

**CITY OF JACKSONVILLE**

W. BRAXTON GILLAM, IV  
*CHAIR*



TATIANA SALVADOR  
*VICE CHAIR*

YWANA ALLEN  
L. E. HUTTON  
CYNTHIA IRVIN  
JOE JACQUOT

**ETHICS COMMISSION**

THOMAS PAUL  
LARRY PRITCHARD  
JAMES YOUNG

**MINUTES**

August 6, 2012  
Don Davis Room  
City Hall

The meeting was called to order by Braxton Gillam, Chair at 4:30 p.m., a quorum was present.

Attendees: Braxton Gillam, Ywana Allen, Cynthia Irvin, Tom Paul, Larry Pritchard, Tatiana Salvador and James Young Excused: L.E. Hutton and Joe Jacquot

Others in attendance: Carla Miller, Director of the ECO Office; Jason Gabriel, Office of General Counsel; and Susan Stewart, Ethics Coordinator

Minutes from the July 10, 2012 meeting were unanimously approved.

**Reports:**

ECO Office: Carla provided the ethics thought, action items will now be tracked and a parliamentary procedure handout was provided. She reported that the on-line sunshine training was provided to City Council. She reported on status of the Downtown Investment Authority, as well as her budget.

**Subcommittee Reports:**

James Young, Chair of the Transparency and Open Government Subcommittee reported that the discussion for the capturing of text on Blackberry devices is continuing because of the training aspect of the retention. He also reported the subcommittee has had discussions regarding moving from paper to on-line registration for lobbyists. Finally, the Subcommittee is discussing transparency in the procurement process.

Tatiana Salvador, Chair of the Hotline Subcommittee reported that the subcommittee has a recommendation to adopt changes to the rules, necessitated by changes to the ordinance code the rules need to be updated. Rule 8, is not included as it is being refined. The motion to adopt the rules, with the exception of Rule 8, was unanimously approved.

**New Business:**

Carla provided a handout relating to the Police and Fire Pension study process which she has undertaken.

The Chair, Braxton declared a conflict of interest as his business partner is involved in litigation with the Police and Fire Pension Fund, so he will recuse himself should there be a vote.

The Chair discussed the subcommittee structure and that he wants the Bylaws Subcommittee to consider adding more structure to Section X of the Internal Operating procedures and add an Education Subcommittee to the list of standing committees. Tom Paul will chair and Ywana Allen, co-chair the new committee. He is also institution co-chairs of other committees to provide for continuity in the subcommittee process.

Questions followed regarding the Police and Fire handout.

Wes Hunt provided an update to the lobbying report, with questions and answers as to other codes.

The Chair directed the legislative Subcommittee to further review the lobbying issue.

James also offered that his subcommittee heard from the public regarding the consolidation in posting of independent authority meeting notices. Carla explained that now citizens can go to the calendar and there is a link at the top for notices.

The following meetings were scheduled:

Transparency & Open Government 8/20/12 at 4:30

Legislative Subcommittee 8/20/12 at 5:30

Ethics Commission 9/4/12 at 4:30

Public Comments:

Tony Bates, commented that he is very pleased with the progress made by the Ethics Commission and his public comment form is attached.

Conrad Markle, public comment form attached.

There being no further business the meeting adjourned at 5:36 p.m.

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Susan Stewart, Ethics Coordinator

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Date of Approval

This is a summary of the meeting and is not a verbatim transcription. A recording of these proceedings is available in the Duval Legislative Delegation Office at City Hall.

## Script of a Main Motion

**Member:** I move that . . . [Concisely state what you are attempting to accomplish/your motion]

**Chair:** Is there a second to the motion? [This statement is eliminated if a member calls out "second" or if the motion is made on behalf of a committee.]

**Second member:** I second the motion.

**Chair:** It is moved and seconded that **[state the motion]**. Is there any discussion? [Since the maker of the motion has first right to speak on the motion, the chair should call on the maker of the motion first.]

***[It is during this time that a motion is considered pending and secondary motions may be applied to it.]***

[After discussion] Is there any further discussion? Are you ready for the question? [Pause] The question is on the adoption of the motion to **[clearly restate the motion]**.

**Voice vote:** Those in favor, say aye. [Pause for response]

Those opposed, say no. [If the chair is in doubt of the results of a voice vote, the chair should state "The chair is in doubt, therefore a rising (or counted) vote will be taken." Then proceed with a rising or counted vote.]

## INSTRUCTIONS TO AMEND A MOTION

To begin discussion of a topic at a meeting, a member makes a main motion. A main motion begins with the words, "I move...." An example of a main motion is, "I move that our club hold a car wash next Saturday at the Ace Grocery Store parking lot." The motion is seconded and debate begins.

