

**OFFICE OF INSPECTOR GENERAL
CITY OF JACKSONVILLE**



**AUDIT REPORT
2020-CR-0001**

SUNSHINE LAW COMPLIANCE AUDIT

**LISA A. GREEN
INSPECTOR GENERAL**

JUNE 1, 2020

DATE ISSUED

“Enhancing Public Trust in Government Through Independent and Responsible Oversight”

EXECUTIVE SUMMARY**AUTHORITY**

Pursuant to Section 15.107, *Ordinance Code*, the Office of Inspector General (OIG) conducted an audit of the City of Jacksonville City Council's (Council) compliance with Chapter 15, *Ordinance Code*, Jacksonville Sunshine Law Compliance Act. According to Section 15.101, *Ordinance Code*, the purpose of the Jacksonville Sunshine Law Compliance Act is "to ensure compliance with the Sunshine Law, F.S. Ch. 286, and to create procedures, methods, best practices, and education that will enhance compliance with open meeting laws, and enhance and maintain public confidence and transparency in the legislative practices of the City Council."

Section 15.107, *Ordinance Code*, requires the OIG conduct a biannual review commencing in even-numbered years of Council notices, meeting locations, and minutes and report on the Council's compliance with the Jacksonville Sunshine Law Compliance Act.

The scope of the audit included an examination of records relating to City Council meetings, Council committee meetings, and other meetings initiated by Council Members with other Council Members during the period of May 1, 2018, through April 30, 2020. Additionally, the scope of the audit included a review of training records for all Council Members and Executive Council Assistants for calendar year 2019.

AUDIT FINDINGS**Finding 1:**

Council Members did not always provide notice for absences and late arrivals, and/or obtain permission for early departures from City Council and Council committee meetings, as required by the *Rules of the Council*. During the OIG review of the 295 samples selected, the OIG found that no notices were provided for an absence, early departure, or late arrival for 27 meetings.

Finding 2:

During the OIG review of the 295 samples selected, the OIG was unable to locate 14 City Council and Council committee meeting minutes on the Council's website via the link to Public Notices. The Council Director subsequently provided the minutes for eight of the 14 meetings. In addition, the OIG was unable to review minutes for six of the 295 meetings because the link within Public Notices was broken. The Council Director subsequently provided the minutes for all six of those meetings. The following is the link to the Council's Public Notices:

<http://apps.coj.net/CouncilPublicNotices/Meetings/ShowMeetingsTablePage.asp>

AUDIT RECOMMENDATIONS**Finding 1:**

The OIG recommends updating the *Rules of the Council* and implementing procedures to:

1. Ensure advance notice is given and that the backdating of notices will not be acceptable for absences, early departures, and late arrivals;
2. Track excused and unexcused absences, early departures, and late arrivals; and
3. Establish progressive consequences to ensure Council Members are in compliance with advanced notification, barring emergencies, of absences, early departures, and late arrivals.

Finding 2:

The OIG recommends the Legislative Services Division implement procedures to:

1. Establish timeframes for the posting of meeting minutes to the Council's website, via the link to Public Notices;
2. Perform quarterly periodic reviews of the Public Notices link to ensure records posted to that link remain accessible; and
3. Ensure all meeting minutes are posted on the Council's website, via the link to Public Notices.

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Attachment A: Office of the City Council Response, dated June 1, 2020

AUTHORITY

The Sunshine Law Compliance Audit was conducted pursuant to Section 15.107, *Ordinance Code*.

BACKGROUND

The Jacksonville Sunshine Law Compliance Act, Chapter 15, *Ordinance Code*, was established to ensure the City of Jacksonville City Council (Council) complies with Chapter 286, *Florida Statutes*, the State of Florida's Government-in-the-Sunshine-Law (Sunshine Law). According to the Attorney General's website, the intent of Florida's Sunshine Law is to provide the public the right of access to governmental proceedings in order to promote transparency and accountability and maintain public confidence in the legislative practices of government. As specified in Section 15.101, the purpose of the Jacksonville Sunshine Law Compliance Act is "to create procedures, methods, best practices and education that will enhance compliance with open meeting laws, and enhance and maintain public confidence and transparency in the practices of the City Council."

In general, there are three basic requirements outlined by Florida's Sunshine Law¹ and the Jacksonville Sunshine Law Compliance Act: (1) meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken and promptly recorded. The Jacksonville Sunshine Law Compliance Act also requires that all Council public meetings are held in a public location and that Council Members and Executive Council Assistants receive annual training on Government in the Sunshine, open meeting laws, and ethics laws.

