



## OFFICE OF INSPECTOR GENERAL

### **Inspector General Selection and Retention Committee Meeting Minutes November 10, 2021, 4:00 PM**

*Note: Below is a summary of the meeting as required by Florida's Sunshine Law; See AGO-82-47.  
For more detailed information, please refer to the audio file on the Office of Inspector General's website, <http://www.coj.net/departments/inspector-general/inspector-general-committee>*

**Location:** City Hall, St. James Building, 117 West Duval Street, Mezzanine Exam Room 3

**Call to Order:** Chair L. E. Hutton called the meeting to order at 4:02 PM.

**Pledge of Allegiance:** Chair L. E. Hutton opened with the Pledge of Allegiance.

#### ***Roll Call - Committee Members Present:***

- Ellen Schmitt, Chair, Ethics Commission (via phone conference)
- Honorable Charlie Cofer, Public Defender for the Fourth Judicial Circuit
- Brian Hughes, Chief Administrative Officer (CAO), designee for Honorable Lenny Curry, Mayor
- Honorable Mark Mahon, Chief Judge
- Honorable Samuel Newby, City Council President
- L.E. Hutton, Chief Assistant State Attorney, designee for the Honorable Melissa Nelson, State Attorney for the Fourth Judicial Circuit and Chair of the Inspector General Selection and Retention Committee
- Daniel Henry, Chair, TRUE Commission

A quorum was met with six out of seven members present and Schmitt participating via phone conference.

#### ***Office of Inspector General (OIG) Staff Present:***

- Brandon King, Acting Director of Investigations, OIG
- Christina Gatto, Senior Program Coordinator, OIG

#### ***Office of General Counsel (OGC) Staff Present:***

- Jason Teal, General Counsel, OGC
- Sean Granat, Deputy General Counsel, OGC
- Mary Staffopoulos, Attorney III, OGC
- Ariel Cook, Attorney II, OGC

## I. Old Business

### A. Approval of April 8, 2021 Meeting Minutes

Chair L. E. Hutton asked the Inspector General Selection and Retention Committee (Committee) if there were any questions or corrections to the April 8, 2021 minutes. No corrections were noted.

Hutton called for a motion to approve the April 8, 2021 meeting minutes as circulated. Cofer moved to approve the minutes. **Hughes seconded the motion. Motion Carried Unanimously.**

## II. New Business

### A. Discussion of Complaints Regarding the Inspector General

Chair L. E. Hutton called on the General Counsel to explain the timeline of why this meeting was called.

- General Counsel Jason Teal explained that the purpose of the meeting is to discuss the complaints made against the Inspector General (IG) [Lisa Green]. Teal advised the Committee that the purpose of the meeting is not to determine if the complaints are true or not true. The purpose of the meeting is to determine whether or not there are sufficient allegations in the complaints to justify going to a hearing where both sides are able to provide evidence and testimony in order to determine if there is basis for the removal of the IG. Teal again clarified that this is not a meeting to take testimony or to determine whether or not information contained in the complaints is true or not true. The meeting is to determine if the information states a case for requesting the OGC to pursue a full investigation to lead up to a potential hearing.
- Deputy General Counsel Sean Granat explained the timeline:
  - On Friday, October 29, 2021, the OIG Director of Investigations (DOI) Andrew McFarlane (McFarlane) filed a complaint against the IG [Lisa Green]. That same morning, the IG sought to terminate the DOI. The DOI claimed this constituted retaliation for his complaint. The IG told the OGC that she was not aware of the existence of the DOI's complaint when she sought to terminate him. Upon discussion between the IG, the OGC, and City's Employee Services Department, a decision was made not to terminate the DOI and to place him on administrative leave.
  - On Saturday, October 30, 2021, the IG left town on a family emergency.
  - On Tuesday, November 2, 2021, a second OIG employee filed a complaint against the IG. Pursuant to OIG policy, if complaints against the IG are made,

they are forwarded to the OGC who will review them and make a determination as to whether the complaints involve allegations of neglect of duty, abuse of power or authority, discrimination, or ethical misconduct. Should the OGC determine the complaints involve such allegations, the OGC must provide the Committee with a copy of the complaints. After a review of the complaints at issue, the OGC has determined they are sufficient to warrant forwarding to the Committee.

- Whistleblower (WB) status has been granted to both complainants; however, the DOI waived his rights of confidentiality under the WB statute. The identity of the second complainant is protected and the contents of the complaints are also protected until the conclusion of the investigation.
- The OGC provided copies of the complaints to the Committee to review confidentially during the meeting. The Committee was required to give back the documents to OGC upon completion of the meeting.
- Hughes inquired as to when the administrative leave began for the IG. The OGC stated that on November 5, 2021, the IG was placed on administrative leave.
- The Committee began reading the complaints at approximately 4:15 PM and concluded at approximately 4:29 PM.

Hughes made a motion to direct the OGC to continue with a full investigation of the complaints stating the seriousness of the complaints merits the OGC continuing their work to appropriately investigate the allegations and nature of the complaints. **Newby seconded the motion.** Henry inquired how long the investigation would be. Teal stated that he believes it would be weeks as opposed to months.

Henry asked what would occur after completion of the investigation. Teal explained that the next step in the process would be for the OGC to conclude the investigation and provide Green with the allegations presented against her. She would have the opportunity to present evidence, testimony, exhibits, and whatever she feels necessary to defend against these present allegations. Teal added that when the investigation is concluded the Committee would reconvene at a time where all parties would be able to participate so there would be a full and meaningful hearing with due process.

Hutton asked if there is any other discussion; no further discussion. Hutton stated that there has been a motion that was seconded. Hutton called for a vote on the motion to direct the OGC to complete a full investigation of the complaints. **Motion Carried Unanimously, with Schmitt abstaining.** Hutton asked if there was public comment on this issue; there were no comments.

