

CITY OF JACKSONVILLE

YWANA ALLEN
CHAIR

MICHELLE BEDOYA BARNETT
GEORGE CANDLER
JOHN HARTLEY
MARY BLAND LOVE



BRIAN AULL
VICE CHAIR

JOSEPH ROGAN
DAVID RYBAK
ELLEN SCHMITT

ETHICS COMMISSION

MEETING MINUTES

August 23, 2017

Lynwood Roberts Conference Room

City Hall – 1st Floor

The meeting was called to order by Ywana Allen, Chair of the Ethics Commission, at 5:17 p.m. A quorum was present.

Attendees: Brian Aull, Michelle Bedoya Barnett, John Hartley, Mary Bland Love, Joseph Rogan, David Rybak, and Ellen Schmitt. Absent: Dr. George Candler. Other attendees: Carla Miller, Director, Office of Ethics, Compliance and Oversight (“OECO”); Kirby Oberdorfer, Deputy Director, OECO; Cherry Shaw Pollock, Assistant General Counsel, Office of General Counsel (“OGC”)

Public in Attendance: Conrad Markle and Danny Ferreira, True Commission (Note: only individuals who signed the attendance sheet and noted their election to be recognized are included in the minutes).

Chair Allen opened the meeting with the Pledge of Allegiance. Ms. Miller then provided the Ethics Thoughts.

Next, the Ethics Commission reviewed the minutes of the May 30, 2017 Ethics Commission Special Meeting. Ms. Barnett made a motion to approve the minutes and Mr. Rybak seconded the motion. The minutes were approved unanimously.

Mr. James Hoffman, the newly appointed Inspector General (“IG”), introduced himself to the Ethics Commission members and provided a brief overview of the IG office, including his focus and vision for the office. Mr. Hoffman then stated he welcomed any ideas and suggestions for improvement in the IG office, especially regarding contract oversight and management and procurement. Mr. Hoffman advised he is especially focused on outreach and requested assistance in identifying specific organizations for outreach efforts.

Ms. Miller and Mr. Hoffman discussed the collaboration between the OECO and the IG office to leverage the effectiveness and resources of both offices. For example, the IG created a survey to measure awareness of the IG office and also included questions about the OECO and the City’s ethics program. Additionally, the OECO and IG will engage in joint outreach to the CPACs and other citizen groups. Mr. Hoffman also advised he hopes to work more with the TRUE Commission.

Chair Allen subsequently summarized for the Commission members Mr. Hoffman’s selection as

IG by the IG Selection and Retention Committee. She commended his emphasis on outreach of the IG office, an important criterion for his selection as IG. Mr. Hoffman discussed his outreach efforts thus far with City Department heads and citizens meetings. He also requested assistance from the Ethics Commission to distribute the IG survey to citizens. Chair Allen invited Mr. Hoffman to join her and other Ethics Commission members in their outreach efforts as well.

Staff Reports

OECO: Ms. Miller provided an update on the IG and OECO budgets. The OECO budget is essentially the same as last year. During the OECO budget hearing, the Finance Chair asked Ms. Miller if the OECO needed additional funding or positions. In response, Ms. Miller requested a Training Director for the OECO. Next, Ms. Miller reported the number of trainings and advice calls handled by the OECO in the last year. Ms. Miller then summarized the training she provided in Greece to municipal mayors. She further advised of her upcoming trip to Harvard Law School to study research on anti-corruption.

The Ethics Commission and Ms. Miller subsequently discussed the requirements of training for City employees and officials. Ms. Miller advised she has developed a Strategic Plan on training requirements that she will share with the Ethics Commission members. Ms. Miller also discussed an online ethics training course she has developed and will distribute to City employees this fall to complete.

OGC: Ms. Pollock advised that she did not have a report for the OGC.

Committee Reports

Complaints Committee – Mr. Rogan summarized the proposed changes to the Ethics Commission Complaint Procedures being considered by the Complaints Committee. The first recommendation would revise the composition of the Ethics Commission during the complaints process by dividing the Commission into two separate panels: (1) one panel to prosecute complaints and determine probable cause during the complaints investigation phase and (2) a separate panel comprised of the remainder of the Ethics Commission members to serve during the final hearing on the adjudication of a complaint. The second recommendation would revise the procedures for the final hearing. Mr. Rogan advised the Complaints Committee would like feedback on the proposed changes. Ms. Miller recommended including mediation as an option to resolve complaints. The Ethics Commission then discussed how mediation may work in the complaints process.

Internal Operations – Mr. Rybak and Ms. Oberdorfer reported that the Internal Operations Committee is currently reviewing and revising the Internal Operating Procedures. The committee will bring proposed revisions to the Internal Operating Procedures to the full Commission for consideration in the future.

Legislative – Mr. Aull reported the Legislative Committee is currently considering revisions to sections 602.401 and 602.402 of the Jacksonville Ethics Code regarding conflicts of interest. The committee is awaiting analysis of the provisions that may need revisions.

Open Government – Ms. Oberdorfer advised that the Open Government Committee currently has no Chair. Ms. Miller reported that the committee previously agreed to update the citizen outreach ethics course titled “It’s Our Government.” Chair Allen and Ms. Miller then explained the purpose and work of the Open Government Committee. Ms. Miller suggested reappointing all committee members. Ms. Oberdorfer and Mr. Rogan then shared information about a recent court opinion in which the court found a violation of the Public Records law. Ms. Miller recommended distributing the court opinion to the Ethics Commission.

Old Business –

Ms. Oberdorfer provided an update on proposed Ordinance 2017-346 regarding an amendment to the confirmation process for Ethics Commission appointees. Ms. Love represented the Ethics Commission at the Rules Committee meeting and expressed the importance of retaining the current confirmation process to ensure the Ethics Commission’s independence. Ultimately, the Rules Committee withdrew Ordinance 2017-346.