During the debate, it is clear to the members some parts of the motion should be changed. To officially change **parts of a motion (but not the overall intent), the motion "amend" can be used.** A member is recognized by the chair and states, "I move to amend the motion by ..."

There are three basic ways to amend a main motion:

The first is to add something to the motion. For example, "I move to amend the motion by adding the words, "and bake sale". The president asks for a second on the amendment and restates the motion with the proposed new wording. "If passed, the main motion would read, the club to hold a car wash AND BAKE SALE next Saturday at the Ace Grocery Store parking lot." The president asks for debate on the amendment. Once debate has finished, the president asks for a vote. If a majority of the membership favor the amendment, the wording of the original motion is changed. More debate on the amended main motion may occur and then a vote is taken.

The second way to amend a motion is to substitute. An example is, "I move to amend the main motion by substituting Friday for Saturday. If the amendment passes, the motion would read, "I move that our club hold a car wash next FRIDAY at the Ace Grocery Store parking lot."

The third way to amend a motion is to take something out of the original motion. For example, "I move to strike out the words at the Ace Grocery Store parking lot." If the amendment passes, the motion would read, "I move that our club hold a car wash next Saturday."

## Parliamentary Procedure "Cheat Sheet"

By Keith Drury, Associate Professor of Religion, Indiana Wesleyan University

	What I want to do	How to do it	Notes
1	To get the body to consider something you are suggesting you would...	Move, or make a motion	
2	To support a motion made by another so that it can be discussed and voted on you would...	Second the motion	
3	To make a list of items the body would consider in order you would establish an...	Agenda	"I move we accept this agenda..."
4	To change a motion by <b>adding</b> something.	Amend by inserting...	"I move to amend by inserting..."
5	To change a motion by <b>deleting</b> something.	Amend by striking...	"I move to amend by deleting..."
6	To change a motion by <b>substituting another motion</b> altogether	Amend by substitution...	"I move to amend by striking the entire motion and substituting the following motion..."
7	To put the business in the hands of another group, like a subcommittee, <i>for them to make the final decision</i>	Refer with power	"I move we refer this item with power to..."
8	To put the business in the hands of another group, like a subcommittee, to <i>bring it back again to us.</i>	Refer (without Power)	"I move we refer for _____ to be brought back to us..."
9	To put forth a name for the body to vote on	Nominate	"I nominate..." (Does not require a second)
10	To quit accepting any more nominations and move toward voting.	Close nominations	"I move we close nominations..." (2/3 vote required)
11	To end the meeting right now.	Adjourn	"I move we adjourn."
12	To get the body to quit discussing the item and move immediately to vote on the item.	Previous question	"I move the previous question" (2/3 vote required)
13	To quit dealing with the motion now and set it aside until some unknown future time when we decide to deal with it again.	Table	"I move we table the motion..."
14	To deal now with something the body previously tabled.	Take from the table	"I move we take from the table..."
	To quit dealing with the motion now and		

# ETHICS COMPLIANCE AND OVERSIGHT OFFICE

CITY OF JACKSONVILLE



**CARLA MILLER**

DIRECTOR

CITY HALL, ST. JAMES BUILDING  
117 WEST DUVAL STREET, SUITE 450  
JACKSONVILLE, FLORIDA 32202

**To: Jacksonville Ethics Commission**  
**From: Carla Miller**

**August 6, 2012**

## **STUDY** **Police and Fire Pension Board**

The Office of Ethics, Compliance and Oversight has the following duties per the Jacksonville Ethics Code, Chapter 602:

**602.611:**

*Shall ensure the investigation of all situations involving fraud, waste, corruption and conflicts of interest by city officials and employees*

**602.621:**

- a) encourage compliance with the spirit and letter of ethics laws and to provide advice to departments and agencies*
- b) develop policies program and strategies to deal with all ethics related matters*
- e) review the Code and other laws, regulations and recommend changes*
- k) Investigate, review and report on City issues and past, present and proposed programs, activities, accounts, records, contracts and transactions all as related to the prevention and remediation of conflicts of interest, fraud, waste and corruption;*
- l) request and obtain data from entities receiving city funds.*

On July 30, 2012, the Times Union printed an article about the Police and Fire Pension Board ("PFPB"). *Jacksonville Police and Fire Fund executive slated to receive another city pension.* It was stated in that article that a pension fund had been created for a small group of persons working for the PFPB and that City Council Auditors did not know about this plan until recently. This plan is called the "Senior Staff Voluntary Retirement Plan". A council member was quoted as being shocked and concerned about the fiduciary responsibility of the Fund.

