

CITY OF JACKSONVILLE

JAMES YOUNG
CHAIR

YWANA ALLEN
GEORGE CANDLER
CYNTHIA IRVIN
JOE JACQUOT



L.E. HUTTON
VICE CHAIR

TOM PAUL
ALAN M. PICKERT
LARRY PRITCHARD

ETHICS COMMISSION

MINUTES

December 3, 2013
Don Davis Room
City Hall

The meeting was called to order by James Young, Chair at 5:10 p.m. A quorum was present.

Attendees: James Young, L.E. Hutton, Ywana Allen, Tom Paul, Alan Pickert, George Candler, Larry Pritchard, and Joe Jacquot. Absent: Cynthia Irvin.

Others in attendance: Carla Miller, Director of the ECO Office; Cherry Shaw, Assistant General Counsel, Office of General Counsel; and Allan Childers, Ethics Coordinator.

Mr. Paul recommended changes to the draft minutes from the November 5, 2013, meeting. Mr. Young offered a motion to approve the minutes as changed. Motion to approve minutes with the change was seconded by Mr. Hutton. Minutes were unanimously approved.

Reports:

ECO Office. Ms. Miller described recent training activities, including orientation training for approximately 75 personnel on November 21, 2013, and training to the City Council, Mayor, and executive staff personnel on November 22, 2013. Ms. Shaw highlighted her perspective that the November 22 training was well received. Mr. Young asked how persons who did not participate in the training would receive it to meet the Florida statute requirements; Ms. Shaw noted there is opportunity to get training through other venues, including a video and on-line training. Mr. Paul asked if surveys are still being conducted for training; Ms. Miller described her informal process and noted she will be establishing a more formal process for training and tracking next year.

Ms. Miller described that she recently was appointed to the Board of Integrity Florida. She addressed the issue of potential conflict with COJ ECO Director duties. Mr. Young noted that while there is no inherent conflict but may be potential conflict over advising both customers on the same issue, he felt that this is a positive step for COJ to broaden engagement of ethics programs. Mr. Hutton agreed. Ms. Miller said she would recuse herself as Mr. Carlucci has done in the past for another board or resign the Board of Integrity Florida position if there is potential conflict. Mr. Pickert noted that because of the value to COJ of her participating in the Board of Integrity, Ms. Miller should discuss with the EC prior to recusing or resigning the board position; members agreed unanimously.

Ethics Office

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No reports were provided by the Nominating Chair (Ms. Irvin had an excused absence), Education Chair, Hotline Chair, or Legislative Chair.

Rules and Planning Subcommittee Chair Mr. Paul described the materials he is preparing during December to evaluate commission performance and will work electronically with EC members to prepare for the January 2014 planning meeting.

Transparency Subcommittee Chair Mr. Jacquot will coordinate with Ms. Benham to learn more information about the right to speak issue before taking action in the subcommittee.

Unfinished Business: Ms. Miller described that the “right to speak” issue is still being worked. Ms. Benham offered public comment that she was permitted to speak at a recent City Council meeting concerning the Jaguars but an issue remains that the public is not permitted opportunity to input at all meetings that lead up to City Council meetings where final decisions occur.

New Business:

Mr. Childers, ECO Office, described revamped/updated Commissioner notebooks.

Ms. Miller discussed election of officers and the role of the Nominating Committee. Choices that emerged are Mr. Hutton for Chair and Mr. Jacquot for Vice Chair. Mr. Young motioned for EC approval which was seconded and unanimously approved. Mr. Young motioned for reappointment of Commissioner Allen; seconded and unanimously approved.

Ms. Miller provided an update on the Florida state requirement for four hours of ethics training and the OGC opinion as to whether our City Council members have to comply with the new state law. Mr. Pritchard proposed having the City Council approve a local ordinance to require City Council members to comply with the existing Florida statute, as do all other County legislators in the state. Also, Mr. Pritchard wanted an accountability procedure for the training. All members agreed that that would be a proactive approach. Motion to direct Director ECO to meet with City Council members to sponsor legislation that requires City Council to receive ethics training according to Florida state legislation for “constitutional officers” with an accountability procedure administered by the ECO office. Motion seconded and unanimously approved.

ACTION EC2013-12-1: Mr. Pritchard draft language and pass to Director ECO.

ACTION EC2013-12-2: ECO collaborate with HR to establish best process to account for the training.

ACTION EC2013-12-3: Ms. Miller approach City Council member(s) to sponsor the ordinance.

ACTION EC2013-12-4: Ms. Miller work with State Delegation to ensure COJ government structure not excluded from Florida statutes again due to definitional language.

Standing Committee preferences for 2014. In the past, ECO sent out a list of different standing committees and asked EC members which subcommittees they were interested in participating.

Ms. Miller stated that the intent is to conduct an initial meeting between the incoming Chair, Vice Chair, and Director ECO to determine which committees are needed. If EC members have preferences for particular subcommittees, they should provide those in advance to Director ECO.

ACTION EC2013-12-5: ECO will forward to EC members an email asking what committees they would like to serve on.