New Business –

The Ethics Commission then discussed the expiration of the current contract for the Executive Director of the OECO at the end of the year. Ms. Oberdorfer advised the Ethics Commission had the option to either renew the contract for another three year term or advertise for the Executive Director position. Following discussion regarding a potential salary increase for the Executive Director and the length of the contract term, Ms. Barnett made a motion to enter into contract negotiations with Ms. Miller as Executive Director for an additional term. Mr. Hartley seconded the motion. Motion approved unanimously. Chair Allen requested public comment on whether to renew the contract with Ms. Miller as Executive Director of the OECO, but no public comment was provided. The Ethics Commission then discussed a draft resolution renewing the contract of Ms. Miller. Mr. Rogan moved to approve the draft resolution regarding the renewal of Ms. Miller’s contract for another three year term. Motion to approve the resolution regarding the reappointment of Ms. Miller unanimously passed by the Ethics Commission.

The Ethics Commission next discussed the process for vacancies of officers and members on the Commission in 2018. Ms. Miller provided a summary of vacant positions: City Council President’s appointment (Dr. Candler), State Attorney’s appointment (Mr. Aull) and Ethics Commission appointment (Ms. Schmitt). Ms. Miller stated she would work with Dr. Candler and Mr. Aull to lobby the respective elected officials responsible for their reappointment to the Ethics Commission. Ms. Miller then advised the Ethics Commission had two choices with respect to the position of Ms. Schmitt: either reappoint her for a full three year term or re-advertise the position. Ms. Miller recommended waiving Internal Operating Procedures Rule VII and reappointing Ms. Schmitt to the Ethics Commission. Chair Allen requested public comment on the process for filling the forthcoming vacancy in Ms. Schmitt’s position, but no public comment was provided. Ms. Love then moved to reappoint Ms. Schmitt and waive Internal Operating Procedures Rule VII requiring a recommendation from the Internal Operations Committee of whether to reappoint an Ethics Commission appointee. Ms. Barnett seconded the motion. Mr. Rogan abstained from voting due to his law firm’s representation of Baptist Hospital, Ms. Schmitt’s employer. Following the meeting, Mr. Rogan filed the completed Form

8B (see attachment).

Ms. Oberdorfer and Ms. Miller reminded the Ethics Commission members to contact Ms. Miller or Ms. Oberdorfer if they have an interest in serving as either Chair or Vice-Chair of the Ethics Commission in 2018.

Finally, the Ethics Commission discussed the content and posting of draft minutes of the Ethics Commission and committees meetings. Following discussion, the Ethics Commission determined that draft minutes would be posted once approved by the Ethics Commission or the respective committee(s). The Ethics Commission also decided to post a notice on the Ethics Commission website advising that draft minutes will not be posted until approved by the Ethics Commission or committee(s).

Public Comment

Mr. Markle spoke on the removal of confederate monuments and the decision to not hold a public meeting on port dredging.

Announcements

Ms. Oberdorfer reminded Ethics Commission members to submit biographies and photographs for posting on the Ethics Commission website.

The Ethics Commission Holiday Gathering is scheduled for December 11, 2017 at Restaurant Orsay. Cocktails will be served from 5:30-6:30 p.m. and dinner will begin at 6:30 p.m.

Following discussion, the Ethics Commission scheduled its remaining meetings in 2017 for the following dates:

Tuesday, September 19, 2017, 4:30 p.m.

Wednesday, October 25, 2017, 4:30 p.m.

Thursday, November 16, 2017, 4:30 p.m.

There being no further business to discuss, the meeting was adjourned at 6:40 p.m.

Kirby G. Oberdorfer
Kirby Oberdorfer, Ethics Deputy Director

9-19-2017
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---meeting minutes.aspx](http://www.coj.net/departments/ethics-office/notices,-agendas---meeting-minutes.aspx)

/dm

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a “relative” includes only the officer’s father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A “business associate” means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

- ____ inured to my special private gain or loss;
- ____ inured to the special gain or loss of my business associate, _____ ;
- ____ inured to the special gain or loss of my relative, _____ ;
- ____ inured to the special gain or loss of _____, by
whom I am retained; or
- ____ inured to the special gain or loss of _____, which
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

CITY OF JACKSONVILLE

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BRIAN AULL
VICE CHAIR

JOSEPH ROGAN
DAVID RYBAK
ELLEN SCHMITT

Agenda
August 23, 2017
Lynwood Roberts Room
City Hall
5:00 p.m.

1. Call to Order

Pledge

Ethics Thought

2. Minutes Approval

May 30, 2017 Ethics Commission Special Meeting

3. Reports (Staff)

ECO Office— Summary of ECO Annual Report and Update on
ECO Office and Office of Inspector General Budgets

Office of General Counsel

**4. Introduction of and Update from Inspector General, James
Hoffman**

5. Committees Reports

Complaints—Revisions to Complaint Procedures

Internal Operations

Legislative

Open Government

6. Old Business

Update on Ordinance 2017-346 Regarding Amending
Confirmation Process for Ethics Commission Appointees

7. New Business

Review and Consideration of Contract of Executive Director

Process for Selection of Officers and Forthcoming Vacancies on
Ethics Commission for 2018

Posting of Draft and Final Minutes for Ethics Commission and
Committees

8. Public Comments

9. Announcements

Review of Housekeeping Matters and Action Items

Set Dates and Times for Remainder of Ethics Commission
Meetings for 2017

10. Adjourn

**Executive Session following conclusion and adjournment of Ethics Commission meeting. Per Florida Statutes sections 112.324(2)(a), (c), (e), this portion of the meeting is confidential and closed to the public

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DRAFT 6-30-2017
CITY OF JACKSONVILLE

YWANA ALLEN
CHAIR

MICHELLE BEDOYA BARNETT
GEORGE CANDLER
JOHN HARTLEY
MARY BLAND LOVE



BRIAN AULL
VICE CHAIR

JOSEPH ROGAN
DAVID RYBAK
ELLEN SCHMITT

ETHICS COMMISSION

SPECIAL MEETING MINUTES

May 30, 2017
Don Davis Conference Room
City Hall – 1st Floor

The meeting was called to order by Ywana Allen, Chair of the Ethics Commission, at 5:12 p.m. A quorum was present.

Attendees: Brian Aull, Michelle Bedoya Barnett, Mary Bland Love, Joseph Rogan, David Rybak, and Ellen Schmitt. Excused absences: Dr. George Candler and John Hartley. Other attendees: Carla Miller, Director, Office of Ethics, Compliance and Oversight ("OECO"); Kirby Oberdorfer, Deputy Director, OECO; Cherry Shaw Pollock, Assistant General Counsel, Office of General Counsel ("OGC"); Deborah Melvin, Executive Assistant, OECO; and Council Member Al Ferraro.

