



# Taxation, Revenue, and Utilization of Expenditures (TRUE) Commission

Dr. Keshan Hargrove, Chair

## TRUE COMMISSION MINUTES

May 9, 2024

4:00 p.m.

Don Davis Room, 1<sup>st</sup> floor, City Hall

**Attendance:** Commissioners Dr. Keshan Hargrove (Chair), Charles Barr, Ramon Day, Velma Rounsville, Bruce Tyson, Andrea Letizia, Daniel Henry (via telephone until arrival at 5:03), Tony Zebouni (arr. 4:12), Kim Pryor (arr. 5:10)

**Excused:** None

**Absent:** None

**Also:** Jeff Clements – City Council Research; Tommy Carter – Council Auditor’s Office; see sign-in sheet for additional attendees

Commission Chair Dr. Keshan Hargrove convened the meeting at 4:00 p.m. and the attendees introduced themselves for the record.

### Approval of minutes

The minutes of the April 4, 2024 commission meeting were **approved unanimously as distributed.**

### Public Comment

John Nooney advocated for a water access public park on Pottsburg Creek. Corruption on the public waterways is massive. FIND money is being misappropriated. He has tried to contact the State Attorney’s Office, City Inspector General and Office of General Counsel and gotten nowhere. Public access to waterways is the worst it’s ever been.

In response to a question from Commissioner Day, Mr. Nooney said he has voluminous evidence of malfeasance but no one will address his concerns; he is being completely ignored at all turns.

### Inspector General’s Office

Robert Linsner, an investigator with the Inspector General’s Office, introduced Dave Johnston, the Deputy Inspector General for Audit, to make the presentation. Mr. Johnston said the IG’s Office was created in 2018 with a mission to root out fraud, waste and abuse in City government and make recommendations on operational improvements. Their scope of authority is very broad, encompassing any agency that receives any City funding. The office has 2 main units – Investigations (typically individual level) and Audits (agency or unit level). “Waste” is defined as excessive spending on unnecessary items, not just disagreement over policy decisions on spending. The TRUE Commission can help by referring matters to the IG when it sees something potentially wrong, which the IG can then investigate.

Commissioner Day asked about the threshold for starting an investigation when someone makes a complaint. Mr. Johnston said the IG's intake unit makes an initial determination and excludes complaints that are outside of the parameters of the IG's authority (i.e. matters related to state or federal law), then items are referred to the Investigations Division for initial consideration. The IG does not get involved in questioning policy decisions, so a citizen complaining about a city policy is not something in which they would get involved. Mr. Day asked how the public would know if a citizen's allegations are being addressed by the IG. Mr. Johnston said the results of an investigation are published on the IG's website after an investigation is completed or a case is closed; investigations are confidential until completed. Most of their records are public records and available on request. The IG lets persons who file complaints know what happened with their case. Mr. Day asked for any public records that may be available on John Nooney's previous complaints to the IG's Office; Mr. Johnston said they will be provided if they are deemed to be public records.

Chair Hargrove asked why it takes so long for anything to be done about City contractors who don't live up to their contracts. Mr. Johnston said the IG's Office is mostly reactive, not proactive, so that is part of the problem. The City Council has provided the IG with funding for a new data analytics system that will help that situation. He said individual departments are responsible for managing their own contracts and the IG does not have the resources to oversee things in real time. They point out weaknesses and problems to the responsible departments so things can be prevented from going wrong later. He said each department/entity has the right to assess and accept its own level of risk. In response to a question from Mr. Day about whether the TRUE Commission could ask for an investigation, Mr. Johnson said it could if the subject matter is within the IG's scope.

Commissioner Zebouni asked about the finding in a recent Council Auditor quarterly budget summary that ASM Global appeared to be overspending its budgetary authority through the first quarter of the fiscal year. Mr. Johnston said the IG's Office doesn't have an open investigation on that subject. He believed it would be addressed in the current negotiations between the City and ASM Global over the stadium renovation project. Alex Alston, Chief of Sports and Entertainment for the City, said the ASM's monthly and quarterly reports come to his office and the Finance Department. He is a former ASM employee and said the past policy when he was on the company side was to send the reports to the City and if there was no objection then they went ahead with excess expenditures above budget knowing that extra revenue produced by the events incurring the expenditures would be coming later in the year after the event occurs. ASM cannot go "at risk" on a show or event without formal City approval to try to land a major show or event. He said the ASM Global contract was just renewed with the city about a year and half ago but there may be changes when the City and the Jaguars complete their negotiations on stadium renovations. ASM has to pay to book events in advance and realize the revenue from the event later – that's how the industry works and how it's always been done in Jacksonville.

