



**OFFICE OF THE CITY COUNCIL
RESEARCH DIVISION**

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**CITY COUNCIL NEW MEMBER ORIENTATION
DAY 2**

Meeting Minutes

**June 15, 2023
8:30 a.m.**

Location: City Council Chamber, 1st floor, City Hall

In attendance:

Council Members Michael Boylan, Matt Carlucci, Kevin Carrico, Tyrona Clark-Murray, Ron Salem, Randy White, Ju’Coby Pittman
Council Members-Elect Ken Amaro, Raul Arias, Joe Carlucci, Reggie Gaffney Jr., Mike Gay, Rahman Johnson, Jimmy Peluso, Will Lahnen

Excused: Council Members Rory Diamond, Terrance Freeman, Nick Howland

Also: Margaret Sidman – Director/Council Secretary; Merriane Lahmeur – Legislative Services Division; Jeff Clements – Council Research Division; Teresa Eichner, Steve Cassada, Eric Grantham – Council Public Information Division; Yvonne Mitchell, Rebecca Holton – Administrative Services Division; Bob Rhodes, Jason Teal, Mary Staffopoulos, Carla Lopera - Office of General Counsel; Kirby Oberdorfer, Paige Johnston, Andrea Myers – Ethics Office; Carla Miller – Senior Ethics Advisor

Meeting Convened: 9:01 a.m.

City Council Director/Secretary Margaret Sidman opened the session and introduced the elected officials and appointed board members in attendance. A welcome video from Council President Terrance Freeman was shown. City Council President-Elect Ron Salem emphasized the importance of the ethics training and urged the elected officials to call the Ethics Office and seek guidance if there is any doubt or potential for a conflict of interest.

Kirby Oberdorfer, City Ethics Director, echoed Mr. Salem’s comments and said her office always stands ready to advise and answer questions about a complex subject in order to avoid any potential troubles. Today’s training will meet the state’s mandatory annual ethics training hours requirement. She talked about the importance to personal health and well-being of living out one’s purpose in life, and the

difficulty of doing that as a result of human foibles, frailties and self-bias. Ethics laws have a long history, going back to the days of the Founding Fathers. The purpose and focus of government ethics laws is to prevent personal profiting from an official position and to ensure fairness and transparency in the operation of government. The government context is very different from the private sector and the rules are very different and sometimes seemingly counterintuitive. Ms. Oberdorfer briefly reviewed the history of ethics laws in the City government, noting that Jacksonville's ordinances make the Ethics Office very independent as a watchdog agency and enforcer of the ethics ordinances.

Andrea Myers of the Ethics Office and Ms. Oberdorfer described various scenarios in the top 5 ethics issues:

- 1) Paid influencers (lobbyists) – their job is to build relationships with elected officials in order to leverage some benefit for the persons who pay them to lobby. Lobbyists are required to be registered with the City and are subject to liability under the Ordinance Code if lobbying regulations are violated.
- 2) Gifts – regulations apply to gifts given to elected officials in both their official capacity and gifts given in a personal family or friendship capacity. She described the difference between fully permissible, permissible but reportable, and prohibited gifts, the allowable value of the various kinds of gifts, and the regulations on reporting gifts. The Ethics Office sends calendar invitations to City officials and employees who are required to report gifts as a reminder and include the forms and instructions.
- 3) Voting conflicts and disclosures – officials may not vote on any matter that would financially affect them personally, either positively or negatively. There may also be a conflict if a matter would impact a family member, business associate or personal friend. The rules about whether a member may participate in debate before abstaining from the vote are variable depending on whether or not the member is employed by a non-profit organization that has an interest in the legislation.
- 4) Prohibitive conflicts – differs from a voting conflict in that it arises from something other than legislation coming before the City Council. Problems arise from self-dealing (direct benefit you or a family member), benefits to your employer, or from a contractual relationship.
- 5) Misuse of position – derives from using official position for personal benefit in various ways, including use of city resources, use of confidential non-public information, saying “do you know who I am?”, seeking benefits for family, friends or colleagues, etc.