In accordance with Section 15.103, *Ordinance Code*, Council public meeting notices shall be made available through the Council's website. The Council's website provides the public with access to information and documents pertaining to the operations of the Council. This information includes, in part, a calendar of Council events; meeting notices, agendas, and minutes; web streaming video of in-session meetings of the Council and Council committees; and web access to view the incoming internal e-mail of the Council.

The Legislative Services Division is responsible for noticing and preparing written minutes for Council meetings, all standing committee meetings, and committee subcommittees. For meetings between Council Members initiated by a Council Member, the scheduling, noticing, preparing written minutes, and maintaining attendance sign-in sheets are the responsibility of the initiating Council Member's Executive Council Assistant. When completed, Executive Council Assistants are required to provide meeting records to the Legislative Services Division.

The Legislative Services Division maintains the records of all public notices and minutes for all Council public meetings. Notices and minutes are archived in binders and maintained by

¹ *Government-in-the-Sunshine-Manual* (2019), Florida Attorney General. ² Rule 2.202, *Rules of the Council* of the City of Jacksonville (2019) – Attendance; Voting.

calendar year. Individual binders are maintained for meetings of the Council, each standing committee, and each special committee. In addition, the Legislative Services Division maintains a binder for each Council Member. All records relating to meetings between Council Members are maintained in the respective binder of the Council Member who initiated the meeting. During this audit, the Legislative Services Division conveyed it is the practice to keep all meeting notices, agendas, notices of absence and/or early departure, and meeting minutes posted to the website, via the Public Notices link.

According to the organizational chart of the Office of City Council, the Director/Council Secretary is responsible for the Administrative Services Division, Legislative Services Division, Public Information Division, and Research Division. Executive Council Assistants report directly to the Council Members.

The Director/Council Secretary has developed a training manual titled, *2015 ECA Public Notice Compliance Training (Chapter 15- Jacksonville Sunshine Law Compliance Act, Ordinance Code)*, effective June 2015 (Compliance Training Manual). The Director/Council Secretary utilizes this manual to provide training to the Executive Council Assistants (ECA) in order to ensure their understanding and outline ECA responsibilities for compliance with the requirements of the Jacksonville Sunshine Law Compliance Act and Florida's Sunshine Law.

OBJECTIVES, SCOPE, AND METHODOLOGY

This audit was conducted pursuant to Section 15.107, *Ordinance Code*, which requires the OIG conduct a biannual review commencing in even-numbered years of Council notices, meeting locations, and meeting minutes. The purpose of this audit is to provide unbiased, timely, and relevant information to the citizens of the City, the Council, the Office of Council Secretary, the Finance Committee, the Ethics Commission, the City Ethics Officer, and others, relating to the Council's compliance with Chapter 15, *Ordinance Code*, Jacksonville Sunshine Law Compliance Act, and provide recommendations, as appropriate, to improve compliance.

Section 15.107(b), *Ordinance Code*, requires that audit procedures are planned to address the following objectives:

- (1) To verify notices of applicable Council meetings were public and timely, posted not less than 24 hours prior to the meeting, exclusive of weekends and holidays, and accessible to the public by internet in accordance with Section 15.103;
- (2) To verify Council meetings were located in appropriate public rooms and all meetings held in non-public locations or Council Members' offices were properly approved in accordance with Section 15.104;
- (3) To verify minutes were written, maintained in a filing system, and available for retrieval in accordance with Section 15.106; and

- (4) To verify all Council Members and Executive Council Assistants have received annual continuing education and training on the Sunshine Law in accordance with Section 15.108.

The OIG conducted this compliance audit in May of 2020 in accordance with International Standards for the Professional Practice of Internal Auditing, issued by the Institute of Internal Auditors.

In addition, the OIG planned and performed audit procedures to achieve the following objectives:

- (1) To evaluate whether the policies and procedures established by the Council to ensure compliance with the requirements of the Jacksonville Sunshine Law Compliance Act are adequate;
- (2) To determine whether the Council has taken corrective action for findings and other matters noted in the prior audit; and
- (3) To identify and provide policy recommendations to the Council, as necessary.

The audit scope included a population of 1,267 noticed Council meetings, Council committee meetings, and meetings initiated by Council Members with other Council Members that occurred between May 1, 2018 and April 30, 2020. From the population, the OIG selected a random statistical sample of 295 to review for compliance. Per Section 15.103, *Ordinance Code*, Council public meeting notices are required to be posted to the Council's website. In general, the link to access City Council Public Notices is <http://apps.coj.net/CouncilPublicNotices/Meetings/ShowMeetingsTablePage.aspx>.