Public in Attendance: Conrad Markle and John Nooney (Note: only individuals who signed the attendance sheet and noted their election to be recognized are included in the minutes).

Chair Allen opened the meeting with the Pledge of Allegiance. Ms. Miller then provided the Ethics Quote.

Next, the Ethics Commission reviewed the minutes of both the April 17, 2017 Ethics Commission Executive Session "Shade" Meeting and the Ethics Commission regular meeting of same date. Mr. Rogan made a motion to approve the minutes of the Executive Session "Shade" meeting and Mr. Rybak seconded the motion. The Executive Session "Shade" minutes were approved with a vote of 7-0. Mr. Rybak then made a motion to approve the minutes from the April 17 Ethics Commission regular meeting and Ms. Schmitt seconded the motion. The minutes of the April regular meeting were approved with a vote of 7-0.

Chair Allen and Ms. Miller welcomed new Ethics Commission members Mary Bland Love and Michelle Bedoya Barnett. Ms. Love introduced herself and provided information on her background and experience. Ms. Bedoya subsequently introduced herself and also provided information on her background and experience. Introductions of the remaining Ethics Commission members and staff followed.

Ms. Miller addressed a question from Ms. Schmitt regarding retention and publication of Executive Session "Shade" meeting minutes.

New Business: The Ethics Commission then extensively discussed Ordinance 2017-346, which would amend the confirmation process for Ethics Commission appointees by requiring City

Council to confirm appointees prior to the appointees becoming members of the Ethics Commission. Mr. Rogan provided background information of the issue. He explained his concerns regarding the amendment to the confirmation process for Ethics Commission appointees proposed in Ordinance 2017-346. Ms. Miller then provided historical background on the current appointment and confirmation process for Ethics Commission appointees codified in the Jacksonville Ethics Code that protects the Commission's independence by allowing appointees to become members of the Commission immediately upon appointment. She further explained how Ordinance 2017-346 would change the current confirmation process. Ms. Miller advised that Mr. Rogan had proposed an amendment to Ordinance 2017-346 that would preserve the independence of the Ethics Commission.

Mr. Rogan discussed his proposed amendment to Ordinance 2017-346 to include a "waiting period," during which Ethics Commission appointees would become provisional members of the Commission and vote if City Council did not confirm or deny the appointee within a certain period of time and the appointees would continue to serve on the Ethics Commission until confirmation or denial by City Council.

Ms. Miller advised that the Ethics Commission Special Meeting had been scheduled to discuss Ordinance 2017-346 because the City Council Rules Committee will be meeting in early June to vote on Ordinance 2017-346 and requested the Ethics Commission's position on the Ordinance.

A discussion followed regarding the difference between the current confirmation process and the proposed amendment to the confirmation process in Ordinance 2017-346.

Mr. Rybak advised he favored a smaller period of time for the waiting period because a longer period of time could negatively impact the completion of work of the Ethics Commission committees.

The Ethics Commission then extensively discussed the various actions the Ethics Commission could recommend City Council take with respect to Ordinance 2017-346: (1) adopt the proposed amendment by Mr. Rogan; (2) retain the current confirmation process without any changes; or (3) retain the current confirmation process, but if City Council determined that the confirmation process should be changed, then to limit the change to the amendment proposed by Mr. Rogan.

Public Comment: Council Member Al Ferraro, Council District 2, spoke about his support for the work of the Ethics Commission and explained his prior objection to the nomination of former Ethics Commission appointee, Maria Mark.

Mr. Markle voiced his concern about funds allegedly missing from a trust fund established to mitigate loss caused by the removal of trees on newly developed properties and also information missing on the COJ Website.

Mr. Nooney voiced his concerns about other hazards in the nomination process for Ethics Commission appointees that could impact nominations.

Following discussion by the Ethics Commission regarding the action the Commission should recommend to City Council regarding Ordinance 2017-346, Mr. Rogan read a draft resolution

prepared by Ms. Miller that incorporated the feedback and concerns of the Ethics Commission members with respect to Ordinance 2017-346.

In response to questions by Chair Allen, Council Member Ferraro advised that he had an opportunity through the current confirmation process to share his concerns about a prior appointee and the process appeared to work.

Mr. Rybak requested that the proposed resolution be revised to include the negative impact of committees being able to complete work if vacancies occurred on the Ethics Commission under the confirmation process proposed in Ordinance 2017-346. The Ethics Commission further discussed how to improve the nomination process for Ethics Commission appointees.

Following the discussion of additional revisions to the resolution, Mr. Rybak thereafter made a motion to adopt the drafted resolution to City Council requesting that City Council retain the current confirmation process, but if City Council determined that the process should be changed, then to limit the change to the amendment proposed by Mr. Rogan. Ms. Schmitt seconded the motion. Resolution adopted by a unanimous vote of 7-0.

Ms. Miller advised she would provide the Resolution adopted by the Ethics Commission to the Rules Committee members so it could be discussed at the Rules Committee meeting scheduled for Tuesday, June 2, 2017 at 1:00 p.m.

Additional Public Comment: Mr. Nooney spoke about the funds allegedly missing from the tree mitigation trust fund and his concerns about the inability to share his concerns with the Council Members.

The next Ethics Commission meeting is scheduled for August 21, 2017 at 5:00 p.m. in the Don Davis Conference Room.

There being no further business, the meeting was adjourned at 6:29 p.m.

Kirby Oberdorfer, Ethics Deputy Director

Date of Approval

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/dm

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FILED FOR RECORD

2017 MAY -5 PM 4:40

CLERK OF DISTRICT COURT
MIAMI-DADE COUNTY, FL.
CLERK'S OFFICE #150

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION

SDE MEDIA LLC, a Florida limited liability
company,

Plaintiff,

vs.

CITY OF DORAL, FLORIDA, a Florida
Municipal corporation, and DANIEL ESPINO,
as City Attorney for the City of Doral, Florida,

Defendants.