The session was in recess from 10:42 to 11:00 a.m.

General Counsel Jason Teal welcomed the new council members to public life and gave an overview of what the life of public service can be like under the Government in the Sunshine Law and public records law. He said his 20+ year career with the General Counsel's Office has taught him that City employees are committed to serving the public and his office is dedicated to helping elected officials be as effective as possible in their public service.

Steve Siegel, First Assistant State Attorney, said the State Attorney's Office looks forward to working with the new City Council and provided his perspective on a history of working with previous councils on public records and open meeting issues. Transparency is extremely important so that the public can have confidence in an open and visible process. There are always critics of government and any instance of non-transparency only fuels that attitude. Mr. Siegel said that there have been very few allegations of open government and public records violations in the last 15 years since a newspaper investigatory series and grand jury investigation in 2008. He urged the council members to be mindful that anything they email or text will almost certainly be preserved and may very likely end up being disclosed to the public, so be very careful about what you say and be prepared for it to appear in the media. Mr. Siegel reviewed the variety of penalties that apply to violations and pointed out that in addition to formal penalties, there is

a tremendous reputational cost in negative publicity. Very often public records issues are brought to light as side issues in the context of other issues or controversies.

Deputy General Counsel Lawsikia Hodges said that Florida has one of the most stringent Government in the Sunshine laws in the country. She gave an overview of city corruption in the pre-consolidation era and the 1992 Florida Constitutional amendment establishing the state sunshine law. The Sunshine Law applies to every aspect of the governmental decision-making process, not just the end result. The three primary requirements of the law are 1) open and accessible meeting places, 2) advance notice to the public, and 3) written minutes must be taken and kept. Reasonable public opportunity to participate is required. Ms. Hodges defined “meeting” which is interpreted very broadly to include any sort of communication between two or more members of a public body on any issues that is or may foreseeably come before the body for a decision. She emphasized that perception is reality for many people, so caution is advised about doing something that is strictly legal but may be negatively interpreted by observers. Ms. Hodges described the types of meetings that are not subject to the Sunshine Law, which include meetings with staff members, members of other elected or appointed bodies, the mayor and city administration, citizens, etc. Ms. Hodges described how written communication may sometimes be interpreted as the equivalent of a meeting depending on how members convey their stands on issues and whether questions are posed and responded to. She noted that electronic media – Facebook, Twitter and the like – make unintentional meetings possible by “liking” comments made by other covered officials.

Ms. Hodges reviewed the major features of the local Jacksonville open meetings and public records ordinances and how City Council processes are intended to ensure compliance with those requirements. It is strongly recommended that meetings be held at City Hall rather than other locations, and in meeting rooms and not in council members’ private offices. A meeting occurs from the time that members arrive at the meeting location until the participants depart, so discussions before or after the meeting is officially convened and adjourned are discouraged. She urged that any questions about the Sunshine Law be posed to the General Counsel’s Office which is anxious to help. Council Member Clark-Murray posed a question about whether or not to notice council member meetings with community organizations which might be attended by other council members. Ms. Hodges said it would be best to notice such a meeting if it is anticipated that another council member may attend, but that entails the requirement to take minutes of the meeting whether another member attends or not. With regard to multiple council members attending CPAC meetings, she said that multiple members may attend a meeting but should not speak or engage in discussion unless it has been properly noticed and minutes are being taken.

Assistant General Counsel Craig Feiser discussed the public records law and how public records requests are processed by the City. The Office of General Counsel generally only gets involved if a legal issue arises. Florida has the nation’s broadest and most stringent public records laws. The 2 most common reasons for being sued for a public records violation are 1) failure to respond in a reasonable time frame; and 2) failure to release records due to a claim of a records law exemption. A public record is anything that is intended to preserve, transmit or perpetuate knowledge. The state’s presumption is that everything is a public record unless specifically exempted by law, some of which are in the Public Records statute (Chapter 119) and many others of which are scattered throughout the rest of the Florida Statutes. Many of the minute details of how the law is interpreted are found in Florida Attorney General opinions.

