



**OFFICE OF THE CITY COUNCIL
RESEARCH DIVISION**

117 WEST DUVAL STREET, SUITE 425
4TH FLOOR, CITY HALL JACKSONVILLE,
FLORIDA 32202
904-255-5137

City Ethics and Sunshine Training, 2024

Meeting Minutes

June 24, 2024, 9:00 a.m.

Location: Lynwood Roberts Room, 1st floor, City Hall

In attendance: Peggy Sidman, Council Director; Kirby Oberdorfer, Director of the Office of Ethics, Compliance and Oversight; Andrea Myers, Ethics Training Manager; Paige Johnston, Ethics Attorney; Michael Fackler, General Counsel; Mary Staffopoulos, Office of General Counsel; Dylan Reingold, Office of General Counsel; Council President Ron Salem; Council Vice President Randy White; Council Member Mike Gay; Council Member Matt Carlucci; Council Member Ken Amaro; Council Member Joe Carlucci; Council Member Tyrona Clark-Murray; Council Member Ju'Coby Pittman; Council Member Michael Boylan; Council Member Raul Arias; Council Member Rahman Johnson; Council Member Kevin Carrico; Council Member Terrance Freeman; Council Member Jimmy Peluso; Jacksonville Beach Council Member Bill Horn; Jacksonville Beach Council Member Dan Janson; Jerry Holland, Supervisor of Elections; Jim Overton, Tax Collector; Lorrinn Cassandra Woods, Tribe Representative; Curtis Ford, Mayor of Atlantic Beach; Patrick Krechowski, DIA; Micah Heavener, DIA; Scott Wohlers, DIA; Jessica Ring, Atlantic Beach Board of Commissioners; Candance Kelly, Atlantic Beach Board of Commissioners; Carol Brock, Tourist Development Council; Brett Nolan, Tourist Development Council; Joe Johnson, Executive Council Assistant; Jamey Crozier, Executive Council Assistant; Cory Armstrong, Executive Council Assistant; Jessica Denson, Executive Council Assistant; Celestine Mills, Executive Council Assistant; Sonia Johnson, Executive Council Assistant; Gerrie Hardin, Executive Council Assistant; Jackie Lee, Executive Council Assistant; Andrew Powers, Executive Council

Assistant; George Foote, Executive Council Assistant; Roshanda Jackson, Executive Council Assistant; Brooks Dame, Executive Council Assistant; Carol Register, Executive Council Assistant; Amber Lehman, Executive Council Assistant; Evin Herzberg, Executive Council Assistant; Makenzi Conner, Executive Council Assistant; Rebekah Hagan, Executive Council Assistant; John Nooney

Meeting Convened: 9:00 a.m.

Peggy Sidman, Council Director, introduced the training session, led by Ethics Commission and Office of General Counsel staff, covering ethics, sunshine law, and public records issues. She explained that this training would meet the 4-hour state requirements for elected officials and the local sunshine training for ECAs. She noted that 100% of Council Members and nearly 100% of ECAs were completely in compliance with sunshine law and public records requirements in the recent Inspector General Audit and that absent ECAs would need to complete their training via Oracle.

Council President Salem thanked those leading the training sessions and explained that a bill would be introduced the next day via addendum to the City Council agenda to make local law consistent with recent changes approved by the state legislature and governor regarding ethics reporting procedure.

Roll call for elected officials was called.

Kirby Oberdorfer, Director of the Office of Ethics, Compliance and Oversight; Andrea Myers, Ethics Training Manager; and Paige Johnston, Ethics Attorney, led a training on Government Ethics. Ms. Oberdorfer took a poll on what attendees' goals for Jacksonville were and explained that it was a goal of hers for Jacksonville to be the City with the least ethics issues. She noted the difference in approaches between various City Ethics Offices and explained that she envisions Jacksonville's Office of Ethics, Compliance and Oversight as a "watch dog" as opposed to a "lap dog" (too timid) or an "attack dog" (too combative). She explained that her office works with the State Ethics Office to administer advisory opinions to officials in government who need advice on difficult situations that may present ethical concerns.

Ms. Oberdorfer noted that a City employee or official or City entity hiring someone with a potential conflict could ask for advisory opinions. She explained that the questions determining whether a City official can legally accept gifts can be highly attenuated and complicated, and she stated that it is better to err on the side of caution regarding potential ethical conflicts than to ask for forgiveness after the fact.

Joe Johnson, Executive Council Assistant, gave a testimonial involving a situation where the Office of Ethics, Compliance and Oversight was helpful in navigating a potential conflict of interest. The situation involved the passage of the Baymeadows Community Improvement District and former Council Member Danny Becton's voting conflict. He noted the importance of ECAs and Council Members working as a team to ensure that Council Members do not unknowingly put themselves at risk.