CASE NO. 2015-013184-CA-30

ORDER GRANTING FINAL SUMMARY JUDGMENT

This cause came before the Court on April 27, 2017, on the motion of Plaintiff, SDE Media LLC ("SDEM"), for entry of an order of final summary judgment pursuant to Florida Rule of Civil Procedure 1.510(b) declaring that the Defendants: (1) failed to conducted a timely, good-faith search for requested public records, (2) failed, and continues to fail, to maintained public records in the manner required by law, and (3) unlawfully refused to permit a public record to be inspected or copied. The Court has considered the pleadings, depositions, and declarations on file, the memoranda of law filed in support of and in opposition to the motion, and the oral argument of counsel for the parties. Based on the undisputed facts and for the reasons sets forth below, SDEM's motion for final summary judgment is granted.

SUMMARY JUDGMENT STANDARD

Summary judgment is proper only if there is no genuine issue of material fact and if the moving party is entitled to a judgment as a matter of law.¹ The Florida Supreme Court has cautioned that trial courts should exercise restraint in granting summary judgments due to the fact that such a motion deprives a party of its right to a trial.² The party moving for summary judgment bears the burden of coming forward with competent evidence demonstrating not only that the facts support its own theory, but also that the party moved against cannot prevail under any theory.³

UNDISPUTED MATERIAL FACTS

SDE Media LLC submitted a request for public records on January 23, 2015. The City's Public Records Custodian responded 17 days later by making many responsive records available. The Records Custodian did not conduct a search for responsive records that might be maintained by the City Attorney or for electronic records that City Council Members and other Public Officials might have on electronic devices. On May 6, 2015, 103 days after the request had been made, the City's Records Custodian revealed to SDEM that no search had been made for electronic records maintained by City Officials on devices provided to them by the City or on their own personal devices. The City Attorney disclosed nine days later that if he had responsive text messages on his cellular phone, they could not be retrieved because a boat trailer had fallen on his phone.

SDEM filed this lawsuit on June 12, 2015, alleging that Defendants had violated the Public Records Law through their delay in conducting a good faith search for responsive records.

¹ *Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126, 130 (Fla. 2000).

² *Clay Elec. Co-op., Inc. v. Johnson*, 873 So. 2d 1182, 1185 (Fla. 2003).

³ *Fla. East Coast Ry. Co. v. Metro. Dade County*, 438 So. 2d 978, 980 (Fla. 3d DCA 1983).

Thereafter, the City's Counsel advised that some responsive electronic records might be available through Verizon, the cell phone service provider used by the City. SDEM sought and obtained an order requiring the City to preserve information on City Officials' cellular telephones. Defendants appealed this order to the Third District Court of Appeal which affirmed the order. Thereafter, the search was carried out and some responsive records not previously produced were located on March 23, 2016, 425 days after the public records request had been made. It is uncontroverted that the City neither has, nor has had, a policy in place regarding how City Officials should maintain electronic communications regarding official City business.⁴

Based on the undisputed facts, Defendants have not complied with the Public Records Law. Electronic communications regarding official business are public records. *State v. City of Clearwater*, 863 So.2d 149, 155 (2003); *Agrosource, Inc. v. Florida Dept. of Citrus*, 148 So. 3d 138 (Fla. 2d DCA 2014). "The same rules that apply to email should be considered for electronic communication including Blackberry PINs, SMS communications (text messaging), MMS communications (multimedia content), and instant messaging conducted by government agencies." *Informal AG Opinion to Sec. of State Kurt Browning* (Mar. 17, 2010).

All public records must be kept in a safe place. Section 119.021, Florida Statutes. They also must be maintained in a fashion that allows them to be found and produced quickly when they

⁴ Ten days before the summary judgment hearing, the City filed a memorandum in opposition claiming that "the City has instituted a policy prohibiting the use of private devices for the conduct of City business and has further implemented instructions for the maintenance of records should such communications be initiated by a third-party." See Defendants' Memo at 23 n. 11. The City did not file a copy of this policy or an affidavit of any City Official confirming that this policy has in fact been adopted. Defendants' memo in opposition was neither verified nor sworn. Counsel for Defendants attempted, in open court, to present a copy of this new policy. Counsel for SDEM objected and represented that they had never seen the document and that this was the first time they had heard of the existence of the document. The Court inquired of counsel for Defendants as to SDEM's objection and representations. Counsel for Defendants advised the Court that he had just received the document the night before.

are requested by the public. *Tribune Co. v. Cannella*, 458 So. 2d 1075, 1079 (Fla. 1984). Unjustifiable delay in conducting a search violates the act. *See, e.g., Barfield v. Town of Eatonville*, 675 So.2d 223, 224 (Fla. 5th DCA 1996) (“An unjustified delay in complying with a public records request amounts to an unlawful refusal under section 119.12(1)”); *Office of State Attorney for Thirteenth Judicial Circuit of Florida v. Gonzalez*, 953 So.2d 759, 765 (Fla. 2d DCA 2007) (attorneys’ fees may be awarded when the agency “unjustifiably fails to respond to a public records request by delaying until after the enforcement action has been commenced”); *Wisner v. City of Tampa Police Department*, 601 So. 2d 296, 298 (Fla. 2d DCA 1992) (City unlawfully delayed production of public records).

Injunctive relief is warranted where a pattern of non-compliance is shown together with a showing of likelihood of future violations. *Daniels v. Bryson*, 548 So. 2d 679, 680-81 (Fla. 3d DCA 1989) (“We have no hesitation in holding that injunctive relief is available upon an appropriate showing for a violation of Chapter 119”). The voluminous record before the Court shows a lengthy delay in fully responding to the public records request at issue herein. There is no evidence before the Court of the City having any policy in place regarding how City Officials should maintain electronic communications regarding official City business. Thus, there is undisputedly no compliance with the Public Records Law. Absent a policy for the maintenance and preservation of electronic records, “the circumstances of this past violation give rise to a reasonable inference that the past course of conduct will continue in the future.” *Daniels*, 548 So.2d at 681. Injunctive relief is and should be granted by summary judgment where, as here, the material facts are not in dispute and show that the plaintiff is entitled to injunctive relief. *Carmona v. Wal-Mart Stores, East, LP*, 81 So. 3d 461, 463 (Fla. 2d DCA 2011).