This article has raised questions in the community about this pension plan. Assuming no facts one way or the other, it is the intent of the Director of the Ethics, Compliance and Oversight Office to study this pension plan as to its formation and operation. The following questions are of interest. Note, all references to "*pension plan*" mean the "Senior Staff Voluntary Retirement Plan" recently discovered by Council Auditors.

## QUESTIONS:

1. At any point in time, has the General Counsel of the City given a binding legal opinion that Article 22 of the city's Charter authorizes the PFPB to establish a new pension system and/or new pension benefits?
2. Has the Office of General Counsel confirmed that this *pension plan* has complied with all of the regulatory requirements of Florida law on pensions?
3. Actuarial statements are required for all government pension plans in Florida; have these been timely filed for the entire time of the *pension's* operation?
4. Has the overall Police and Fire Pension Fund ever had an independent audit? If so, do these audits disclose the *pension plan*?
5. Do the annual PFPF budget submissions over the past 20 years disclose the *pension plan*? Where is it disclosed?
6. Is the PFPF under any obligation to disclose the *pension plan* to City Council? If not, why not?
7. Have the Council Auditors or Office of General Counsel determined through documentation of noticed meetings, agenda, and minutes, that the creation and maintenance of the pension plan was done in compliance with Florida's Sunshine Law?
8. Have the Council Auditors secured a history of all those persons in the pension plan, including documentation of their base salaries and pension contributions?
9. What are the state laws that control the creation and operation of local pension plans? Is this plan in compliance with these regulations?

### **Public Records** (these records will be reviewed)

10. All documents pertaining to the submission of the *pension plan* to the PFPB (Police and Fire Pension Board);
11. Records showing the date, time and Board members who approved *the plan*;
12. All documents submitted to the City Council or General Counsel's office related to this *pension plan*;
13. All Actuarial reports on this *pension plan*;
14. All documents between the Division of Retirement (state of Florida) and the PFPF regarding the *pension plan*;
15. All communications between the PFPF attorneys and the PFPF regarding the *pension plan*;
16. All records that reflect the current actuarial soundness of the *pension plan*;
17. All records that reflect the PFPF's past and proposed actions to ensure the actuarial soundness of the *pension plan*.

I will coordinate my efforts with the Council Auditor who will be auditing the Fund in the near future. In requesting the above information, I would emphasize that no conclusions have been reached and no allegations have been made. I look forward to the cooperation of the Fund's staff in providing documentation and background information so that I can better understand and evaluate these issues on behalf of the citizens of Jacksonville.

## **RULES OF THE**

### **JACKSONVILLE COMMISSION ON ETHICS**

#### **REVIEW, INVESTIGATION AND HEARING OF COMPLAINTS**

##### **Rule 1–Scope, Jurisdiction, Definitions and Applicability.**

- a) These rules, pursuant to Section 602.931 of the Jacksonville Ethics Code, shall govern the receipt and disposition of all Complaints to the Ethics Commission concerning violations of Ethics Laws under Chapter 602 of the Jacksonville Ethics Code. These rules shall become effective as of the date of adoption by the Ethics Commission. On the effective date of these rules they shall govern disposition of all Ethics Complaints concerning violations of Ethics Laws heretofore received by the Commission and all Complaints concerning violations of Ethics Laws received after the Effective Date.
- b) The Ethics Commission shall have jurisdiction to receive, investigate and issue findings with regard to any sworn written complaint alleging a violation of Chapter 602, Ethics Code. The Ethics Commission can also self-initiate a complaint of Chapter 602 with a minimum vote of six members of the Commission. (Section 602.901(a))
- c) **DEFINTIONS.** Definitions may be defined in the Ethics Code, section 602.201, or in these Rules as follows:

***Advocate*** means the individual presenting the case before the Ethics Commission.

The Advocate may be any individual as set forth in Rule 11(b) of these Procedures.

***Clear and convincing evidence*** means evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief or conviction, without hesitation, about the matter in issue.

***Code*** means the chapter 602 of the City of Jacksonville Code of Ordinances.

***Complainant*** means the individual who brings a Complaint forward for the Commission's review

***Confidentiality*** means the authority, pursuant to Florida Statute 112.324 and Jacksonville City Code section 602.921(a) to hear pending ethics complaints in Executive Session and to hold documents relating to Ethics Complaints in a confidential manner, so they are not subject to public records laws until authorized by statute, in accordance with Rule 14.

***Council Auditor*** means the City of Jacksonville Council Auditor's Office, including the Council Auditor and members of the Council Auditor's staff.