Ms. Oberdorfer showed Office of Ethics, Compliance and Oversight staff contact information. She explained the purposes that ethics laws serve to function, including protecting public resources, promoting accountability, and building public trust in government. She explained that ethics laws in the United States could be traced back to the United States Constitution and its Emoluments Clause and to the Florida Constitution. She explained how SB 7014, which had been recently passed by the Florida legislature and signed by the governor on Friday, altered the ethics complaint process; it requires all ethics complaints to be submitted with first-hand knowledge of the violation via a sworn affidavit and prohibits local ethics commissions from self-initiating ethics investigations. She stated that the Ethics Office had been tracking this bill closely, as its changes that affected the office went into effect immediately upon signature by the governor.

Ms. Myers presented on gifts – regulations apply to gifts given to elected officials in both their official capacity and gifts given in their personal capacity. She delineated distinctions between permissible, permissible but reportable, and prohibited gifts, and she noted that exceptions to the receipt of gifts exist when they are received from family, primary employers, and when the gifts are fully paid for. The Ethics Office sends calendar invitations as a quarterly reminder to City officials and employees who are required to report gifts. Ms. Myers ran through various hypothetical scenarios in which gifts could potentially present ethical conflicts and took involved audience participation to determine what those in these scenarios should do. Questions asked in this section included:

- Council Member Raul Arias asked for clarification regarding the specific definition of a “gift.”
- Council Member Matt Carlucci asked whether he could give gifts to his son, Joe, who is also on the City Council.
- Council Member Kevin Carrico asked about the distinction between gifts and political expenses.
- Supervisor of Elections Jerry Holland asked whether a vendor’s giving a gift to a relative of an official, which was then given by the relative to the official, would be illegal.
- Council Member Ken Amaro asked whether gifts over the \$100 threshold but were from a child or spouse had to be reported.
- Council Member Ken Amaro asked about the process for evaluating the cost of a gift.
- Council Member Ju’Coby Pittman asked whether the receipt of flowers could qualify as a gift.
- Council Member Kevin Carrico asked about consequences for being in violation of gift law.
- Council Member Matt Carlucci asked who has authority to prosecute violations of gift law.

Ms. Oberdorfer presented on conflicts of interest, which were categorized into voting conflicts and prohibitive conflicts. She explained that prohibitive conflicts arise from outside of the legislative process and exist as a result of overlap between an official’s government duties and personal interest. She explained that the Ethics Office provides a self-assessment for potential prohibitive conflicts that may arise as a result of officials’ connections existing prior to their entering office. She ran through various scenarios and involved audience participation and questions regarding these scenarios. She noted that prohibitive conflicts cannot be cured through abstention from voting and noted that prohibitive conflicts can exist even when there is no immediate financial gain to the official. A conflict can exist when there is interaction between a public officer, an agency, and a business entity that could result in benefit to the officer or business entity. She explained that there is

annual review for potential prohibitive conflicts and explained an example of a public official who lost their law license and was sentenced to several months of probation. Questions/comments in this section included:

- Council Member Peluso asked about the hypothetical scenario of whether an official's romantic involvement with a lobbyist would present legal implications.
- Bill Horn, Jacksonville Beach City Council, asked whether one could hypothetically have a prohibitive ethical conflict by serving as a volunteer on the board of a nonprofit without being paid.
- Council Member Tyrone Clark-Murray asked about the specifics of potential ethical conflicts.
- Council Member Ron Salem explained a past situation involving the sheriff and the jail.
- Council Member Ken Amaro noted a situation in which the Ethics Office helped him work through a potential prohibitive conflict when he arrived in office.

Ms. Oberdorfer presented on voting conflicts, which arise in situations where officials are on bodies that are considering legislation that could reasonably be expected to economically impact the official. She explained that these conflicts arise automatically and that there was no means of curing violations once they have been committed. She noted that there are several exemptions but that these exemptions are highly technical and suggested calling the Ethics Office rather than making a unilateral decision on a potential voting conflict. She ran through various scenarios and involved audience participation and questions regarding these scenarios. Questions/comments in this section included:

- Council Member Raul Arias asked whether he would need to abstain from voting in any bill regulating restaurants.
- Council Member Ju'Coby Pittman noted that many current Council Members are involved with nonprofits and that ethical conflicts could hypothetically go unnoticed if a bill is approved via consent agenda.
- Council Member Ju'Coby Pittman asked about the consequences if officials vote on bills in which they have conflicts.

The training took a lunch break from 11:03 to 11:15.

Michael Fackler, General Counsel, introduced the Public Records and Sunshine Training. He ran through a list of violations and excuses that the Office of the General Counsel does not want to hear. He introduced Mary Staffopoulos and Dylan Reingold of the Office of the General Counsel to provide the training.