The City's purported effort to put in place a policy that provides for compliance with the Public Records Law is to be commended. However, this unsworn allegation made in a footnote almost two years after this lawsuit was filed is insufficient to deny SDEM the relief it seeks. Simply stated, it does not address the many months of noncompliance with the Public Records Law and is legally insufficient to oppose SDEM's motion for final summary judgement. When City officials are receiving and creating electronic email and text messages concerning official business, those communications must be conducted so that the City's public records custodian can access them and produce them to the public in a timely fashion.

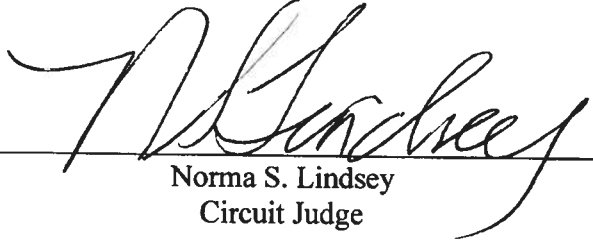
Accordingly, it is hereby Ordered and Adjudged that SDEM's motion for final summary judgment is GRANTED. The Court declares that Defendants unlawfully refused to permit public records to be inspected or copied by:

1. Failing to conduct a timely, good-faith search for the records requested herein.
2. Misrepresenting to SDE Media LLC that all responsive records had been located and produced when, in fact, they knew that a good faith search had not been made and that additional responsive records may not have been produced;
3. Failing to maintain electronic communications in a manner that prevents their accidental destruction or deletion by individual city officials; and
4. Failing to produce public records responsive to the request until after threatened with litigation, being sued, and ordered by the Court to conduct a proper search for public records.

The Court further directs Defendants to require all City Officials or employees who use electronic devices to communicate regarding matters of official business to conduct those communications only on devices that record those communications on servers directly accessible by the City's Public Records Custodian. The Court further directs Defendants to conduct a timely

search for all responsive electronic communications at the time that public records requests are made.

Done and Ordered in Chambers at Miami-Dade County, Florida on this 5 day of May, 2017.


Norma S. Lindsey
Circuit Judge

Copies furnished to
all counsel of record.

ORIGINAL
MAY 05 2017
NORMA S. LINDSEY
CIRCUIT COURT JUDGE

CITY OF JACKSONVILLE



YWANA ALLEN
CHAIR

BRIAN AULL
VICE CHAIR

MICHELLE BEDOYA BARNETT
GEORGE CANDLER
JOHN HARTLEY
MARY BLAND LOVE

ETHICS COMMISSION

JOSEPH ROGAN
DAVID RYBAK
ELLEN SCHMITT

**RESOLUTION OF THE
JACKSONVILLE ETHICS COMMISSION**

WHEREAS, the Jacksonville Ethics Commission is authorized by section 602.921(e), Jacksonville Ordinance Code, to act as the hiring committee, subject to Council confirmation, for the Executive Director of the Ethics, Compliance and Oversight Office; and

WHEREAS, section 602.611, Jacksonville Ordinance Code creates the Office of Ethics, Compliance and Oversight as an independent office administered by the Executive Director to handle citywide ethics training, compliance, and oversight issues; and

WHEREAS, the Jacksonville Ethics Commission believes in the importance of continuity through academic and professional expertise in the City of Jacksonville's ethics standards, procedures, and issues; and

WHEREAS, such action is determined to be in the interest of promoting public trust in government; therefore,

BE IT RESOLVED, by the Jacksonville Ethics Commission as follows:

1. The Jacksonville Ethics Commission hereby reappoints Ms. Carla Miller to an additional three-year term as the Ethics Director for the City of Jacksonville's Office of Ethics, Compliance, and Oversight.
2. The Jacksonville Ethics Commission recommends confirmation and approval by City Council of an appropriate contract with Ms. Miller.
3. This Resolution shall become effective upon its approval by the Jacksonville Ethics Commission on this ____ day of August, 2017.

JACKSONVILLE ETHICS COMMISSION

BY: _____
Ywana Allen, Chair

WITNESS: _____
Brian Aull, Vice-Chair

Vote (8/23/17) : In Favor: _____ Opposed: _____

**EMPLOYMENT CONTRACT FOR
EXECUTIVE DIRECTOR, OFFICE OF
ETHICS COMPLIANCE AND OVERSIGHT
AND
JACKSONVILLE ETHICS COMMISSION**

Dec 3,

THIS AGREEMENT ("Agreement") made and entered into on ____, 2014 (the "Agreement") by and between the Jacksonville Ethics Commission ("Commission"), and Carla Miller, hereinafter referred to as Executive Director (ED).

WHEREAS, this position was created by the City Council in Article I, Chapter 2 of the Charter of the city of Jacksonville and in Chapter 602, Part 6 of the City's Ethics Code; and

WHEREAS, the Commission initially appointed ED as the Executive Director of the Office of Ethics, Compliance and Oversight during the Commission's meeting on December 6, 2011, and pursuant to Resolution 2012-10-A, the Jacksonville City Council confirmed such appointment for a three year term ending December 5, 2014; and

WHEREAS, pursuant to Ordinance 2012-85-E, the City Council has authorized the Commission to enter into an agreement with the Director of the Office of Ethics, Compliance and Oversight, setting forth the financial terms and conditions of employment of ED; and

WHEREAS, the Commission and the ED desire to enter into an Agreement for the continued employment of ED, effective on the date of this Agreement, on the terms and conditions set forth in Sec. 602.612 and otherwise herein;

NOW, THEREFORE, based on mutual consideration, the parties hereto agree as follows:

ARTICLE I- EMPLOYMENT

- 1.1 The Commission does hereby extend the employment of Carla Miller, and she does hereby accept employment, as the ED of the Office of Ethics, Compliance and Oversight in accordance with the terms and conditions hereinafter set forth. This engagement commences on December 6, 2014 and terminates on December 6, 2017 unless earlier terminated in accordance with this Agreement, or by action of the City Council.
- 1.2 The ED shall serve as a part-time hourly employee, at the hourly rate of \$85.00 per hour, commencing December 6, 2014, and within the approved budget of \$75,000 per annum. Said rate of pay will be reviewed on an annual basis by the Commission and is payable upon budgetary approval. ED shall not work more than 25 hours per week unless approved in advance by the Chair of the Commission. No work week shall exceed 40 hours. All administrative details shall be handled by the ED and the Chair of the Commission.

unsecured promise of the Commission as set forth herein for the payment of any such benefit or compensation, and nothing herein contained shall be construed to give or vest in the ED or any other person, persons, executors, or administrators now or at any time in the future, any right, title, interest, or claim in or to any asset, fund, reserve account, or property of any kind whatsoever owned by the City of Jacksonville or its boards or commissions, or in which it may have any right, title, or interest now or any time in the future. The maximum indebtedness of the Commission and City of Jacksonville for all obligations of the Commission and City hereunder shall not exceed \$75,000 per year. The payment of all such amounts is subject to the availability of lawfully appropriated funds.

