

CITY OF JACKSONVILLE

ELLEN SCHMITT
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VICE CHAIR

ERICH FREIBERGER
DARCY GALNOR
LATONYA LIPSCOMB SMITH



WILLIAM MAULE
JUDGE LINDA MCCALLUM
SCOTT SIMPSON

ETHICS COMMISSION MEETING MINUTES

City Hall, First Floor, Lynwood Roberts Room
Monday, October 30, 2023

The meeting was called to order at 4:31 p.m. by Ms. Schmitt. Ethics Commission attendees: Chair Ellen Schmitt, J.J. Dixon, Erich Freiberger, Darcy Galnor, LaTonya Lipscomb Smith, William Maule, Linda McCallum, and Scott Simpson.

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: Acting General Counsel Michael Fackler, Leah Palestrant, and Carnell Oliver.

Confirmation of Quorum:

Eight (8) Ethics Commission members were present in-person and a quorum for the meeting was established. The Ethics Commission members and staff introduced themselves for the record.

Minutes Approval:

July 25, 2023, Legislative Committee Meeting minutes: Ms. Smith made a motion to approve the minutes. Dr. Freiberger seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 8-0.

July 27, 2023, Ethics Commission Meeting minutes: Ms. Galnor made a motion to approve the minutes. Dr. Freiberger seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 8-0.

August 21, 2023, Nominating Committee Meeting minutes: Mr. Simpson made a motion to approve the minutes. Ms. Smith seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 8-0.

Office of Ethics, Compliance & Oversight
117 W. Duval Street, Room 225
Jacksonville, FL 32202
Phone: (904) 255-5510 HOTLINE: 630-1015

September 28, 2023, Nominating Committee Meeting minutes: Mr. Maule made a motion to approve the minutes. Ms. Dixon seconded the motion. There being no discussion, the motion to approve the minutes passed unanimously with a vote of 8-0.

Reports:

ECO Office: Ms. Oberdorfer stated OECO has been busy conducting training for the Mayor and her staff, City Council members and staff, new employees, Planning Commission, Board of Library Trustees, the General Counsel and Boards and Commissions members. OECO has also completed several conflict checks. Ms. Oberdorfer thanked the OECO staff for their work.

Office of General Counsel: Ms. Pollock introduced Acting General Counsel Michael Fackler. Mr. Fackler stated he is interested in building relationships and thought Ms. Oberdorfer's training he received was very thorough. Ms. Schmitt and Ms. Oberdorfer thanked Mr. Fackler for attending.

Complaints Committee: Ms. Dixon stated the Complaints Committee has three cases pending and will be scheduling a meeting soon.

New Business:

Election of New Appointee to the Ethics Commission: Mr. Simpson reported on the Nominating Committee's meetings regarding the election of a new appointee to the Ethics Commission and referred to Ms. Palestrant's resume. Mr. Simpson stated the applicants were of very high quality. Ms. Palestrant summarized her qualifications for the position. Dr. Freiburger made a motion to approve Leah Palestrant as a member of the Ethics Commission to replace Ms. Schmitt when her term expires. Mr. Simpson seconded the motion. Ms. Schmitt stated there was a robust discussion of all the candidates during the Nominating Committee meeting. Ms. Schmitt asked for public comment. Mr. Oliver provided public comment. Ms. Oberdorfer read Jacksonville Ordinance Code Section 602.912(d) regarding the qualification requirement of an Ethics Commission appointee. There being no further discussion, the motion passed unanimously with a vote of 8-0. Ms. Pollock stated she will review and file the legislation. Ms. Schmitt stated Ms. Palestrant will start serving in January after Ms. Schmitt's term expires.

Consideration of Change to Ethics Commission Complaint Procedures Rule 5(f): Ms. Oberdorfer referred to the handout with the language adopted in concept by the Legislative Committee at its July 25, 2023, meeting related to edits to Complaint Procedures Rule 5(f). Draft language of this change was presented at the July 27, 2023, Ethics Commission meeting and the Commission approved the language after modifications. To comply with Complaint Procedures Rule 1(d), regarding amendment to the Complaint Procedures, the modified language was included in the meeting packet for the Ethics Commission to take final action on the amendment at the present meeting.

Judge McCallum made a motion to adopt the change to Ethics Commission Complaint Procedures Rule 5(f). Dr. Freiburger seconded the motion. Dr. Freiburger stated that he thought the final

sentence needed to be clearer. A discussion occurred regarding the verbiage and Ms. Schmitt read the proposed language into the record:

Rule 5 Procedures Upon Receipt of a Complaint of Violation of the Code.