In addition, the OIG reviewed training records for all 19 Council Members and 19 Executive Council Assistants for calendar years 2018 and 2019.

The audit work included, but was not limited to, obtaining an understanding of the Council's policies and procedures germane to the audit scope and objectives; discussing procedures with the Director/Council Secretary and Legislative Services Division staff; reviewing information on the Council's website; and reviewing meeting records, such as notices, and meeting minutes, maintained electronically on the Council's website, via the link to Public Notices, or physically housed within the Legislative Services Division.

An audit by nature does not include a review of all records, and as a consequence, cannot be relied upon to identify *all* instances of noncompliance, fraud, abuse, or inefficiency. In addition, the scope of this audit was limited to Council meetings, Council committee meetings, and meetings initiated by Council Members with other Council Members posted to the Council's website, via the link to Public Notices. As a result, the OIG has relied on the information obtained through the Council's website, via the link to Public Notices, for determining the population of records reviewed for compliance.

FINDING 1

Council Members did not always provide notice for absences and late arrivals, and/or obtain permission for early departures from City Council and Council committee meetings, as required by the *Rules of the Council*. The OIG found that no notices were provided for an absence, early departure, or late arrival for 27 of the 295 meetings selected and reviewed.

Rule 4.501, *Rules of the Council*, requires Council Members who are unable to attend a “*Council or Council committee meeting, due to sickness or for a duly authorized reason shall notify the Council Secretary or the Chief of Legislative Services, who shall notify the President, committee chair, or Legislative Aide before the meeting convenes. No member present at any meeting of the Council shall absent himself/herself from the meeting without permission from the chair and prior notice given.*” Further, a Council Member who fails to attend three consecutive committee meetings may be withdrawn from the committee, at the recommendation of the chair to the President.²

As part of the audit procedures, the OIG reviewed records from the statistical sample of 295 City Council meetings, standing Council committee meetings, and special Council committee meetings subject to the attendance requirements of the *Rules of the Council*. Per the *Rules of the Council*, Council Members submit advance notice requests for excusals for absences, late arrivals, and/or early departures of meetings through a memorandum to the Council President or committee chair, as applicable. Per the Legislative Services Division, the memorandum is posted to the website via a link to Public Notices, and a copy is maintained in the Council Member’s binder in the Legislative Services Division.

Without prior notice of absences, late arrivals, and approval of early departures of Council meetings, there is a risk that there will not be enough Council Members present to achieve quorum, or to obtain a majority vote, in order to facilitate formal actions of the Council or committee.

Recommendations:

Ensure compliance with the Rules of the Council by receiving prior approval for absences, early departures, and late arrivals from full Council and Council committee meetings.

The OIG recommends updating the *Rules of the Council* and implementing procedures to:

1. Ensure advance notice is given and that the backdating of notices will not be acceptable for absences, early departures, and late arrivals;
2. Track excused and unexcused absences, early departures, and late arrivals; and

² Rule 2.202, *Rules of the Council* of the City of Jacksonville (2019) – Attendance; Voting.

3. Establish progressive consequences to ensure Council Members are in compliance with advanced notification, barring emergencies, of absences, early departures, and late arrivals.

FINDING 2

During the OIG review of the 295 samples selected, the OIG was unable to locate 14 City Council and Council committee meeting minutes on the Council's website under the link for Public Notices. The Council Director provided the minutes for eight of the 14 meetings. In addition, the OIG was unable to review minutes for six of the 295 meetings because the link within Public Notices was broken. The Council Director subsequently provided the minutes for all six of those meetings.

Neither the *Ordinance Code* nor the *Rules of the Council* mandate that meeting minutes must be posted to the Council's website. Section 15.106(d) of the *Ordinance Code* states “*a copy of the minutes of all noticed Council Public Meetings shall be kept, with the notice to such meetings, by the Legislative Services Division. The Legislative Services Division shall develop such systems and policies as are necessary for the orderly filing, maintaining and retrieval of minutes.*”

When meeting minutes are not readily accessible through the Council's website or within the Legislative Services Division binders, the proceedings of meetings are not easily accessible by the public or transparent.

The OIG noted a similar finding was identified in the prior Sunshine Law Audit conducted in 2018. In the prior finding, meeting minutes initiated and noticed by Council Members with other Council Members were not posted to the Council's website or filed with the Legislative Services Division.

Recommendations:

Ensure meeting minutes are uniformly posted to the Council's website, via the link to Public Notices.

The OIG recommends the Legislative Services Division implement procedures to:

1. Establish timeframes for the posting of meeting minutes to the Council's website, via the link to Public Notices;
2. Perform quarterly periodic reviews of the Public Notices link to ensure records posted to that link remain accessible; and
3. Ensure all meeting minutes are posted on the Council's website, via the link to Public Notices.

