newby, Ju’Coby Pittman, Brenda Priestly Jackson, Ron Salem

**Excused:** Council Member Tommy Hazouri, Randy DeFoor, Danny Becton, Garrett Dennis, Rory Diamond, Randy White

**Also**: Cheryl Brown – Council Director/Secretary; Jeff Clements – Council Research Division; Jason Gabriel, Peggy Sidman Martin, Paige Johnston, Merriane Lahmeur – Office of General Counsel; Steve Cassada, Yvonne Mitchell and Eric Grantham – Information Support Services; Jessica Matthews, Melanie Wilkes, Bernadette Smith – Legislative Services Division; Carla Miller, Kirby Oberdorfer, Andrea Hartley-Myers – Ethics Office

**Meeting Convened**: 9:06 a.m.

Vice President Newby convened the meeting, welcomed the attendees, and thanked the staff of the various agencies for preparing today’s program. He thanked Ethics Director Carla Miller for her years of service to the City in the area of ethics as she approaches her impending retirement.

General Counsel Jason Gabriel said the last two years have been an extraordinary period in the life of the City Council and the City, with issues ranging from the local option sales tax for schools, the proposed privatization of JEA, and the COVID pandemic to social unrest, various downtown development proposals, and the local option gas tax debate. Public officials never know what’s going to happen during their terms, so continual training and education on a variety of topics, including ethics, public records, and Sunshine Law, is always necessary. Public and private interests intersect in many ways and City staff members in the General Counsel’s Office and Ethics Office are always ready to provide advice and counsel to avoid any potential problems.

Ethics Director Carla Miller announced that Deputy Director Kirby Oberdorfer has been selected as her successor, subject to confirmation by the City Council. Ms. Miller reviewed the history of corruption and ethical misdeeds in the city from the 1960s to the present, which has included several waves of investigations, grand juries, indictments and criminal convictions of public officials. An Ethics Code was adopted in 1999 and a training program was developed for local elected officials, the first in the state of Florida. She cited the Council’s pushback on the JEA privatization and its performance unit plan as an example of courage in doing what’s right to protect the public interest in the face of tremendous pressure.

Ms. Miller discussed her 5 rules of organizational ethics: 1) culture wins over rules; 2) ethics is the key to culture development; 3) optimism v. pessimism v. hope in a positive ultimate outcome; 4) people respond best to authenticity; and 5) purpose is vital.

Kirby Oberdorfer led an exercise using the Slido.com survey web site to review 5 primary problem areas: 1) conflicts of interest; 2) voting v. prohibitive conflicts; 3) nepotism; 4) campaign ethics (state and local regulations apply); and 5) gifts.

Deputy General Counsel Peggy Sidman discussed the Florida Government in the Sunshine Law. Discussions can take place in any number of ways given the development of new technologies (texting, social media, etc.). Sunshine regulations apply to anything on which the Council may foreseeably be asked to vote, not just a currently pending piece of legislation. She suggested 3 clarifying questions to be asked to help determine if there is a potential Sunshine issue: 1) Am I talking to someone serving on my board? 2) Are we discussing City business? 3) Are we discussing something that we could conceivably be asked to vote in the future? If the answer to those three is “yes”, a noticed meeting is needed to hold that discussion. She recommended that elected officials judge public access and transparency of discussion from the public’s viewpoint – whispering to a fellow member on the dais at a meeting, leaving the room to talk privately in a side room, etc. are signs that the public is not hearing what is happening and does not have full access to the proceedings. Ms. Sidman said that during her tenure as the City Council’s attorney there have been two State Attorney investigations into alleged violations of the Sunshine Law by council members and the council was criticized by grand juries for its behavior, although no indictments were issued.

Ms. Sidman discussed the use of staff or other third parties acting as conduits to carry messages between covered members which constitute a dialogue and therefore a meeting in violation of the regulations. All communication should be one-way without responses until discussion takes place in a properly noticed meeting. The public has the right to hear and understand how council members reach their decisions in an open setting. She strongly urged the council members to avoid even the appearance of communicating improperly outside of the sunshine.

Paige Johnston, Chief of Legislative Affairs for the Office of General Counsel, reviewed the state’s public records law, which is very broad and covers every type of communication and method of preserving a record of knowledge relating to the transaction of government business. As new technologies are invented (i.e. Facebook, Twitter, Instagram, etc.), they create new forms of public records that must be retained pursuant to the law and are subject to release if the subject of a public records request. Ms. Johnston reviewed the state’s public records retention schedule, which specifically provides that the retention of records does not depend on what form the communication takes, whether physical or electronic. In response to a question from Council Member Salem, Ms. Johnston confirmed that public information posted by council members on social media is a public record and must be archived. Council Member Ferraro asked if/how council members should react to posts on their social media by other council members. Mr. Johnston said that the use of social media as a public forum means that the operator of the social media should not block any other council member from posting on their sites, but should be cognizant if another council member responds in a way that might be considered 2-way communication and report that to the Ethics Office or General Counsel so that the other member may be counseled about how to avoid Sunshine violations. Council Member Priestly Jackson asked about means of archiving social media information. One way to do that is to forward the information to the council member’s City email account which is archived by the Information Technology Division.

**Meeting adjourned:** 11:43 a.m.

Minutes: Jeff Clements, Council Research Division

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