- 3.2 The term of this Agreement expires with the end of the three year appointment confirmed by Council. Earlier termination is restricted in accordance with any provisions for such termination provided by Sec 602.612.
- 3.3 This Agreement shall be governed by the laws of the State of Florida. The ED shall be subject to and governed by all City laws, rules, regulations, orders and policies on the same basis and to the same extent as other employees of the City.
- 3.4 This Agreement may be amended in writing by mutual agreement of the parties hereto.


IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year above first written.

EXECUTIVE DIRECTOR

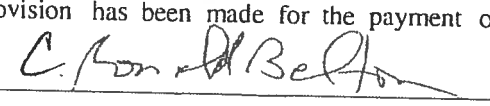

Carla Miller

JACKSONVILLE ETHICS COMMISSION,

By



L.E. Hutton,
Chairman

In compliance with the City of Jacksonville Ordinance Code, I do certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement and that provision has been made for the payment of the monies provided therein to be paid.


Director of Finance, City of Jacksonville

9666-01 p10

Form approved:


Assistant General Counsel

1 Introduced by the Council President at the request of the
2 Jacksonville Ethics Commission and amended by the Rules Committee:
3
4

5 **ORDINANCE 2014-668-E**

6 AN ORDINANCE, PURSUANT TO SECTION 602.612,
7 ORDINANCE CODE, CONFIRMING THE JACKSONVILLE
8 ETHICS COMMISSION'S REAPPOINTMENT OF CARLA
9 MILLER, AS THE DIRECTOR OF THE OFFICE OF
10 ETHICS, COMPLIANCE AND OVERSIGHT (ECO) FOR THE
11 CITY OF JACKSONVILLE FOR A TERM OF THREE (3)
12 YEARS EXPIRING DECEMBER 5, 2017; WAIVING THE
13 PROVISIONS OF SECTION 602.612, ORDINANCE CODE,
14 REQUIRING THAT THE DIRECTOR OF ETHICS,
15 COMPLIANCE AND OVERSIGHT BE A DUVAL COUNTY
16 REGISTERED VOTER; APPROVING A CONTRACT FOR A
17 THREE YEAR PERIOD EXPIRING DECEMBER 6, 2017;
18 APPROPRIATING \$7,500 FROM THE OFFICE OF
19 GENERAL COUNSEL RETAINED EARNINGS ACCOUNT TO
20 THE OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT
21 TO PROVIDE ADDITIONAL FUNDS FOR THE SALARY OF
22 THE ETHICS DIRECTOR FOR ONE YEAR; PROVIDING AN
23 EFFECTIVE DATE.
24

25 **WHEREAS**, Ordinance 2010-616-E amended the Charter of the City
26 of Jacksonville to provide for an ethics code, an ethics
27 commission, and an independent citywide Office of Ethics,
28 Compliance and Oversight (ECO) to coordinate ethics training,
29 ethics compliance, and oversight issues and to staff the ethics
30 commission; and

31 **WHEREAS**, in June 2011, Ordinance 2011-197-E established the

Office of Ethics, Compliance and Oversight (ECO) to, in furtherance of the above; and

WHEREAS, Ordinance 2011-197-E further provided an exemption from the Ethics Director's Duval County residency requirements set forth in Section 602.612, *Ordinance Code*, for Carla Miller; and

WHEREAS, on December 6, 2011, the Jacksonville Ethics Commission appointed Carla Miller to serve as the City of Jacksonville's first Director of the Office of Ethics, Compliance and Oversight; and

WHEREAS, on March 13, 2012, the Jacksonville City Council adopted Resolution 2012-10-A, and confirmed Carla Miller as the first Director of the Office of Ethics, Compliance and Oversight; and

WHEREAS, on August 11, 2014, in accordance with Section 602.612, *Ordinance Code*, the Jacksonville Ethics Commission unanimously passed a resolution re-appointing Carla Miller to continue to serve as the City of Jacksonville's Ethics Director, a copy of the resolution is attached hereto as **Exhibit 1**; now therefore

BE IT ORDAINED by the Council of the City of Jacksonville:

Section 1. Council Confirmation of Reappointment. Pursuant to Section 602.612, *Ordinance Code*, the Council hereby confirms the Jacksonville Ethics Commission's reappointment of Carla Miller as the City of Jacksonville's Director of the Office of Ethics, Compliance and Oversight for a term of three (3) years ending on December 5, 2017.

Section 2. Waiving Requirement that the Director of Ethics, Compliance and Oversight be a Duval County Resident.

Section 602.612, *Ordinance Code*, requiring that the Director of Ethics, Compliance and Oversight be a Duval County Registered voter, is hereby waived to allow Carla Miller, a St. Johns County

resident, to serve in this capacity. The purpose of the waiver is that Ordinance 2011-197-E previously provided an exemption from the Ethics Director's Duval County residency requirements set forth in Section 602.612, Ordinance Code, for Carla Miller

Section 3. Approval and authorization. There is hereby approved an Agreement between the Jacksonville Ethics Commission and Carla Miller, in substantially the same form as is attached hereto as Exhibit 2 and incorporated herein by this reference, for a three year period expiring December 6, 2017.