(f) Complaints Within 60 Days of Election Returned. Any Complaint against a candidate in a general, special, or primary election that is received within the sixty days immediately preceding the date of that election will be returned by the Office of Ethics, Compliance & Oversight to the person filing the Complaint, with an explanation of why the Complaint is being returned and without any action being taken by the Commission. A Complaint returned pursuant to this provision and subsequently refiled after the election shall be deemed to have been filed on the date the Complaint was first submitted to the Office of Ethics, Compliance & Oversight.

Additionally, nor may any intention of filing such a Complaint be disclosed on the day of any such election or within sixty days immediately preceding the date of the election.

Other Ethics Commission members felt the language may need to be clarified. Ms. Johnston stated she listened to the audio of the last meeting and the handout reflected the language as it was approved by the Commission at its meeting. Mr. Simpson raised a concern about enforcement of the change prohibiting the announcement of filing a complaint within 60 days of an election. It was noted that this language was similar taken from the statutory language in Section 112.324(2)(f), *Florida Statutes*. Dr. Freiburger withdrew his request regarding the final sentence. Ms. Schmitt requested public comment. There was no public comment. There being no further discussion, the motion to approve the minutes passed unanimously with a vote of 8-0.

Ethics Office Budget FY 2023-2024: Ms. Oberdorfer provided an overview of the OECO budget and changes in the budget from last year to this year. Ms. Oberdorfer thanked the City Council and the Mayor's Office for approving the budget and will discuss with the administration the future of the cost-sharing agreements with the independent authorities.

Ethics Director Performance Review: Ms. Schmitt reported that it is the responsibility of the Ethics Commission Chair to evaluate the Ethics Director. Ms. Schmitt stated that it has been a privilege working with Ms. Oberdorfer and she has enjoyed it very much. Ms. Schmitt referred to the completed evaluation form. Ms. Schmitt noted that Ms. Oberdorfer has not had a merit increase since being named Director and Ms. Schmitt would like the Ethics Commission's support in recommending a merit increase for Ms. Oberdorfer. A discussion occurred regarding the correct process to accomplish this.

Mr. Maule made a motion to authorize the Chair to explore the process for increasing compensation for the Ethics Office Director, including meeting with the Director of Employee Services and then reporting back to the Ethics Commission for discussion. Dr. Freiburger seconded the motion. Ms. Dixon asked if it was appropriate for Ms. Oberdorfer to be in the room. Ms. Oberdorfer offered to leave the room. Ms. Pollock suggested following the process the Inspector

General Selection and Retention Commission recently followed during its meeting where the committee approved a raise for the IG. There being no further discussion, the motion to authorize the Chair passed unanimously with a vote of 8-0.

2024 Officers: Ms. Homrighouse and Ms. Oberdorfer polled all eligible Ethics Commission members to obtain preference for Chair and Vice Chair for 2024. Only Ms. Dixon expressed an interest in serving as Chair and Dr. Freiburger and Judge McCallum expressed an interest in serving as Vice Chair. At the meeting, Judge McCallum withdrew her interest in serving as Vice Chair.

Judge McCallum made a motion to accept the nomination of Ms. Dixon as Ethics Commission Chair for 2024. Ms. Galnor seconded the motion. Ms. Schmitt asked for public comment. There was no public comment. There being no further discussion, the motion to approve the nomination of Ms. Dixon as Chair of the Ethics Commission for 2024 passed unanimously with a vote of 8-0.

Judge McCallum made a motion to accept the nomination of Dr. Freiburger as Ethics Commission Vice Chair for 2024. Ms. Galnor seconded the motion. Ms. Schmitt asked for public comment. There was no public comment. There being no further discussion, the motion to approve the nomination of Dr. Freiburger as Vice Chair of the Ethics Commission for 2024 passed unanimously with a vote of 8-0.

Holiday Party: Ms. Schmitt asked for suggestions regarding the holiday party. Judge McCallum suggested a sunset river cruise taxi. Ms. Schmitt asked Ms. Homrighouse to poll the Ethics Commission members for available dates.

Public Comment:

Ms. Schmitt requested public comment. Mr. Oliver provided public comment.

Announcements:

Ms. Schmitt announced that Baptist Health and Wolfson Children's Hospital are having a pediatric bioethics conference on November 3. Ms. Schmitt distributed flyers regarding the conference. Ms. Schmitt also recognized Ms. Smith on her selection as a Fellow in Class XI of the Florida Bar's Leadership Academy.

The Chair adjourned the meeting at 5:35 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> .

DRAFT

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117 W. Duval Street, Room 225
Jacksonville, FL 32202
Phone: (904) 255-5510 HOTLINE: 630-1015