Commissioner Letizia asked about staffing needs for the IG. Mr. Johnston said the City and its affiliated agencies form a huge enterprise with a huge budget so they have to prioritize limited resources to examine the most important potential trouble areas. The private sector audit field is very competitive and it's hard for the government to hire auditors at the salary the City can offer. The IG's Office is down to just one auditor now. Commissioner Barr asked if the IG has identified malfeasance over the last couple of years and what happened to the employees involved. Mr. Johnston said several people have been arrested, tried and convicted and more cases are pending. The IG can't take any action against an employee on its own and the relevant agency has to decide what appropriate action to take. All of their reports are online and the TRUE Commission should read them to see what the IG has been doing. He said it has been hard to get the word out to the general public about what the IG's Office is and what they do. They welcome public input from citizens who see something they believe to be suspicious.

Commissioner Henry said the commission heard from the Chief of Procurement at a recent meeting about the Procurement Code rewrite and asked about the definition of “high risk” contracts in that code. Mr. Johnston said the IG’s Office participated in the rewrite process and made several suggestions about contract management and how to identify “high risk” contracts. Mr. Henry asked if the problem with hiring auditors is mostly due to the pay scale. Mr. Johnston said that was the case and they just couldn’t get any good candidates for the pay they could offer, so some positions were converted to investigations rather than audits. He believes they are proposing a new position for the upcoming budget for the contract management area. Commissioner Day asked if there is a national association of local inspectors general and what they say about compensation. Mr. Johnston said there is a national association for all IGs, but he doesn’t know that they have information on compensation rates.

Commissioner Zebouni asked if the IG has tried to analyze the type of contracts that are most likely to generate litigation based on past experience (i.e. sole-source, design-build methodology, etc.). Mr. Johnston said they have not yet, but their new analytics software gives them that capability. Mr. Zebouni suggested tracking excessive change orders as another source of identifying problem contracts. Mr. Johnston said eventually they will be able to link their analytical system to the City’s financial system and analyze contracts in real time. Commissioner Henry said the TRUE Commission understands that the City doesn’t have a unified contract management system and asked how the IG gets its contract information to analyze. Mr. Johnston said they have access to the 1Cloud financial management system now, but that doesn’t have all relevant information as various departments track things in different ways on different systems, and the independent authorities are an entirely different matter again. He said the City has a long history of legacy tracking systems. Mr. Zebouni said the IG can’t be expected to oversee everything in real time, that’s not their job. Mr. Johnston said they don’t know the minute details of every contract – they have to rely on the user agencies to know exactly what was specified in the contracts.

#### Sports and Entertainment Division – Alex Alston

Mr. Alston said the creation of a Jacksonville Sports Foundation was announced yesterday so this is an exciting time for sports in Jacksonville. The City has bid on hosting 19 NCAA events already and will hear this fall about hosting NCAA Division 1 basketball tournament opening round games in the next couple of years.

Commissioner Day asked about the ASM Global budgetary authority issue and the time lag of matching expenses with revenues – does the budget have to be modified during the year to reflect what’s happening? Mr. Alston said the timing varies widely based on the event – it could be 3 months to a year for event revenue to be collected to match earlier expenditures. He said he would have to get more information on how the Finance and Administration Department handles that from a budget perspective. Commissioner Henry asked about the contract provision regarding City approval of expenditures over budget and whether the original intent was more about providing flexibility for ASM or about the City controlling expenses. Mr. Alston said he assumes it was to give ASM the flexibility to work in the marketplace to do what needs to be done to book a show. The promoter of an event, not ASM or the City, is at risk on the financial end. Mr. Henry asked about the potential use of ARP funds for capital improvements on public venues as mentioned in the Finance Committee meeting yesterday. Mr. Alston said ASM’s request is for items that are included in the City’s Capital Improvement Plan (CIP) for next year, but they just want permission to get high priority items done quicker during the venue off-seasons this summer instead of impacting shows and events in the busier fall season. Mr. Henry asked if the company’s monthly reports provide enough information to ensure that there is not a budget shortfall at the end of the fiscal year. Mr. Alston said he is comfortable that they do. He said the Deegan administration is doing consistent oversight of those reports and being better about giving pre-approval for expenditures over budget. The public venues don’t make money, so the City subsidizes the operations to the level provided in the contract with ASM. Certain revenues are devoted to specific items by contract, and he can provide further information on those if desired.