Section 4. Appropriation. For the 2014-2015 fiscal year, within the City's budget, there are hereby appropriated the indicated sum(s) from the account(s) listed in subsection (a) to the account(s) listed in subsection (b):

(a) Appropriated from:

Transfers from Retained Earnings

JXSF 551-38902

\$7,500

(b) Appropriated to:

Office of Ethics, Compliance and Oversight

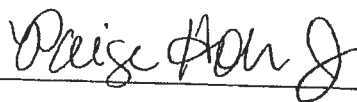
OECO011-01306

\$7,500

Section 5. Purpose. The purpose of the appropriation in Section 4 is to provide additional funding for the salary of the Ethics Director.

Section 6. Effective Date. This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Form Approved:



Office of General Counsel

Legislation Prepared By: Cherry A. Shaw

CITY OF JACKSONVILLE

L. E. HUTTON
CHAIR



JOE JACQUOT
VICE CHAIR

YWANA ALLEN
GEORGE CANDLER
LESLIE JEAN-BART
JAMES YOUNG

ETHICS COMMISSION

TOM PAUL
ALAN M. PICKERT
LARRY PRITCHARD

RESOLUTION OF THE
JACKSONVILLE ETHICS COMMISSION

WHEREAS, the Jacksonville Ethics Commission is authorized by Section 602.921 (e), Ord. Code to act as the hiring committee, subject to Council confirmation, for the Executive Director of the Ethics, Compliance and Oversight Office; and

WHEREAS, Section 602.611 (a)-(b), Ord. Code creates the Office of Ethics, Compliance and Oversight as an independent office whose purpose is to coordinate and handle citywide ethics training, compliance and oversight issues and whose executive director is appointed by the Commission subject to Council confirmation; and

WHEREAS, the current executive director, Carla Miller, has served in this capacity since 1999 having being previously appointed and confirmed; and

WHEREAS, such action is determined to be in the interest of promoting public trust in government; therefore,

BE IT RESOLVED by the Jacksonville Ethics Commission as follows:

1. That the Jacksonville Ethics Commission hereby reappoints Ms. Carla Miller to a three-year term as the Ethics Director, City of Jacksonville Office of Ethics, Compliance and Oversight.
2. The Commission recommends confirmation and approval of the Ethics Commission contract with Ms. Miller by the City Council.
3. That this resolution shall become effective upon its approval by the Jacksonville Ethics Commission on this 11th day of August, 2014.

JACKSONVILLE ETHICS COMMISSION

BY:

L.E. Hutton, Chair

WITNESS:

Allan D. Childers, Jacksonville Ethics Coordinator

Vote (08/11/2014): In Favor: 8 Opposed: 0

Ethics Office
117 W. Duval Street, Room 450
Jacksonville, FL 32202
Phone: (904) 630-1476, Fax: (904) 630-2670
HOTLINE: 630-1015

EMPLOYMENT CONTRACT FOR
EXECUTIVE DIRECTOR, OFFICE OF
ETHICS COMPLIANCE AND OVERSIGHT
AND
JACKSONVILLE ETHICS COMMISSION

THIS AGREEMENT ("Agreement") made and entered into on _____, 2014 (the "Agreement") by and between the Jacksonville Ethics Commission ("Commission"), and Carla Miller, hereinafter referred to as Executive Director (ED).

WHEREAS, this position was created by the City Council in Article I, Chapter 2 of the Charter of the city of Jacksonville and in Chapter 602, Part 6 of the City's Ethics Code; and

WHEREAS, the Commission initially appointed ED as the Executive Director of the Office of Ethics, Compliance and Oversight during the Commission's meeting on December 6, 2011, and pursuant to Resolution 2012-10-A, the Jacksonville City Council confirmed such appointment for a three year term ending December 5, 2014; and

WHEREAS, pursuant to Ordinance 2012-85-E, the City Council has authorized the Commission to enter into an agreement with the Director of the Office of Ethics, Compliance and Oversight, setting forth the financial terms and conditions of employment of ED; and

WHEREAS, the Commission and the ED desire to enter into an Agreement for the continued employment of ED, effective on the date of this Agreement, on the terms and conditions set forth in Sec. 602.612 and otherwise herein;

NOW, THEREFORE, based on mutual consideration, the parties hereto agree as follows:

ARTICLE I- EMPLOYMENT

- 1.1 The Commission does hereby extend the employment of Carla Miller, and she does hereby accept employment, as the ED of the Office of Ethics, Compliance and Oversight in accordance with the terms and conditions hereinafter set forth. This engagement commences on December 6, 2014 and terminates on December 6, 2017 unless earlier terminated in accordance with this Agreement, or by action of the City Council.
- 1.2 The ED shall serve as a part-time hourly employee, at the hourly rate of \$85.00 per hour, commencing December 6, 2014, and within the approved budget of \$75,000 per annum. Said rate of pay will be reviewed on an annual basis by the Commission and is payable upon budgetary approval. ED shall not work more than 25 hours per week unless approved in advance by the Chair of the Commission. No work week shall exceed 40 hours. All administrative details shall be handled by the ED and the Chair of the Commission.

- 1.3 The ED will keep contemporaneous records of all hours expended and services performed and shall report same to the Chair of the Commission as requested. The ED shall account in bi-weekly time sheets for the services performed in accordance with City procedures, with time sheet approval by such personnel as designated by the Mayor). No overtime (hours worked over forty in a work week) is authorized for this position without the approval of the Chair and confirmation that it is within the budget. Any hours of work over forty hours per week will be paid at the rate of one and one half times the regular hourly rate.
- 1.4 Under the supervision of the Commission, the ED shall perform the functions of Executive Director for the Commission and Director of the Office of Ethics, Compliance and Oversight and shall have full authority, responsibilities and duties commensurate with the laws establishing that Office, to manage the affairs of the Commission, and to manage and direct the staff, business and operations of the Office of Ethics, Compliance and Oversight.
- 1.5 The ED agrees that throughout the period of this Agreement she will at all times faithfully and to the best of her ability perform all duties relating to her employment and that she will have no outside employment or business that would impair her ability to perform her duties hereunder. Any outside consulting or legal work must be conducted on personal time, and must be in accordance with the City's Ethics Code and consistent with the operational needs of the City.
- 1.6 The ED shall be entitled to retain the rights to all ethics and training related materials created by her prior to her retention as acting director or director, and prior to her previous paid position as City of Jacksonville Ethics Officer, and all such materials created when not working for the City. The City shall be entitled to retain and use all ethics materials and training materials created or developed by ED in connection with her employment by the City, including during her previous paid position as Ethics Officer.