ECONOMIC IMPACT

There were no cost savings or recovered costs as a result of this audit.

OFFICE OF THE CITY COUNCIL RESPONSE

On May 27, 2020, the OIG provided the Council President and the Director/Council Secretary, Jacksonville City Council, the opportunity to submit a written response to the DRAFT Sunshine Law Compliance Audit, due no later than May 31, 2020. On June 1, 2020, the Director/Council Secretary forwarded a response to the OIG, which is attached in its entirety to this report. The Director/Council Secretary is in the process of conducting a comprehensive review of the *Rules of the Council*. In addition, the Director/Council Secretary advised that the City Council is in the process of completing data migration to newly purchased software in order to streamline documents related to Council meetings. The Council will continue to hold mandatory training on Florida's Sunshine Law.

Attachment A: Office of the City Council response, dated June 1, 2020



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OFFICE OF THE CITY COUNCIL

June 1, 2020
(12:00 P.M.)

MEMORANDUM

TO: Lisa A. Green, Deputy Inspector General
Office of Inspector General

FROM: Cheryl L. Brown, Director/Council Secretary
Jacksonville City Council

SUBJECT: Response Audit Report
Office of Inspector General Audit Report 2020-CR-0001

This correspondence acknowledges receipt and provides a response to the Sunshine Compliance Audit Report Number 2020-CR-0001, in accordance with Section 15.107, *Ordinance Code, City of Jacksonville, Florida*.

The Office of the Director/Council Secretary and the Jacksonville City Council appreciates the ongoing efforts of the Council Staff as well as Executive Council Assistants in their support of promoting accuracy, efficiency, transparency in records keeping, management, and document retention. We are committed in our effort to ensure compliance with all laws governing Sunshine Compliance and offer the following response:

The Council in accordance with Section 4 – Section 112.3142 Florida Statutes (Ethics training for specified constitutional officers): *will complete 4 hours of ethics training annually that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.*

A Mandatory State Sunshine Training Session is normally scheduled for the month of June as a part of the State of Florida Training Sunshine requirement (<https://www.coj.net/city-council/sunshine-compliance>). In an effort to comply with this mandate “ALL” Council Staff and Council Members were emailed a Zoom and PowerPoint work product for review and certification, to be submitted to the City of Jacksonville’s Ethics Compliance Office. (Power Point – Zoom into Sunshine Training - <https://www.coj.net/city-council/sunshine-compliance/2020-training>) **(This session will provide an additional 1.0 hour of training.)**

In an effort to move towards amenability the following responses are recommended:

Response Finding 1:

The 2019-2020 Council Rules Committee is in the process of conducting a comprehensive review of the Council Rules (<https://www.coj.net/city-council/rules-of-the-council>). A request for the continuation of this initiative may be a point of consideration for the Office of the Inspector General with the 2020-2011 Council President Designate.

Response Finding 2:

In an effort to provide more efficiency with Agenda Creation, Voting Systems Management, ADA Compliance and to remove redundancy in posting, the Council approved purchase of new software system in addition to upgrading of the Council Chamber. This process has been taking place in phases. The most recent and phase is the renovation of the Council Chamber and software packages. We are continuing data migration. Please note the change in formatting and software when viewing the 3rd link.

Additionally, a new and improved Public Notice System was created and implemented that allows for queries and searches. I have provided the links for the Council Meetings from 2018 to the Present:

<http://cityclts.coj.net/coj/2018Minuteslist.asp> - 2018

<http://cityclts.coj.net/coj/Minuteslist.asp> - 2019 partial

<https://jaxcityc.legistar.com/DepartmentDetail.aspx?ID=39526&GUID=AF102B62-F518-4059-B91C-B226331098B2> -- rest of 2019 (Please set filter for the year tracking)

<https://jaxcityc.legistar.com/DepartmentDetail.aspx?ID=39526&GUID=AF102B62-F518-4059-B91C-B226331098B2> – 2020 (Please set filter for the year tracking)

The recommendations of the OIG's Staff are noted and will be made a part of the ongoing work product for migration of data systems. The original documents for the meetings are housed in the Office of Legislative Services and may be reviewed.

Special thanks to the Inspector General's Office for your efforts in providing a critical review of the City Council's systematic processes and procedures.

XC: Members, Jacksonville City Council
 Council Staff
 Kim Taylor, Council Auditor-Designate
 Kyle Billy, Council Auditor
 Carla Miller, Director- Ethics Compliance Office
 File Copy