***Ethics Complaint or Complaint*** means an alleged violation of the Ethics Law which has been brought to the attention of the Director of the Office of Ethics, Compliance and Oversight or the Ethics Commission. In accordance with the Ethics Law, an Ethics Complaint may initially be received by any source (email/phone call/hotline) but in order to be processed as an official complaint, must be in a sworn written complaint alleging a violation of Chapter 602 or by a self-initiated complaint by the Ethics Commission. 602.901(a)

***Ethics Laws*** means Chapter 602 of the City of Jacksonville Code of Ordinances, and all other Code sections and State Statute referenced therein, including those specifically mentioned in 602.1202, 602.1203, and 602.1205 through 602.1208.

***Ethics Director*** the person identified in Chapter 602 Part 6 as the Director of the Office of Ethics, Compliance and Oversight.

***Executive Session*** means those meetings which are authorized by and conducted in accordance with Florida Statute 112.324 (shade meetings); these meetings shall be recorded, per 602.931 (c).

***Ex Parte Communications*** means communications made to a decision-making official off the record and out of the presence of other parties, as set forth in Rule 17.

***Hot line Complaint*** means an Ethics Complaint initiated in accordance with the Hot Line Procedures set forth in Rule 9 herein; this type of complaint needs to be formalized into a sworn written complaint or one initiated by the Ethics Commission.

***Investigator*** means the Ethics Director, the Council Auditor, the Office of General Counsel liaison, one or more members of the Commission or any other appropriate person or municipal agency who is authorized by these Rules or the Code to conduct an investigation into a Complaint.

***Probable Cause*** means that at the time of instituting an ethics investigation, the facts and circumstances known to Complainant or Ethics Director were sufficiently

strong to support a reasonable belief that the Respondent had committed an ethics violation

***Respondent*** means the individual who is the subject of the Complaint

***Self-Initiated Complaint*** means an Ethics Complaint instituted by the Ethics Commission in accordance with Section 602.921 of the Code.

***Sworn Complaint*** means an Ethics Complaint initiated by the receipt of a Complaint which is signed by a Complainant under oath, in accordance with Rule 5(b).

#### **Rule 2–Time Periods.**

In computing any period of time prescribed or allowed by these rules the time period shall be calculated using City of Jacksonville business days only, unless otherwise specified in the Rule.

#### **Rule 3–Filing and Serving Documents; Facsimile Transmissions.**

Documents under these rules shall be filed with the City of Jacksonville’s Ethics **Director** Officer or the Office of General Counsel, and served, when service is required, by mail, facsimile, hand delivery, or any combination thereof, except where specifically provided otherwise herein.

**Rule 4–Presiding Officer.**

For purposes of Commission proceedings under this Chapter, the presiding officer shall be the Chair of the Commission or, in the event the Chair is unavailable, the Vice Chair of the Commission.

**Rule 5–Procedures Upon Receipt of a Sworn Complaint of Violation of Ethics Laws.**

(a) Safeguarding Confidential Materials. Upon receipt of a sworn ethics Complaint, the Ethics Director shall print on the face thereof the date on which the Complaint was received in the Ethics Director’s office. Each Complaint received shall be assigned a control number which shall be entered on the Complaint itself and on a folder marked confidential in which the Complaint shall be filed so long as it remains Confidential. Any document related to the Complaint shall be entered into the Complaint file.

(b) Technical and Clerical Review for a Sworn Complaint. Upon receipt of a Sworn Complaint, the Ethics Director shall review the complaint to insure that the proper Sworn Complaint form has been used, that all the information required has been provided, that only one Respondent has been named in each Sworn Complaint form submitted, and that the Sworn Complaint has been properly signed by the Complainant under oath. Additionally, the complaint shall be reviewed as to the statute of limitations, section 602.939 (two years.) One or more persons may sign a Sworn Complaint under oath; however, when the Sworn Complaint is to be filed under oath in a representative capacity on behalf of an incorporated association or group, the Sworn Complaint shall

include sufficient information to indicate the authority of the person signing the Sworn Complaint to file such a Sworn Complaint in behalf of the association or group. If the Sworn Complaint lacks any of the foregoing or is otherwise incomplete, a copy of the Sworn Complaint shall be returned to the Complainant identifying the defect.

(c) Ethics Director Assistance. The Ethics Director shall provide assistance or information to persons seeking to file a Complaint, but shall not solicit or discourage the filing of a Complaint. The Ethics Director can advise the complaining party that they can remain anonymous and file the complaint, but that then it can only go forward if six of the Commission members agree to file it. If the Complaint is filed on behalf of an unincorporated group or association, the person(s) signing the Complaint will be considered to be the Complainant(s) rather than the group or association.