Mary Staffopoulos and Dylan Reingold of the Office of the General Counsel presented on Public Records laws. Mr. Reingold referred to handouts that explained the definition of a public record. He noted that this definition is extremely broad and can even extend to personal texts relating to public business. He told a story of needing to send a text message on a substantive matter and then screenshotting the text messages and sending them to his email so that he would have a copy of these texts for public records purposes. Ms. Staffopoulos agreed with the point that officials should have substantive discussions orally if they do not want to create a public record. Mr. Reingold pointed out that method of communication does not affect whether a record is a public record or not; for example, a shopping list communicated over government email would not be a public record but

conversations related to public duties communicated over text are public records. Questions in this section included:

- Council Member Jimmy Peluso asked whether “political” communications could count as public records.
- Council Member Tyrone Clark-Murray asked about the process by which the City receives payment for voluminous public records requests.

Mr. Reingold explained that social media posts can be public records like text messages if they are related to public business. Ms. Staffopoulos noted that many public officials continue to maintain private social media accounts and recommended that they be careful with what they post on their private accounts so that nothing on their private accounts becomes public record. Questions asked on this issue included: • Joe Johnson, Council Executive Assistant, asked whether he could ban bots from social media pages.

- Roshanda Shine, Council Executive Assistant, asked whether a verbal request from a constituent qualifies as an official public records request.
- Dan Janson, Jacksonville Beach City Council, asked whether public officials could hide profanity and/or threats from their public social media pages.

Mr. Reingold explained that questions cannot be considered official public records requests and that there is no affirmative obligation for public officials to answer questions. Ms. Staffopoulos explained that public records requests are obligated to be kept in the requested medium if possible. She stated that public officials cannot avoid obligations of public records requests by passing off requests to a third party.

Ms. Staffopoulos discussed drafts; they are public records once they are shared. She explained that notes would unlikely be public records requests unless they are the only copy of any document on the matter or unless they were notes drafted for the purpose of directing a speech. Mr. Reingold stated that anyone with concerns over whether or not specific documents could be considered public records should direct their questions to the Office of General Counsel. He stated that there are watchdog groups that attempt to bait local governments into public records violations, so public officials should be diligent in maintaining records of anything that could be considered public record. Mr. Reingold explained that public officials are not required to fulfill standing requests (“I wish to be sent all communications every Monday...”); he stated that public records are a snapshot in time and that those fulfilling public records requests should present a snapshot in time. Ms. Staffopoulos recommended to acknowledge public records requests immediately, and she added that the obligation to fulfill the request is within a “reasonable” timeframe given the nature of the request. She concluded that the purpose of public records laws is to promote public trust in government and that she would not want to be before a judge representing a client with a poor argument that their efforts were “reasonable.”

Ms. Staffopoulos and Mr. Reingold transitioned to the portion of the training session focusing on Sunshine Law. Sunshine Law prevents members of the same voting body from discussing matters that could conceivably come before the body on which they serve outside of a noticed meeting. They explained that Sunshine Law requires that qualified meetings give notice, be open to the public, and provide some level of minutes documenting what is discussed at the meeting. The minimum time for notice is 24 hours, but the Office of General Counsel

generally recommends providing notice one week in advance. Mr. Reingold explained that minutes do not need to provide a verbatim record but should generally outline what was discussed at a meeting.

Mr. Reingold explained a story involving how Sunshine Law concerns were raised when members of a body moved extremely quickly to kill a contentious bill, which raised suspicion that they had discussed the bill outside of member-to-member sunshine meetings. Ms. Staffopoulos explained that third parties cannot be used as a conduit of information to circumvent Sunshine Law.

Questions/comments in this section included:

- Council Member Matt Carlucci asked whether other public facilities, such as the library, were sufficient venue for member-to-member meetings.
- Council Member Matt Carlucci noted that Sunshine Law levels the playing field for members of legislative bodies, as preexisting connections are less important when communications are limited to noticed meetings.
- Council Member Johnson stated that he hoped that Sunshine Law requirements would not diminish congeniality among members of the City Council, and he explained that members of the State legislature are not bound by Sunshine Law in the same manner as local government officials.
- Council Member Joe Carlucci asked about hypotheticals involving lobbyists or other third parties functionally acting as conduits of information without the consent of the Council Member.
- Council Member Matt Carlucci noted Mayor Ed Austin's advice of "when in doubt, walk out."

Ms. Staffopoulos noted that Sunshine Law is very broad and that the penalties for violations can be very serious. She handed out a case involving a violation and recommended that attendees read it on their own time to learn more about the consequences of Sunshine Law violations.

Ms. Sidman thanked everyone for their attendance and adjourned the meeting.

Meeting adjourned: 1:00 p.m.

Minutes: Eamon Webb, Council Research Division ewebb@coj.net

904-255-5140

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