

CITY OF JACKSONVILLE

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ETHICS COMMISSION MEETING MINUTES

City Hall, Mezzanine Floor, Room 3
Monday, May 13, 2024

The meeting was called to order at 4:32 p.m. by Ms. Dixon. Ethics Commission attendees: Chair J.J. Dixon, Erich Freiburger, William Maule, Linda McCallum, Leah Palestrant, Scott Simpson, Sunny Gettinger, Robyn Blank (arrived in person at 5:11 p.m.), and LaTonya Lipscomb Smith.

Others in attendance: Kirby Oberdorfer, Director of the Office of Ethics, Compliance and Oversight (OECO); Paige Johnston, Ethics Attorney (OECO); Sandy Homrighouse, Executive Assistant (OECO); and Cherry Shaw Pollock, Office of General Counsel (OGC).

Public In Attendance: John Nooney.

Confirmation of Quorum:

Ms. Blank appeared initially by phone and requested to attend the meeting telephonically due to extraordinary circumstances preventing her from attending the meeting at the start in person. Ms. Dixon stated the Ethics Commission needs to determine whether Ms. Blank's inability to attend the meeting in person constitutes an extraordinary circumstance. Ms. Blank stated her reason for being unable to attend the meeting in person initially is due to her travel from Tallahassee and bad weather she encountered. Judge McCallum made a motion that Ms. Blank be able to attend the meeting telephonically due to her extraordinary circumstances. Dr. Freiburger seconded the motion. With no further discussion, the vote was 8-0 in favor (vote by Ethics Commission members physically present in the room). Ms. Dixon confirmed quorum.

Minutes Approval:

October 30, 2023, Ethics Commission Meeting:

December 18, 2023, Special Ethics Commission Meeting

February 12, 2024, Special Ethics Commission Meeting

March 14, 2024, Special Ethics Commission Meeting

Ms. Dixon suggested all the meeting minutes be approved all at once. Dr. Freiburger made a motion for approval of minutes. Ms. Smith seconded the motion. With no discussion, the motion passed by 9-0 in favor.

Reports:

ECO Office Report: Ms. Oberdorfer stated the office is very busy with multiple trainings scheduled and invited the Ethics Commission members to a four-hour City Council training on June 24. The Ethics Commission members should have received a save the date invitation for City Council installation on June 20. The Ethics Office is working on next fiscal year's budget and is hoping for an increase in contributions from the independent authorities due to the Deegan administration agreeing to negotiate the contracts for our office. There are salary increases proposed in the budget for Ms. Johnston and Ms. Myers which would necessitate an increase from last year's budget. Ms. Smith asked if Ms. Homrighouse would also get a salary increase. Ms. Oberdorfer stated that both Ms. Miller and Ms. Homrighouse would receive increases in their hourly pay rate, but that this increase would not affect the budget amounts.

Office of General Counsel Report: Ms. Pollock reported that Dylan Reingold has been hired as the new Chief Deputy in the Office of General Counsel.

Complaints Committee Report: Dr. Freiburger announced that the Complaints Committee met last week and there is one pending complaint. Ms. Homrighouse will verify that number for the next meeting.

Old Business:

Review Potential Changes to the Ethics Code:

Ms. Pollock asked if this item needed to be moved for reconsideration first since it was discussed and voted on at the last meeting. Ms. Johnston stated that procedurally a motion for reconsideration would not be appropriate because the Ethics Commission already voted on the legislation at the last meeting. Ms. Oberdorfer stated Senate Bill 7014 still has not been presented to the Governor. A discussion and review of the potential changes to the Jacksonville Ethics Code Part 9 occurred.

1. This draft legislation includes all the changes approved by the Ethics Commission at the special meeting on March 14 and some additional clarifications/updates to the Whereas clauses, provisions regarding referrals received by the Ethics Commission, and the provision relating to the emergency nature of the legislation. The Director recommended that the Commission conditionally approve the potential changes to the Jacksonville Ethics Code for the Ethics Commission and Ethics Code to comply with the new requirements in SB 7014 that will take effect immediately once the bill is enacted into law.

A summary of the proposed changes to Part 9:

- a. Amends the Ethics Commission duties and powers in section 602.921(a) as follows:

- i. Includes requirement that complaints be based upon personal knowledge or information other than hearsay (**See SB 7014 Section 112.326(2)(b) on page 16**)
 - ii. Deletes/eliminates the Ethics Commission’s authority to initiate a complaint and includes a specific prohibition that the Commission shall not initiate a complaint or investigation (**See SB 7014 Section 112.326(2)(c) on page 16**)
 - iii. Clarifies hotline and deletes/eliminates authority to receive anonymous tips and information on the hotline (**See SB 7014 Section 112.326(2)(a) on page 16**)
 - iv. Includes IG as entity that can assist Ethics Commission with investigations to be consistent with City Charter and current practice
 - v. Clarifies that the Ethics Commission can receive and investigate referrals from the Council Auditor's Office, Employee Services, Office of Inspector General or State Attorney’s Office to be consistent with the legislative intent of SB 7014 and memorialize current practice
- b. Deletes section 602.921(c) (**See SB 7014 Section 112.326(2)(c) on page 16**) and replaces it with authority currently in the City Charter for the Ethics Commission to recommend legislative changes to City Council in certain ethics areas. This change was also previously approved by unanimous vote at the July 27, 2023, Ethics Commission meeting.
 - c. Amends description of types of complaints the Ethics Commission can investigate by deleting “citizen, hotline, employee and self-initiated” required by SB 7014 (**See SB 7014 Section 112.326(2)(a), (c) on page 16**).
 - d. Clarifies provisions regarding due process, procedures, documents, testimony and dismissal of complaints also apply to referrals received by the Ethics Commission.
 - e. Allows Ethics Commission to issue Letter of Instruction for any dismissal and deletes requirement of inadvertent, unintentional, or insubstantial violation for Letter of Instruction.
 - f. Adds clarifications/updates to the Whereas clauses, provisions regarding referral received by the Ethics Commission, and the provision relating to the emergency nature of the legislation.