(d) Transmittal of Sworn Complaint to Respondent. Except as provided otherwise herein, a copy of the original Sworn Complaint shall be transmitted to the Respondent by hand delivery or by certified mail, return receipt requested, by the Ethics Director or General Counsel liaison to the Commission within ten (10) days of its receipt. Subsequent sworn amendments to the Sworn Complaint also shall be transmitted to the respondent within five (5) days of their receipt. The Ethics Director may elect, where appropriate and in consultation with the Chair of the Commission and the ethics liaison from the Office of General Counsel, to delay service of the Sworn Complaint in any matter where service of the Sworn Complaint on the Respondent would interfere with an investigation by other law enforcement agencies or the State of Florida Commission on Ethics.

August 6, 2012

(e) Complaints Within 15 Days of Election Returned. Any Complaint against a candidate in a general, special, or primary election that is received within the fifteen calendar days immediately preceding the date of that election, including Saturdays, Sundays, and holidays, will be returned by the Ethics Director to the person filing the Complaint, with an explanation of why the complaint is being returned.

**Rule 6–Review for Sufficiency of Allegations of Violations of Ethics Laws and Order of Preliminary Investigation For Complaints.**

(a) Review for Legal Sufficiency. After the sworn written Complaint has been received, the Complaint shall be reviewed by the Ethics Director in order to determine whether the Commission has jurisdiction over the Complaint; that is, whether the complaint is one concerning a violation of Ethics Laws (Chapter 602). Complaints need not be as precise as would be required by the rules of civil procedure in a court of law and shall be deemed sufficient if the complainant alleges matters which, if true, may constitute a violation of Ethics Laws. A Complaint shall not be insufficient because it is based upon evidence which would be hearsay evidence in a court of law. In order to make this determination, the Ethics Director may request additional information from the Complainant, shall consult with the ethics liaison from the Office of General Counsel, and may obtain information from public records.

(b) Preliminary Investigation. If the Ethics Director finds that the Complaint is sufficient to invoke the jurisdiction of the Commission, the Ethics Director shall, after consultation with Chair of the Commission, (1) commence a preliminary investigation of the Complaint, or (2) refer it to any other agency whose jurisdiction or purview is

appropriate or (3) prepare it for Commission consideration to self-initiate a complaint. The Chair may schedule an Executive Session of the Commission, as appropriate. In the event of a referral to another agency, under 602.938, the Commission shall stay any consideration of the matter until the conclusion of the other agency's actions on the matter, and shall otherwise avoid interfering with any ongoing criminal investigation or prosecution or any investigation or proceeding of the State of Florida Commission on Ethics.

(c) Executive Sessions. If an Executive Session is scheduled pursuant to subsection (b) of this Rule, or if the Ethics Director finds that the Complaint is not sufficient to invoke the jurisdiction of the Commission, the Complaint shall be brought before the Commission in Executive Session with the recommendations of the Ethics Director. The Commission may find the Complaint to be sufficient and order an investigation; may find the Complaint to be insufficient, dismiss it, and notify the Complainant that no investigation will be made; or may take such other action as may be appropriate. In any case where a Complaint is found legally insufficient and dismissed, a summary of the reasons for dismissing the Complaint together with the Complaint itself and all documents related thereto shall become a public record and constitute a public report.

(d) Personnel Actions. When an Employee of the City or one of its agencies is alleged to have violated the Ethics Laws, and, based on substantially the same set of facts, is subject to an ongoing disciplinary action by the City or one of its agencies, pursuant to section 602.938, the Commission shall may stay consideration of a complaint

until the conclusion of the personnel proceeding. Nothing herein shall abridge any rights such an employee may have to collective bargaining or Civil Service Rules.

**Rule 7–Withdrawal of Complaints.**

After a sworn written Complaint has been determined to be sufficient to invoke the jurisdiction of the Commission the Commission may permit the Complainant(s) to withdraw the Complaint. Withdrawal shall be requested in writing and shall be signed by the Complainant(s) and witnessed by a notary public, stating the facts and circumstances constituting good cause for dismissal of the Complaint. The Ethics Director shall prepare a written recommendation regarding disposition of the request which shall be given to the Commission together with the request. "Good cause" shall be determined based upon the legal sufficiency or insufficiency of the Complaint to allege a violation of the Ethics Laws, the stage in disposition of the Complaint at the time the request was received, whether the Complaint should proceed in the judgment of the Commission despite the Complainant's wishes, and the reasons given by the Complainant(s) for wishing to withdraw the Complaint. If withdrawal is permitted, the Commission shall order the Complaint dismissed and shall proceed in accordance with Rule 6 as if the Complaint had been found insufficient under that rule. The Commission can also proceed with the complaint on their own initiation.