The form of a public records request is very broad and covers a wide variety of means. The law specifically prohibits the government agency from asking for a requestor’s name, phone number, email address, the reason why they want the record, or any other information as a condition of providing the requested information. A readily available public record must be provided promptly. The agency may charge reasonable fees for public records based on the amount of time it takes to gather, review and produce the records, based on the salary of the lowest paid person who is qualified to review the records.

Drafts of documents are public records, unless they are strictly for the personal use of the creator and will not be given to anyone else. There are different standards for how long public records must be kept depending on the type of record. Some fundamentally important records (i.e. property deeds, birth and death records, etc.) are intended to be kept forever, others may be destroyed pursuant to state law after a period of time when they are no longer considered useful.

The session was in recess from 12:22 to 1:33 p.m.

Jason Teal described the structure and the breadth of practice areas in the General Counsel's Office, which is extremely wide and varied, and introduced the chiefs of the various divisions. He described the distinctions between the office's representation of the City Council as a single collegial body and its representation of the 19 council members as individuals. Council members will most likely have the greatest contact on a regular basis with the attorneys in the Legislative Affairs and Land Use Division, Mary Staffopoulos, Carla Lopera and Shannon Eller. He described how several attorneys of the OGC are assigned to and housed at the School Board and JEA because of their size, the specialized nature of their "industry" and the heavy regulations those bodies face. Mr. Teal emphasized that the OGC is, first and foremost, the attorney for the consolidated government as a whole, while also representing all of its constituent parts. The OGC is empowered by the City Charter to be the "court of last resort" to solve all disagreements and conflicts within the consolidated government by means of the issuance of binding legal opinions.

Deputy General Counsel Mary Staffopoulos of the OGC's Legislative Affairs and Land Use Division discussed the Council's legislative process. She explained the difference between ordinances (acts of a permanent nature, regulatory, appropriating funds, approving contracts, etc.) and resolutions (acts of a temporary nature, expressions of the council's sentiment, appointments, etc.). She described the process of drafting and filing bills, assigning bill numbers, referring bills to committees and requesting the introduction of a bill on an addendum to the agenda. The bill introduction deadline is the Wednesday of committee weeks (first and third weeks of the month). Ms. Staffopoulos noted that the bill summaries drafted by the Research Division provide a good snapshot of what a bill is about without having to read the entire bill. She reviewed the information provided by the bill title listing on council and committee agendas, including the bill's introducer and any co-sponsors, the date introduced, the committees of reference, and the action at each committee. Ordinances receive a mandatory public hearing on second reading before the Council. Ms. Staffopoulos described the methods by which legislation can be approved by emergency action without the usual 3 readings and the supermajority votes that are needed to adopt the emergency and then to enact the bill as an emergency.

Ms. Staffopoulos described the Council Auditor's Office's review of all non-LUZ legislation and their proposal of technical amendments, informative comments, and recommendations for more substantive amendments. She described the amendment and substitute process, the enrollment of bills finally enacted (ordinances) or adopted (resolutions) and transmittal to the Mayor's office for signature before final enrollment. In response to a question from Council Member Howland, Ms. Staffopoulos reviewed a number of instances in which a 2/3 majority vote is required, and when the 2/3 vote is of the members present or of the full membership of the council. In response to a question from Council Member Salem, Ms. Staffopoulos clarified, with the assistance of Teresa Eichner, formerly the CIP Administrator, that TIAA Bank Field projects have traditionally not been included in the CIP.

Ms. Staffopoulos gave a general overview of quasi-judicial legislation, typically involving land use and zoning issues, and said that council members assigned to the Land Use and Zoning (LUZ) Committee would be given personal briefings to go into more detail about quasi-judicial requirements. In quasi-judicial actions the council members are acting in the role of judges, not political representatives, and therefore have to be aware of 3 major issues. 1) Council members may not take a position on an issue

before hearing all the relevant evidence. 2) Council members must declare any *ex parte* communication they have outside of a public meeting with one party without other parties being present. 3) All decisions must be based on competent and substantial evidence. Competent and substantial evidence can come from staff experts, expert consultants, appointed advisory boards, and from individuals or groups of citizens in some limited instances.