Commissioner Zebouni asked about security from promoters and whether they are required to post a performance bond. Mr. Alston said the City doesn't get into that level of detail - that's what ASM is for, to provide the financial buffer between the promoter and the City. Mr. Zebouni asked about the media reports of a rat infestation problem at EverBank Stadium and who is responsible for rectifying that. Mr. Alston said all parties are jointly responsible, but they can only do what they have the money to take care of. The City is ultimately responsible because the venues are City buildings, but the City hired ASM to manage them and the Jaguars have contractual rights and responsibilities for the football stadium. Mr. Henry asked about naming rights for the Performing Arts Center. Mr. Alston said ASM has been tasked to explore the marketplace and see what might be possible.

#### Council Auditor's Report

Tommy Carter of the Auditor's Office reported that 2 new reports have been issued since the last commission meeting.

#824A - Follow-up on Capital Assets Audit (issued 04/10/24): 15 issues were identified in the original audit in 2019, 11 items were cleared as of this follow-up, and 4 remain for a future follow-up: 1) need for more random inventory checks, 2) need for more timely tagging and recording of assets into the management system; 3) lost or stolen items reported to JSO not being reported to the Council Auditor's Office as required; and 4) property records not containing all asset information required by state regulations.

#881 - Audit of Indigent Care Agreement with Shands (issued 04/18/24): the audit is a periodic check of whether City indigent care funds provided to Shands Hospital are being properly allocated to the costs of providing services to eligible citizens. The audit identified three issues: 1) the City is not adequately monitoring the Shands contract; 2) medical care costs billed to the City Contract Account were not based on the patient fee schedules in the contract; and 3) Shands not consistently evaluating patients' Medicaid eligibility. There will be a follow-up in 18-24 months. Commissioner Henry asked what monitoring should look like to meet the Auditor's recommendation. Mr. Carter said failure to adequately monitor the contract has been a consistent finding for nearly 15 years and they recommend having an employee specifically designated to be the monitor and review documentation to meet contractual requirements. He said the Finance and Administration Department responded that they have started doing quarterly reviews of Shands' reporting; the follow-up review will evaluate what they are doing. Someone needs at the very least to check Medicaid eligibility and residency of patients before assigning their costs to the indigent care contract. The City should be the payor of last resort but isn't always. Commissioners asked staff to request that a representative of the Finance Department come to the June commission meeting to address indigent care contract monitoring.

Mr. Carter briefly described the General Fund – General Services District year-end fund recapture from FY22-23 which was recently processed. The recapture process identified \$7M of year-end unexpended funds to go back into the Operating Fund. He also noted that the Council Auditor's Office recently had its 3-year audit process peer review by the Association of Local Government Auditors and got a top rating.

#### Legislative Tracking Committee

None

#### Audit Committee

None

#### ASM Global Contract Committee

None

### Chair's Comments

None

### Old Business

Resolution 2024-1 recommending that the Mayor include funding and position authorizations for 2 new positions in the Procurement Division, which was voted on at the April commission meeting, was reviewed and approved for distribution with the correction of a typographical error in the first Whereas clause.

Commissioner Pryor asked for an update on the Grace and Truth Community Development Corporation property reversion issue discussed at the last meeting. Commissioner Henry said the TRUE Commission was invited earlier in the meeting by a guest speaker from the Inspector General's Office to refer items to the IG for them to investigate. Ms. Pryor asked staff to provide information on the latest status of the property reversion and the subsequent lawsuit. Commissioner Zebouni offered to provide a case number for the suit.

### New Business

Alex Hoffman, the nominee of the Greater Arlington/Beaches CPAC to fill its vacant seat, introduced himself. He should be appointed by the City Council in late May.

### Commissioner Comments

Commissioner Rounsville asked where things stand on the City's implementation of its 1Cloud enterprise management system. Mr. Clements said some modules have been implemented, others have not yet.

Commissioner Zebouni said there must be a better way to track the Medicaid eligibility of prisoners transported from the jail to Shands Jacksonville for health care so their entire cost of care is not charged to the City's indigent care contract if they are released from custody while hospitalized.

### Next meetings

Audit Committee – at the call of the Chair as needed when new audits/reports are released

Legislative Tracking Committee – at the call of the Chair as needed

Full commission – June 6, 2024: Karin Tucker Hoffman – Florida First Coast Chapter of Associated Builders and Contractors discussing the Procurement Code re-write

The meeting was adjourned at 5:29 p.m.

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