**Rule 8–Self-Initiation of Complaints by the Commission.**

**(This section is “under construction”.)**

August 6, 2012

## **Rule 9—Initiation of Investigations Based on Hotline or Other Ethics Complaints**

(a) Receipt and Review of Hotline Complaints. The Ethics Director will review Hotline Complaints or other Ethics Complaints to determine if the nature of the Complaint is within the jurisdiction of the Ethics Commission. Hotline Complaints shall be treated as anonymous unless the Complainant specifically requests to include his or her name. Hotline calls may relate to various issues within the City, and the Ethics Director may coordinate the call with the appropriate city department. The Ethics Director may promulgate additional operational procedures.

(b) If the Ethics Complaint falls within the jurisdiction of the Ethics Commission, the Hotline Complaint shall be presented to the Hotline Subcommittee for review, with a recommendation from the Ethics Officer. After review and recommendation of the Hotline Subcommittee, Ethics Complaints shall be processed in accordance with Rule 6 or Rule 8. The Hotline Subcommittee's recommendation may include whether additional investigation is needed, or if the Hotline Complaint shall be referred to another agency.

## **Rule 10—Investigations**

(a) Investigations. Investigations of any matters not referred to an outside agency may be conducted by the Ethics Director, by the Council Auditor, by the Office of General Counsel liaison, by one or more members of the Commission or by any other appropriate person or municipal agency as provided for in the Code.

(b) Scope of Investigation. Investigations shall be limited to the allegations of the Complaint, but shall include an investigation of all facts and persons materially related to the Complaint at issue.

(c) Evidence of Wrongful Acts Unrelated to the Complaint. If during the course of an investigation evidence of a wrongful act not materially related to the Complaint at issue is discovered by the Investigator, such evidence shall be reported to the Commission in a separate Investigator's report. The wrongful act shall not be further investigated by the Investigator in the absence of a Complaint with respect thereto. Upon receipt of a separate Investigator's report containing evidence of a wrongful act not materially related to the Complaint at issue, the Commission shall: (a) as soon as practicable forward evidence of the commission of a crime to the appropriate law enforcement official; and (b) forward evidence of the commission of any other wrongful act to the appropriate disciplinary or law enforcement official as soon as practicable following the completion of the preliminary investigation. If upon independent investigation the appropriate disciplinary official wishes to file a Complaint with the Commission he or she may do so and said Complaint shall be received and considered by the Commission in the same manner as any other Complaint.

(d) Investigator Contacts with Potential Witnesses. The Investigator shall inform the person being interviewed of the Confidential nature of the investigation and of the Complaint, unless the Respondent has waived confidentiality in writing.

(e) Investigator to be Impartial. An Investigator shall be impartial and unbiased in the conduct of the preliminary investigation. It is the duty of the Investigator to collect all

evidence materially related to the allegations of the Complaint, whether such evidence tends to prove or disprove the allegations. If an Investigator feels that for any reason he or she cannot be impartial or unbiased during the preliminary investigation then such Investigator shall so notify the Ethics Director and Chair of the Commission and shall immediately discontinue working in the investigation. If the Commission feels that the Investigator cannot be unbiased or impartial at any point of time during the preliminary investigation, the Commission shall terminate any further investigation by the Investigator. The Commission may also terminate any further investigation by the Investigator if at any time there is the appearance of bias or partiality.

(f) Investigator's Report. Upon the completion of either a preliminary investigation or investigation, the Investigator shall report to the Commission or Hotline Sub-Committee as appropriate, in a properly noticed Executive Session.

(g) Investigatory File. The Ethics Director shall maintain a Confidential investigatory file in the Ethics office, with the assistance of the Investigator if the Investigator is someone other than the Ethics Director.

### **Rule 11–Counsel At the Public Hearing**

(a) Respondent. Respondent may appear on his or her own behalf or may be represented by a lawyer. All notices and communications to a Respondent represented by a lawyer shall be made through the Respondent's lawyer.

(b) Advocate. The Advocate presenting the matter before the Commission shall be the Ethics Director, an attorney member of the Commission designated by the

Commission as Advocate, the Office of General Counsel liaison, or outside counsel if authorized. The Advocate represents the Commission in its prosecutorial function.

(c) Complainant. To the limited extent the Complainant is entitled to participate or observe Commission proceedings, the Complainant may be represented by legal counsel. All notices and communications to a Complainant represented by a lawyer shall be made through Complainant's lawyer.

**Rule 12–Motions to Dismiss for Lack of Jurisdiction.**

Within a reasonable time before a public hearing is to be held, Respondent may file with the Commission a written motion to dismiss the Complaint for lack of jurisdiction, which motion shall state with particularity the grounds therefore. The Respondent shall simultaneously serve a copy of any such motion upon the Advocate. The Commission shall hear arguments of the Respondent and Advocate in Executive Session on such motion prior to the hearing on the Complaint. If the Commission finds that it has jurisdiction over matters alleged in the Complaint, it shall deny Respondent's motion with respect to those allegations and shall proceed to the hearing. If the Commission finds that it has no jurisdiction over matters alleged in the Complaint, it shall order the Complaint dismissed with respect to those allegations and shall proceed in accordance with Rule 6 as if such allegations had been found insufficient under that rule.

