

MINUTES OF ETHICS COMMISSION

DATE: October 20, 2008

Call to order: The Ethics Commission was held in City Hall-St. James Building, Jacksonville, Florida on October 20, 2008. The meeting convened at 3:41 p.m.

Attendees:

Gene Filbert, Vice-chair
Pat Sher
Pat Plumlee
Mary Swart
Bill Wilkens
Braxton Gillam
Kirby Oberdorfer
Mary Alice Phelan
Jay Williams (excused absence)

Carla Miller, Ethics Officer, Christine Lyle, Ethics Coordinator, Jon Phillips, General Counsel's office were also in attendance.

The Chair called the meeting to order. The Pledge of Allegiance was recited. The Ethics thoughts were given by Carla Miller.

The September 30, 2008 Commission meeting minutes were reviewed and a motion was made by B. Gillam to approve the minutes and B. Wilkens seconded the motion. There was discussion regarding the September 30, 2008 meeting and P. Sher said she was not happy with the outcome of the last meeting. She asked that the record reflects that she believes credibility comes from the public not from elected officials and questioning the legality of a contract and requesting a legal opinion rendered regarding the legality of the contract is part of the Commission's responsibility to promote transparency and keep the public informed. There was further discussion on communication and transparency in the bidding process. The motion to approve the September 30, 2008 minutes carried unanimously. There was a discussion about the desirability of establishing parliamentary rules of order that would address the issue of public comments that constitute personal attacks on the integrity of members of the Commission.

The Chair opened the floor to the Ethics Officer. The Ethics Officer provided a copy of Section 602.701 and 602.703 to the members and requested that they recommend the elimination of Section 703. There was discussion on gift reporting, the definition of gift, and the State requirements for gift reporting. The Ethics Officer explained that 602.701 prohibits all employees from taking a gift of over \$100 so those gifts are not allowed, but Section 703 says to report all gifts over \$100 so there is no purpose for 703. There was a motion for the Ethics Commission to recommend to City Council based on the recommendation of the Ethics Officer, to eliminate section 602.703 from the Code. The motion was seconded by K. Oberdorfer and was carried unanimously.

The Ethics Officer advised the Commission that she would be out of the country for the next 2 weeks on an international anti-corruption conference, at her own expense; however, she will be available by e-mail. She also provided the Commission with a copy of 2008-839, which is pending legislation sponsored by Council Members Yarborough and Johnson and there was discussion on this bill which changes the definition of "City" to include its constitutional

officers, officials, dependent and independent agencies for purposes of Chapter 602 Ethics Code. The Commission wanted time to review the proposed bill.

Sub-Committee Reports:

Legislative Sub-Committee: No report.

Compliance Sub-Committee: There was discussion on the Commission's Annual Report for the years 2006 and 2007. The Sub-Committee will meet and draft a proposal for the Commission on the annual report process.

Hotline Sub-Committee: There was a motion by P. Plumlee to close 6 cases and hold 1 case for further investigation via a Hotline Sub-Committee meeting held at 2:30 this date. K. Oberdorfer seconded the motion. There was discussion on the process, the time frame in which to review the cases and confidentiality. P. Plumlee withdrew his motion. There was discussion on the procedure and it was decided that the Commission members that were not present at the Hotline meeting earlier will review the 7 cases, keeping the information confidential and the Commission will vote on them at the November meeting. There was also discussion on the Hotline Sub-Committee meetings to be held in advance of the full Commission meeting in order to give the other members ample time to review before voting on the cases. M. Swart made the motion that the Hotline Sub-Committee will put their process in writing and provide it to the Commission in the November meeting. B. Gillam seconded the motion. Motion carried unanimously.

There was discussion on a recent Folio article regarding public records, citizens' awareness of public records procedures and the City's process for responding to public records requests. J. Phillips pointed out that the public records law is not really an "ethics" matter. He said that public records matters are not covered in the City's Ethics Code, nor would the State Ethics Commission have jurisdiction over public records. He said that enforcement of the public records law was vested in the State Attorney's Office, the Attorney General's Office and individual aggrieved parties who are entitled to attorney's fees if they win a lawsuit over public records. A motion was made by M. Phelan that the Ethics Officer does a preliminary investigation and determine if this is an isolated incident and if there is any merit to this article. The Ethics Officer stated that given the time she has available she would be able to find out the general procedures the City has in place for public records and report back in November as to those procedures. A discussion was held regarding the Ethics Officer's ability to complete that task given her reporting relationships. P. Sher said that she wanted to know about discussions between the Office of General Counsel and its clients regarding the matters discussed in the article. J. Phillips pointed out that lawyers are not permitted to discuss privileged communications between them and their clients. P. Sher made a motion to ask the General Counsel or a representative to come to a Commission meeting to discuss the article's accusations and the City's public records policy. She stated that she wants to know what legal advice the Office of General Counsel was giving their clients. P. Plumlee seconded the motion. The motion was called and passed with 5 for (Sher, Wilkens, Oberdorfer, Plumlee, and Swart), 3 opposed (3 opposed were Filbert, Phelan and Gillam). J. Phillips will relay the Commission's request to General Counsel.

The Chair asked for volunteers to serve on a nominating committee to provide a recommendation for the 2009 Chair and Vice-Chair positions on the Commission. K. Oberdorfer, P. Sher and B. Gillam volunteered to be the nominating committee. This committee will also make a recommendation for a holiday gathering which will include special thanks to M. Phelan for her years of service on the Commission.

The November meeting will be held at Florida Coastal School of Law on November 24, 2008 at 3:30 p.m.

Public Comment: A reporter for the Daily Record commended the Commission.

Adjourned 5:32 pm.

Next meeting scheduled: November 24, 2008 at 3:30 p.m.

Christine Lyle
Christine Lyle
Ethics Commission Coordinator

November 24, 2008
Date of Approval

See attachment approved on November 24, 2008.