Judge McCallum made a motion to approve this version with the additional changes in (f) above conditionally, subject to the enactment of Senate Bill 7014. Dr. Freiburger seconded the motion. Ms. Dixon asked for public comment. Mr. Nooney provided public comment. With no further discussion, the vote was 9-0 in favor.

Ms. Johnston passed out a draft resolution of the Ethics Commission which would be attached to the legislation as an exhibit to provide the Council with notice that the Ethics Commission

approved the changes proposed in the legislation and supports Council approval of same. A further discussion continued. Dr. Freiburger made a motion to approve the resolution. Judge McCallum seconded the motion. Ms. Dixon asked for public comment. Mr. Nooney provided public comment and asked if he would be able to speak at the City Council meeting on this item. Ms. Oberdorfer stated this is a resolution of the Ethics Commission and not the City Council and there will be a public hearing at the City Council meeting. With no further discussion, the vote was 9-0 in favor.

Adopt Changes to Complaints Procedures:

Ms. Oberdorfer reviewed changes to the Complaint Procedures.

These changes were already considered at the special meeting on March 14 and were approved conditionally to take effect upon SB 7014 being enacted into law.

A summary of the proposed changes, approved March 14th, to the Ethics Commission Complaint Procedures:

- a. Delete Rules 8 and 9 governing self-initiation of complaints and investigations based on hotline tips/complaints and any references to self-initiated complaints and hotline tips (**Complaint Procedures pages 3, 5, 6, 7, 8, 15-17, 18**) (See SB 7014 **Section 112.326(2)(a), (c) on page 16**)
- b. Clarify the only type of complaints the Ethics Commission can receive and investigate under SB 7014 by deleting differentiation between Complaints and Sworn Complaints (**Complaint Procedures pages 2, 5, 8, 10-11, 18**) (See SB 7014 **Section 112.326(2)(a), (c) on page 16**)
- c. Revise definition of Complaint (**Complaint Procedures page 6**) to include limitations in SB 7014 of written complaint based upon personal knowledge or information other than hearsay (See SB 7014 **Section 112.326(2)(a), (b) on page 16**)
- d. Include definition of personal knowledge or information other than hearsay to be consistent with legislative intent and standard set forth in 4th DCA case cited by SB 7014 House sponsor (**Complaint Procedures page 8**)
- e. Include requirement from SB 7014 that complaints be based upon personal knowledge or information other than hearsay and add procedure for legally sufficiency review of basis of information included in complaint (**Complaint Procedures page 12**)
- f. Clarify that any attorney in Office of General Counsel can be investigator for Ethics Commission Complaints to be consistent with Jacksonville Ordinance Code section 602.921(a) (**Complaint Procedures pages 7, 17**)

Judge McCallum had questions regarding the change in definition of “*Personal knowledge or information other than hearsay.*” A discussion occurred regarding the proposed language in that definition. Ms. Oberdorfer explained that the language was taken from a case that the House bill sponsor cited in his discussion on the House floor to explain legislative intent as to what personal knowledge would and would not encompass under Senate Bill 7014. Judge McCallum made a motion to amend the definition to delete the following language after the 1st sentence: “Personal knowledge or information other than hearsay does not mean or include information that is unreliable and cannot be verified or authenticated, gossip or rumor, information contained in newspaper articles for which there is no personal knowledge, or the definition of hearsay in Florida Statutes Chapter 90.” Mr. Simpson seconded the motion. Ms. Gettinger suggested that a further assessment of the definition could be done down the road. Ms. Dixon asked for public comment. None was provided. With no further discussion, the vote was 9-0 in favor.

Ms. Gettinger made a motion to take up the entire changes as amended contingent upon Senate Bill 7014 being enacted as law. Dr. Freiburger and Mr. Simpson seconded the motion. Ms. Dixon asked for public comment. None was provided. With no further discussion, the vote was 9-0 in favor.

New Business: Filing of Form 1 Limited Financial Disclosure Statement:

Ms. Oberdorfer stated the filing of Form 1 Limited Financial Disclosure Statements are due by July 1, 2024. Each Ethics Commission member should have received an email from the State Ethics Commission. The filing will be done electronically starting this year. Judge McCallum had a question regarding Form 1 and Form 6. Ms. Oberdorfer answered the question.

Public Comment:

Ms. Dixon requested public comment. Mr. Nooney presented a Planning Commission document for the records and showed a resiliency booklet to the Ethics Commission. Mr. Nooney also spoke about Pottsburg Creek, a parking ticket and how public comment is reflected in the Ethics Commission minutes. Ms. Gettinger stated she will follow up with Mr. Nooney later.

Announcements:

There were no announcements.

The Chair adjourned the meeting at 5:51 p.m.

Sandy Homrighouse, Executive Assistant, OECO Date of Approval

This is a summary of the meeting and not a verbatim transcription. A recording of these proceedings is available at <http://www.coj.net/departments/ethics-office/notices,-agendas-minutes> .