**Rule 13–Notification of Manner of Disposition.**

Upon the Commission's ordering a public hearing of a Complaint the Ethics Director or the Office of General Counsel shall, pursuant to a scheduling order by the Commission

which shall include the deadline for filing a motion to dismiss, so notify the complainant and the respondent in writing.

#### **Rule 14–Confidentiality**

(a) Proceedings Confidential. Except as otherwise provided in these rules or by law, the Complaint and Commission activities, proceedings, and documents relating to the Complaint shall be confidential until either:

- (1) Confidentiality is waived in writing by the Respondent; or
- (2) The Commission orders the Complaint dismissed, or
- (3) The Commission orders a public hearing.

When Confidentiality is waived, the Commission orders the Complaint dismissed, or the Commission orders a public hearing, all materials relating to the Complaint shall become public records available to the public as provided in Chapter 119, Florida Statutes, except to the extent the materials are otherwise exempted from disclosure by law or court order.

(b) Communication to Respondent. The Confidentiality provided by this rule shall not prohibit the Commission or the Ethics Director from advising the Respondent or the Complainant about the status of the Complaint proceeding.

#### **Rule 15–Parties to Public Hearings.**

The person accused of a violation of ethics laws shall be the Respondent. Respondent shall be the only party unless consolidation of Complaints is granted. The Advocate shall be a full participant in the proceeding and shall present all the evidence relevant to the cause that was produced by the preliminary investigation and such additional evidence as may be obtained through further investigation.

**Rule 16–Disqualification of Commission Members.**

(a) Disqualification in General. Commission members shall be disqualified from sitting as a member of the Commission at either the Probable Cause hearing or the final public hearing for bias, prejudice, or conflict of interest. Disqualification may be raised by a party, or by any member of the Commission.

(b) Time limitation. Unless good cause is shown, all motions for disqualification shall be filed with the Commission at least 5 days prior to the hearing at which the member is expected to participate. The motion shall be accompanied by an affidavit stating the particular grounds.

(c) Disqualification on Legally Sufficient Motion and Affidavit. Unless denied as untimely, the motion shall be ruled on by the Commission member whose disqualification is sought; the ruling shall be based on the legal sufficiency of the motion and affidavit. If the motion and affidavit are found legally sufficient, the member shall disqualify himself or herself.

(d) Automatic Disqualification. Any member of the Commission shall recuse him or herself on his or her own motion on all matters relating to a complaint pending

against the person who appointed him or her to the Commission, or against any relative by blood or marriage as defined in Section 112.3135(1)(d) of the Florida Statutes, or against any persons with whom the member does business within the meaning of Section 112.313(3) of the Florida Statutes, or with whom the member has an employment or contractual relationship within the meaning of Section 112.313(7) of the Florida Statutes. All Ethics Commission members are confirmed by City Council; that fact alone does not require the recusal of any member on a complaint.

**Rule 17–Ex Parte Communications.**

(a) Ex Parte Communications Disfavored. A Commission member who is not acting as Investigator or advocate for the Commission shall not initiate nor consider any Ex Parte communication relative to the merits of a pending Complaint.

(b) A Commission member should disclose Ex Parte Communications received from any of the following: (1) A public employee or official engaged in prosecution or advocacy in connection with the matter; or (2) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed action of the Commission, or his or her counsel; or (3) A Complainant or any other individual who has personal knowledge of the facts underlying the proceeding, or his or her counsel or (4) An elected official.

(b) Procedure on Receipt of an Ex Parte Communication. A Commission member who receives such an Ex Parte communication shall place on the record of the matter all written communications received, or a memorandum stating the substance of

all oral communications received, and shall also advise all parties that such matters have been placed on the record. Any party, including the Ethics ~~Director~~ Officer, desiring to rebut the Ex Parte communication shall be allowed to do so, if a request for the opportunity for rebuttal is made within 10 days after notice of the communication.

### **Rule 18—Public Hearing Procedures**

(a) Presentation of the case. The Advocate shall present his or her case first. Respondent may then present his or her case. Each member of the Commission may ask questions of any witness, including the Respondent if the Respondent chooses to testify. Rebuttal evidence may be permitted in the discretion of the Commission. Either the Advocate or the Respondent may ask, for good cause shown, that the hearing be adjourned for further proceedings in the event that such are indicated, and such adjournments may be granted in the discretion of the Commission.