Lawsikia Hodges gave an overview of City procurement policies and procedures. Procurement includes every step of the process from the determination of what is needed, through development of specifications, advertising the procurement opportunity, evaluating the responses, making the final selection of a vendor, and contracting for the acquisition of the goods and services. She noted that City Council actually approves very few procurement agreements; the vast majority are approved administratively. The key principles of government procurement are open competition, transparency, fairness, and best value of the dollar on behalf of the taxpayers. The City has 3 procurement committees depending on the type of procurement. There are several provisions in the Procurement Code that permit non-competitive procurement for particular reasons. Ms. Hodges noted that there is a “silence period” during the procurement process during which council members, who may have the opportunity to have more internal information about the procurement than the potential vendors have, should not be talking to any vendors. Council Member-elect Arias asked about the degree to which the desire for the lowest price produces a lower quality product than may be desirable.

John Sawyer, Chief of Government Operations for the OGC, discussed economic development agreements and the City Council’s role in that process. The two entities that will introduce incentive agreements are the Downtown Investment Authority (using downtown CRA funding) and the Office of Economic Development (using general city funds for the rest of the county). He described the City’s three primary forms of economic incentives: 1) completion grants; 2) Recapture Enhanced Value (REV) grants; and 3) Downtown Preservation and Restoration Program (DPRP) loans and grants (City general funds in the DIA area only). The DIA also has the authority to negotiate a transfer of downtown property to a private developer, which must then be approved by the City Council. Mr. Sawyer said he is also involved in the Sports Complex facilities and their leases, naming rights agreements, dedicated funding sources, etc. Council Member Clark-Murray posed a question about ensuring that local contractors, particularly JSEBs, get a fair share of work on City-incentivized projects. Mr. Sawyer said that all DIA and OED contracts have JSEB requirements that are documented and reported to the City as the project progresses. In response to another question from Ms. Clark-Murray, Mr. Sawyer explained that JSEB vendors can register with the Procurement Division to be considered for hiring by the general contractors. Council Member Pittman asked about how “good faith efforts” on the part of prime contractors are evaluated and if data is collected to show whether or not JSEBs are getting a fair share of the opportunities. Mr. Sawyer said JSEB use statistics are reported to the DIA and the OED as a contractual provision and they flag projects that fail to meet the 20% target (of the City’s contribution) and ask why they were unable to reach the target.

Hannah Pataky, the outgoing Duval Legislative Delegation Coordinator in the Office of General Counsel and Xzavier Chisolm, the incoming Coordinator, described how the office supports the delegation’s efforts at the local level and tracks legislation when the Florida Legislature is in session each spring. Jacksonville-specific legislation is filed by one of the delegation members in the form of a J-bill (a Jacksonville-specific bill) that would change the City Charter, and each J-bill is the subject of a City Council resolution expressing the Council’s support for or opposition to that bill. City Council cannot amend a state legislator’s J-bill but can recommend changes via the Council resolution. The delegation will hold an organizational meeting and a bill hearing meeting near the end of the year.

The session was in recess from 3:30 to 3:51 p.m.

Chris Garrett, Chief of the General Litigation Division of OGC, gave an overview of eminent domain, the power of the government to take private property when reasonably necessary for public use. Eminent domain can be applied to both real and personal property, but generally is used in the real property context. The U.S. and Florida Constitutions require compensation for the property taken. Eminent domain can not be used for private economic development purposes or elimination of slum or blight conditions in Florida due to a Constitutional change and state statute amendment that followed a ruling in a U.S. Supreme Court case several years ago. The power of eminent domain belongs to the state and has been delegated to local governments and authorities such as JEA. City Council needs to approve legislation declaring the necessity and public purpose of the exercise of eminent domain and the City must make a good faith effort to purchase the property from a voluntary seller. There are “quick take” and “slow take” versions of eminent domain. Compensation is determined on the basis of “full compensation”, which includes the value of the property, the owner’s expert witnesses and attorney fees, and severance damages due to any diminished value to the value of any remaining property. Eminent domain is generally a last resort as it is almost always more expensive than voluntary acquisition and incurs restrictions on the future use of the property under state law.