Public Comments:

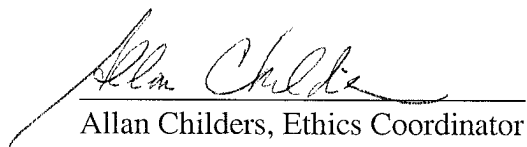
Ms. Benham provided two copies of memorandums concerning Florida Senate Bill 50 on public participation in meetings (attached). She expressed concern that the Office General Council interpretation of the new Public Comment Statute is incorrect. She asked the EC to champion setting the stage for COJ to support public right to speak at every COJ meeting. Ms. Shaw stated that there is no written OGC opinion on the public's right to speak. According to Statute 286-0114, the public is permitted to speak at designated times during City Council and during public hearings before the Council Committees. Members agreed that this is a critical issue with ethics perceptions that should be further addressed because of continuing misunderstanding and different interpretations of "right to speak" opportunities.

ACTION EC2013-12-6: Ms. Miller will have ECO office poll larger cities around Florida to understand how they are supporting the State requirement.

Ms. Jean-Bart was introduced as a new Commissioner who will join the EC in January 2014.

The next meeting of the Ethics Commission was scheduled for Monday, January 13, 2014 at 5:00 p.m.

There being no further business, the meeting adjourned at 6:20 p.m.


Allan Childers, Ethics Coordinator

01/13/2014
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 Ethics, Compliance and Oversight Office at City Hall.

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1. Lewis, Longman & Walker, P.A. memorandum, September 18, 2013
2. COJ Council President Gulliford memorandum, October 4, 2013



OFFICE OF THE CITY COUNCIL

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October 4, 2013

MEMORANDUM

TO: City Council Members
FROM: Council President Bill Gulliford
RE: Public input at Boards and Commissions

Senate Bill 50 has become effective October 1, 2013. This bill provides for mandatory public input at boards and commissions. The Jacksonville City Council and the committee meetings have long welcomed community input and have been in compliance with Senate Bill 50 well in advance of its passage. The Office of General Counsel has reviewed the manner in which City Council affords the public to comment at the public hearings on ordinances a week before those ordinances are scheduled to be heard in committee and public comments are afforded at every Council meeting. The public has and continues to be invited to inform their elected officials of their interest in the decision making process through these vehicles. Furthermore, the Committee chairs, at the discretion of each chair, may include comments from the public at the committee meetings in addition to that afforded above.

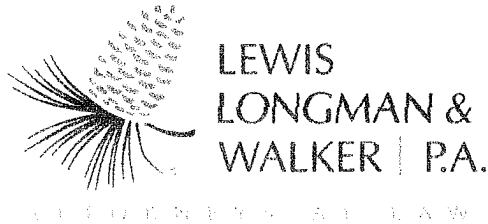
Although the Council process affords the public input the particular City Council boards, and commissions will need to review their practice for compliance with the Senate Bill 50 and public input. Finally as the law applies to "boards or commissions" this law does not apply to noticed meetings between individual members. Nothing contained herein is to be interpreted to prohibit public comment.

Any legal questions about the application of the law should be addressed to the Office of General Counsel.

Sincerely,

BG:sj

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REPLY TO: TALLAHASSEE

MEMORANDUM

TO: Municipal and Special District Clients

FROM: James W. Linn and Glenn E. Thomas

DATE: September 18, 2013

RE: SB 50 -- Public Participation in Open Meetings

SB 50 passed the legislature and was signed into law earlier this year by Governor Scott. This bill creates a new section 286.0114, Florida Statutes, which is intended to provide the general public with a reasonable opportunity to be heard in meetings subject to the Sunshine Law. While the Sunshine Law has long required meetings of boards or commissions to be open to the public, the law has not heretofore guaranteed a right to participate. Except for a few limited exceptions, the law expands the Sunshine Law in a manner that guarantees the right of the public to be heard at meetings of governmental bodies. The law takes effect October 1, 2013.

Section 286.0114 applies to any "board or commission." The term is defined broadly in a manner that encompasses most government entities, including public pension boards. It specifically provides:

Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within a reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission...

Atch 2

See Things Differently

BRADENTON
101 Riverfront Boulevard
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Bradenton, Florida 34205

JACKSONVILLE
245 Riverside Avenue
Suite 150
Jacksonville, Florida 32202

TALLAHASSEE
315 South Calhoun Street
Suite 830
Tallahassee, Florida 32301

WEST PALM BEACH
515 North Flagler Drive
Suite 1500
West Palm Beach, Florida 33401

The requirements under section 286.0114 do not apply to:

- Emergency situations;
- ministerial acts (i.e. approval of minutes);
- exempt meetings under 286.011 (executive session re: litigation); or
- quasi-judicial proceedings (i.e. disability hearings, forfeitures).

A board or commission may adopt rules or policies to implement the new law. If the board or commission does so and complies with those rules or policies, it will be deemed to be acting in compliance with the law. Rules adopted by a board or commission can regulate the following:

- The amount of time an individual has to address the board or commission;
- Procedures for allowing representatives to address the board or commission rather than all members of a group, in meetings in which a large number of people wish to be heard;
- Procedures or forms for an individual to use to inform the board or commission of a desire to be heard, to indicate support, opposition or neutrality and to indicate his or her designation of a representative to speak on his or her behalf; and
- Designation of a specific period of time for public comment.

The law is enforceable by injunction in circuit court and if a court determines that a board or commission took any action in violation of section 286.0114, the court will assess attorney's fees against the board or commission. Conversely, if the court determines that an individual filed an action under section 286.0114 that was frivolous or in bad faith, the court may assess reasonable attorney's fees against that individual. Any action taken by a board or commission in violation of section 286.0114 is not void as a result of such violation.