(b) Opening and closing statements. Opening and closing statements may be presented by the Advocate and the Respondent. The Advocate shall proceed first, followed by the Respondent. The Advocate may make a rebuttal closing statement.

(c) Evidence. Stipulations may be received and are encouraged as to uncontested issues. Oral evidence may be taken only on oath or affirmation. The Respondent and the Advocate shall have the right to present relevant evidence, to cross-examine witnesses on relevant matters, and to impeach any witness on non-collateral matters regardless of which party first called the witness to testify. Any relevant evidence may be admitted, and the hearing shall not be conducted according to technical rules relating to evidence or

witnesses. Hearsay evidence may be used to supplement or explain other evidence, but only to the extent the Commission determines the hearsay to be reliable. The rules as to attorney-client or other privileges shall be effective to the same extent that they appear in the Florida Evidence Code. Irrelevant or cumulative evidence may be excluded at the discretion of the Chair with the consensus of the Commission. Affidavits shall generally not be admissible, but may be admitted for such weight as is reasonable if the affiant is unavailable to testify as defined in the Florida Rules of Evidence. Any relevant evidence regarding an admission made by the Respondent outside of the public hearing, if such evidence is given by a person with personal knowledge of the statement, is not hearsay and shall be admitted. The rule of sequestration of witnesses may be invoked by any party or by the Commission in its discretion.

(d) Recording of the proceedings. The proceedings at a public hearing shall be recorded by electronic means in the same manner that all public meetings of the Commission are recorded. No transcript shall ordinarily be prepared unless requested and paid for in advance by the Respondent. Nothing in these rules shall be construed to prevent the Respondent from providing a court reporter for a public hearing at his or her own expense.

(e) Scheduling Order. At the discretion of the Commission, a scheduling order may be issued which includes allocated time for each party, as well as other matters.

**Rule 19–Transmittal of Public Report.**

Following the conclusion of the hearing, a public report shall be drafted and agreed upon by a majority of the Commission. Any member not in the majority may draft and file a dissent, or may simply note that he or she dissents. The public report shall be signed by the Chair, shall be transmitted by mail to the Respondent and Complainant, and shall be made available to the public. Both the Respondent and the Advocate may, upon request of the Commission and within a time frame designated by the Chair, present written proposed public reports to assist the Commission in its deliberations and preparation of the public report.

**Rule 20—Formal Actions**

In order to issue public censures or recommend disciplinary action, the Commission must have ruled that an existing state statute or Jacksonville ordinance provision has been violated based clear and convincing evidence.

Rule 21—Resolution by Agreement. At any time, with a majority vote by the Commission, the parties may enter into a settlement of the issues, which can include an apology, a stipulated fine or other action. Such settlements and the reasons for entering into one, shall be made in writing and be a public record.

## Public Comment

Please note that your comments will not be considered a formal complaint unless you complete and submit an official complaint form. These complaint forms are available on-line and at meetings.

Name: Sony Bala Date: 8/6/12

Address: 5244 Andrews Phone: 384-4227

Representing: Concerned Taxpayer

Issue: Public meeting notes

Comments: Reminds about 3 or 4 other issues concerning transparency - hybrid video + audio archived on line & internet access to road info.

Lobbyist updates on line

Council - agreed to see any meetings that have to notes that they be on line

Email: \_\_\_\_\_

Please provide your telephone in case we need to contact you for additional information. Thank you.

# Public Comment

Please note that your comments will not be considered a formal complaint unless you complete and submit an official complaint form. These complaint forms are available on-line and at meetings.

Name: MARKLE, CONRAD

Date: 6 Aug 2012

Address: 1106 Romney St

Phone: 744 4569

Representing: CTDC (Concerned Taxpayers Down City)

Issue: CTDC Ch. 99 COMCAST - Thursday 7:00 P.M. - Interview w/ R.P. WATERS Secretary

\* Time Slit Letter to General Counsel - Stones on "Transitory" + Retanker Mags Public Records  
Comments: 1st Amendment Realizations w/ Opening of Olympics

Olympiad Mexico City 1968 - Complete Stifling of News of student Protests/Murder By Army in Mexico -

VALUE OF OUR 1st Amendment BROUGHT TO FOREFRONT  
PUBLIC TRUST AND ACCOUNTABILITY BY PUBLIC OFFICIALS

Email: CMiii43@yahoo.com

OBSTINATE  
INTO USE OF  
WITCH HUNT  
TERMINOLOGY  
IN LOW  
VENTURE OPEN  
FOR BELEGMENT  
For Brevity  
WANE most  
Mex City -  
1st Amendment

Please provide your telephone in case we need to contact you for additional information. Thank you.