## **B. Discussion of the Inspector General's Employment Status**

Hutton stated that the next issue for the Committee to consider is whether to ratify the determination made by the Chair, after consultation with OGC, to place the IG on administrative leave pending the outcome of the investigation. Hutton added that as outlined by Teal, it is appropriate that the Committee as a whole take up that issue to determine whether or not they believe it is appropriate that she remains on administrative leave during the investigation.

Cofer made a motion for the Committee to ratify the Chair's decision in that regard. **Hughes seconded the motion.**

Hutton asked for public comments; there were no comments.

There was discussion initiated by Hughes regarding paid administrative leave for the IG. Hughes referred to Employee Services Directive 0310, which relates to compensation and administrative leave. Hughes explained the Directive which states that during disciplinary investigations appointed employees will not be granted more than two weeks of paid administrative leave. After two weeks, the employee can utilize accrued leave or be placed on leave without pay.

Teal explained that the reason for the vote of ratification of the determination of the Chair to place Green on administrative leave was due to the urgency required for the well-being of the office [OIG].

Hutton called for a vote on the motion to ratify the Chair's action to place the IG on administrative leave beginning November 5, 2021. Hutton asked for public comment; there were no comments. **Motion Carried Unanimously, with Schmitt abstaining.**

Hughes made a motion to have the approval of the Committee to follow Employee Services Directive 0310 as it relates to administrative leave being limited to two weeks, starting from the placement of the IG on administrative leave (November 5<sup>th</sup>). **Newby seconded for discussion.** Hutton inquired of Diane Moser, Director of Employee Services, as to whether the Committee would have the ability to reinstate pay if they determine that the allegations do not merit removal. Moser confirmed that Green would be made whole if the allegations were proven to be false.

Hutton asked if there was any public comment; there were no comments. Hutton called for a vote on the issue of limiting the IG's administrative leave. **Motion Carried Unanimously, with Schmitt abstaining.** Green will be subject of the same two-week time period as other employees, with the ability that the Committee can go back and reinstate the pay at the end of the two-week time period depending on the Committee's determination as to the merits of the pending allegations against the IG.

Hughes indicated he did not want to offer a similar motion regarding the administration leave of anyone else related to this matter. The distinction in the directive is meant for the target and not the complainants. No other motions were made.

Hutton requested what was the nature of complaint the IG made against the DOI. Granat stated he believes it was regarding work performance. Hutton also inquired if the complaints were made on the same day; the OGC responded that the complaints were made within minutes of each other.

It was discussed that the policy does not apply to DOI, and he will remain in possession of his salary, benefits, as he does not have an adverse employment status. Hutton inquired who would be handling the DOI workplace performance issues because the complaint was made by the IG. Teal stated that this would lead to the next item on the Agenda.

### C. Discussion of Office Operations

Discussion occurred regarding whether or not the Committee will decide to name an Interim or Acting IG during the investigation. The Acting Inspector General would have all of the duty and powers of the Inspector General; therefore they would evaluate the complaint made by the IG against the DOI.

- Teal explained the Interim IG is required to meet the qualifications for an IG which are:
  - ✓ Ten years of experience in government auditing, public administration, or business administration;
  - ✓ Bachelor's degree or higher from accredited school;
  - ✓ IG certifications; and
  - ✓ Cannot be convicted or pled guilty to any felony or misdemeanor involving breach of public trust.

Cofer stated he does not think the decision needs to be made today of who would be named Interim IG. It would be for the good of the office to have someone with a clean slate who is not seeking a permanent position, who can oversee the work of the office, and not be involved in the politics of the office for the short term while the OGC does its investigation. Hughes seconded this and agreed with Cofer that the Acting IG should be someone outside of the OIG and OGC organizations.

Hughes proposed a motion for the Committee to authorize OGC to seek candidates from outside the OIG and OGC that fit the qualifications of an IG and reconvene perhaps this same day and time next week, for the purpose of hearing from the OGC and making that determination. Hutton expressed his approval of this action. **Newby seconded the motion. Motion Carried Unanimously, with Schmitt abstaining.**

Due to the time constraints of how long it would take to meet and vet candidates, it was discussed that the OGC would select a few strong candidates. Hutton also added that the Committee could provide recommendations to the OGC as well.

Acting Director of Investigations King expressed that the OIG office has an excellent staff, who are motivated, working hard, and providing him with work to review. King believes the office operations can continue to function as is. However, a higher level of management is

required or the office cannot operate to full capacity due to needing someone in a position of authority to sign off on subpoenas and other higher level related work. King stated that the OIG office does need an Acting IG based on the Ordinance Code as well as from a practical standard of legal authority instilled in the IG. King also elaborated on budgetary constraints related to paying an Interim Inspector General. Hughes indicated City Administration will help to address this due to the OIG being a high priority to the Mayor.

Teal indicated there was no mandate that an Interim IG be appointed; however, the need for an Interim IG was made apparent by Acting Director of Investigations King, who indicated that there was a need to issue subpoenas and get out reports while the IG was on administrative leave during the investigation. The Interim IG is not a replacement of the existing IG, but someone who could fulfil the needs of the IG position pending a review of the complaints.

It was also discussed that some of the Committee members would be unavailable next week. Hughes requested instead of saying a weeks' time to reconvene, that instead by the next available meeting set by the Committee Chair in coordination with OGC. **Newby seconded the motion. Motion Carried Unanimously, with Schmitt abstaining.**

It was discussed that King will continue to run the office [OIG] for another week.

### **III. Comments from the Public**

Chair L. E. Hutton asked if there were any public comments. There were no public comments.

### **IV. Adjournment**

Chair L. E. Hutton adjourned the meeting at 5:24 PM.