Sean Granat, Deputy General Counsel, presented on the subject of sovereign immunity, which derives from English common law. As a general rule, citizens cannot sue the government unless the government consents to be sued. Situations in which government can be sued in Florida include: 1) violation of a contract; 2) Constitutional violations; and 3) tort liability cases (state-allowed with certain conditions). Either the City or the individual employee may be liable in a tort suit, depending on whether the employee acted in good faith or bad faith in the performance of their job duties. City liability is capped at \$200,000 per individual injured and \$300,000 for all persons injured in a single incident unless a special relief bill is passed by the Florida Legislature and signed by the Governor to award greater damages. For the most part, planning level decisions (i.e. the design of an intersection) are immune from suit, while operational decisions (i.e. an accident caused by a missing stop sign) may be subject to liability. A change in state law in this year’s session greatly reduces the government’s tort liability if a jury finds that the plaintiff is more than 51% responsible for their own injury due to their conduct.

Mr. Granat briefly reviewed several issues in labor and employment law. Jacksonville has a civil service system that covers all employees except those who are specifically excluded by the City Charter or Ordinance Code. The system covers recruitment, employment, compensation, working conditions, etc. City employees are covered by 6 collective bargaining unions and JEA employees are covered by 5 unions. JEA contracts are negotiated by the JEA administration and approved by their board and then come to City Council for final approval. Mr. Granat said that the non-public safety union contracts are all almost identical by design, so that all employees get the same benefits, wage increases, etc. Collective bargaining agreements are for three years, and will expire in September of 2024. Before and during contract negotiations, the administration will hold occasional “shade” meetings with City Council to discuss bargaining strategy. If the administration and the union agree on a contract, the matter comes to City Council for a vote. If Council does not approve, then negotiations resume. If matters reach an impasse, then a state-mandated process takes over and the City Council, acting in a quasi-judicial role, imposes a final decision on both the parties after taking testimony from both sides. Mr. Granat said council members should not take sides or make any statements about collective bargaining negotiations since they may be called on to act in a quasi-judicial fashion at the end of an impasse process. In response to a question from Council Member Clark-Murray, Mr. Granat said that there is not a prohibition against talking to union representatives during the collective bargaining process, but members should be prepared to disclose that as an *ex parte* communication should an impasse process occur.

Gaby Young, Chief of the JSO and Regulatory Division of OGC, made a presentation on regulatory and code enforcement. The City enforces numerous codes, including Animal Care and Control, Environmental Quality, Building Inspection, Fire Prevention, Historic Preservation, and Municipal Code.

There are three primary enforcement mechanisms: 1) civil citation heard by a special magistrate and county court judge; 2) civil action filed by OGC in circuit court for civil penalties or injunctive relief; and 3) Municipal Code Enforcement Board. The amount of fines and penalties and the accumulation of unpaid fines varies by the enforcement mechanism being used. In response to a question from Council Member Clark-Murray about why enforcement of blighted buildings takes so long, Ms. Young said it results from constitutional and state law protections for owners of property. Jason Teal said it sometimes results from making decisions about the best way to attack the problem, what each option costs, and what the City would do with the property should it end up enforcing liens and taking possession of the property. He said the solution ultimately comes down to 2 questions – can we do this, and should we do this. The OGC answers the first question, the City Council as the policy-making body answers the second.

To conclude, Margaret Sidman said that the third orientation session for council members begins tomorrow morning at Jacksonville University at 9:00 a.m., with a continental breakfast beginning at 8:30.

The meeting concluded at 4:57 p.m.

Minutes: Jeff Clements, Council Research Division

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6.16.23 Posted 5:30 p.m.