ARTICLE II-BENEFITS

- 2.1 As a part time employee, the ED agrees she is not eligible for pension, health insurance or other benefits except for the City's FICA Alternative (OBRA) program. Medicare taxes will also be withheld.
- 2.2 In the event the ED is required to use her private motor vehicle for work requirements, the ED shall receive reimbursement as provided by City policy for authorized use of her private motor vehicle.

ARTICLE III-GENERAL PROVISIONS

- 3.1 It is agreed that the ED or any other person, persons, executors, or administrators who may have or claim any interest in this Agreement or any right to any payment, benefit, or compensation payable hereunder, shall rely solely upon the

unsecured promise of the Commission as set forth herein for the payment of any such benefit or compensation, and nothing herein contained shall be construed to give or vest in the ED or any other person, persons, executors, or administrators now or at any time in the future, any right, title, interest, or claim in or to any asset, fund, reserve account, or property of any kind whatsoever owned by the City of Jacksonville or its boards or commissions, or in which it may have any right, title, or interest now or any time in the future. The maximum indebtedness of the Commission and City of Jacksonville for all obligations of the Commission and City hereunder shall not exceed \$75,000 per year. The payment of all such amounts is subject to the availability of lawfully appropriated funds.

- 3.2 The term of this Agreement expires with the end of the three year appointment confirmed by Council. Earlier termination is restricted in accordance with any provisions for such termination provided by Sec 602.612.
- 3.3 This Agreement shall be governed by the laws of the State of Florida. The ED shall be subject to and governed by all City laws, rules, regulations, orders and policies on the same basis and to the same extent as other employees of the City.
- 3.4 This Agreement may be amended in writing by mutual agreement of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year above first written.

EXECUTIVE DIRECTOR

Carla Miller

JACKSONVILLE ETHICS COMMISSION,

By _____

L.E. Hutton,
Chairman

In compliance with the City of Jacksonville Ordinance Code, I do certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement and that provision has been made for the payment of the monies provided therein to be paid.

C. Ronald Belfo
Director of Finance, City of Jacksonville

valde-01 PB

ORDINANCE 2014-668-E
CERTIFICATE OF AUTHENTICATION
ENACTED BY THE COUNCIL
November 12, 2014

Clay Yarbrough
CLAY YARBROUGH
COUNCIL PRESIDENT

ATTEST:

Cheryl L. Brown
CHERYL L. BROWN
COUNCIL SECRETARY

APPROVED: NOV 17 2014

Alvin Brown
ALVIN BROWN, MAYOR



**RECOMMENDED PROCEDURE AND SCHEDULE FOR
NOMINATION OF OFFICERS AND MEMBERS**

1. CHAIR AND VICE CHAIR OF ETHICS COMMISSION

Per Rule V of the Ethics Commission Internal Operating Procedures, the Chair of Ethics Commission polls members as to interest in serving as Chair or Vice-Chair for 2018.

If more than one Ethics Commission member expresses an interest in serving as either Chair or Vice-Chair in 2018, the Chair of the Ethics Commission will refer the candidates for the respective contested officer position(s) to the Nominating Committee to make a recommendation to the Ethics Commission for a slate of officers.

The election of officers to serve for the 2018 year will occur at the November Ethics Commission meeting.

2. MEMBERS

Here is a summary of the Ethics Commission members' respective terms:

MEMBER NAME	APPOINTING AUTHORITY	TERM
Ywana Allen Chair	Ethics Commission	2nd term 1/01/2017-12/31/2019
Brian Aull, Vice-Chair and Chair, Legislative Committee	State Attorney	1st term 03/2015-12/31/2017
Michelle Bedoya Barnett	Mayor	1st term 3/21/2017-12/31/2018
Dr. George Candler, Chair, Nominating Committee	City Council President	1st term 1/01/2015-12/31/2017
John Hartley Chair, Complaints Committee	Sheriff	1st term 1/01/2016-12/31/2018
Mary Bland Love	Public Defender	1st term 5/10/2017-12/31/2019
Joseph Rogan	Chief Judge	1st term 1/01/2017-12/31/2019
David Rybak, Chair, Internal Operations Committee	Ethics Commission	1st term 1/01/2016-12/31/2018
Ellen Schmitt	Ethics Commission	Partial Term 3/13/2017-12/31/2017

Per the chart above, there are three (3) members whose terms expire at the end of this year:

Elected Officials Appointments

- Brian Aull, State Attorney appointee
- Dr. George Candler, City Council President appointee

Carla will discuss with Mr. Aull and Dr. Candler whether they wish to serve a second term on the Ethics Commission. Thereafter, Carla will notify the State Attorney and City Council President that their respective Ethics Commission reappointment or appointment of new member (whichever is applicable) needs to be made by end of 2017.

Ethics Commission Appointment

- Ellen Schmitt—her partial term expires at the end of this year and she is eligible to be reappointed by the Ethics Commission for a full 1st term beginning January 2018

Per the Internal Operating Procedures Rule VII, the Ethics Commission has the option of either voting to reappoint Ms. Schmitt to a full first term beginning January 2018 or to advertise the vacancy.

3. RECOMMENDATION

Ethics Commission waive the Internal Operating Procedures Rule VII with respect to the recommendation by the Internal Operations Committee regarding whether current Ethics Commission members should be reappointed.

Internal Operating Procedures Rule VII. Appointment of Members

The Ethics Commission by Code appoints three (3) individuals to serve as members. In September every year, the Internal Operations Committee shall review the terms of Commission-appointed members to determine which terms are expiring and who is eligible to serve an additional term.

For terms approaching completion where the current Commission member is not eligible for or does not want to serve another term, the Internal Operations Committee shall oversee a broad solicitation for application resumes, establish a timely schedule of interviews, and set objective criteria for the selection process in order to complete the recommendation process prior to November. **The Internal Operations Committee will recommend whether each current Commission-appointed member should be reappointed if eligible** and/or offer new names to the November regular monthly meeting. Following discussion, the full Commission will vote on the committee's recommendation(s).

In the case of reappointment, nominees must demonstrate a positive history of performance within the Commission and commitment to the Commission.