

Meeting Date
5-26-17



AGENDA	
Section	New Business
Item No.	VI F 1

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Charter Amendment Proposal
DEPT/OFFICE:	Citizen Request / Pam LaSalle

Requested Action:

I request the Board of County Commissioners consider proposing an amendment to the Charter to establish Ethics regulation, by creating an Ethics Commission, to create a Code of Ethics, and establishing an independent Inspector General Office, to have authority over all elected and appointed officials and employees of the County, all entities and persons (other than employees of the County) that provide goods or services to the County under contract for compensation, only with respect to the provision of such goods or services.

Summary Explanation & Background:

Ethics regulation with independent oversight promotes responsible government and engenders public trust and confidence in the integrity of its government. An appointed and independent IGO would help eliminate fraud, waste and mismanagement, while promoting economy, efficiency and effectiveness in government.

Citizens in other Florida counties have successfully amended their charters to include Ethics regulation with an IGO. A referendum in Brevard would allow the citizens the choice at the ballot box to implement independent oversight in their county.

Contact: Pam LaSalle
 Phone/e-mail: 407-454-2326

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager,	Department Director / Extension
Stockton Whitten	Assistant County Manager	



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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May 27, 2016

MEMORANDUM

TO: Stockton Whitten, County Manager

RE: Item VI.F.1., Citizen Request by Pam LaSalle for Charter Amendment Proposal to Establish Ethics Regulation by Creating an Ethics Commission, to Create a Code of Ethics, and Establishing an Independent Inspector General Office

The Board of County Commissioners, in regular session on May 26, 2016, acknowledged Citizen Request by Pam LaSalle, and took no action on request for Charter Amendment Proposal to establish an ethics regulation by creating an ethics commission, to create a code of ethics, and establishing an independent inspector general office.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cm

Barfield: Okay, going to VI.F.1., Citizen Request from Pam LaSalle.

LaSalle: Hi, thanks for entertaining this tonight. I would like for the Board to consider putting on the ballot Ethics Regulation that would include an Ethics Commission to create a Code of Ethics and an Inspector General Office. The reason I would like this is it would eliminate fraud, waste, and mismanagement and build confidence in our government. And I've heard a lot from we don't have enough revenue and we have too much spending. I think we have a lack of credibility. You all might be looking at your packets. I tried to include a sample. I've been reading about this a lot for several months, and it was hard for me to select, but I tried to get a concise example of how this is working in other Florida counties. Duval, Broward, Palm Beach, and Dade, now Dade is not a charter government but the others are, and I would like for the IG to have authority over all sources of where our money goes to, all departments, all offices, all constitutional offices, everywhere. Now, one of the advantages to this, having this, is we would have contract oversight. An Inspector General has the authority to participate in contracts from the beginning to fulfillment. So, that would be resolving a lot of the issues as far as the trust goes that we here come before this Board a lot. Also, it facilitates whistle blowers to be able to come in and report things like, for example, the schools when they were selling parts out of the school. You know, other employees had to know that was going on, and a whistle blower would give them protection to come in and reveal that information without worrying about retaliation. People aren't going to say anything if they think they're going to lose their job over it. An IG, if you look through your packets, an IG isn't just a job opening that anyone can apply for, it has stringent requirements and it's an appointed position, its non-patrician, generally the terms are for four years. I believe I saw one county that does it for three, but generally it's a four-year term, subject to reappointment. Everyone may be happy with the performance and placement so you may end up having an IG longer than four years. They have a team of professionals under them that have very specific skills. They vary anywhere from information technology to criminal and contract negotiations, any number of things. I would say there are some specialized areas like medical examiner that they contact out for usually because they don't have a doctor on staff, and why would they? I submitted this idea to the Charter Review Committee on February 25th. There were 12 members present. It had a unanimous vote to be considered, and it died from that point forward. The attorney did look over verbiage on how the Charter Amendment would be, but it never went anywhere. So, I'm, I had no standing so I couldn't make any demands. I just put it forward as an idea. There are a lot of problems this County has faced that you hear and I've heard in this room, discussions on the CRAs, the EDC, the Waste Management Contract, BlueWare, the school software, the \$8 million for basically no ware, golf course management, animal services management, there's any number of things that an Inspector General could have been called into to investigate and resolve, hopefully, with these contracts before we ever had a problem with them. Now, I know in the past you all have considered it. I know Commissioner Anderson was positive about it in 2013. Commissioner Infantini was concerned it be independent. They can be independent, they are independent. Now, I would like it because it's going to give us better government. It's going to make people trust their government more and if we can do this with a positive cash flow like other counties have done, if not make more money than the office is costing. I don't know who would be against it. So, I would like for us to consider that, for you all to consider, putting on the ballot so citizens can vote on it and have the choice. Any questions?

Barfield: Not yet, we may after. I have some public comments too coming.

Infantini: Thank you for putting this together. I mean, this was one very detailed package. She put together about 400 pages of just different examples of what we could look at for the types of reports, the different things the County budgets, from Palm Beach County, anyway, okay, I mean just a whole gambit of things. Thank you, you did an excellent job.

LaSalle: Thank you, but it's a small sample of what's out there. There's just a wealth of information.

Smith: Pam, I do have one question. In your research, how many counties in Florida, we have 67, how many do you know of that have Inspector Generals?

LaSalle: Well, the ones I listed, and I think Collier has it. I think Lake is working on it. I've tried to focus on charter counties because, you know, I wanted to try to make it apples to apples, but no, I can't tell you how many counties all total. I know the other thing before the Charter Review was a comptroller for along the same oversight kind of the same lines, and there's only one county in all of Florida that has a comptroller; and that to me is more of a CFO position. And in Palm Beach, when they got their Inspector General, their Clerk of Courts then became a comptroller too. So, it's not like we can't have both, but you know . . . oh, one other point for relevant finances, it is the Ethics Commission, I'd like to point out because it's kind of a small detail, Broward sunset their Ethics Commission. So in Palm, okay, finances, in Palm Beach they're making about \$6 million a year and they're spending about two and one-half million on the IG office, and one-half a million on the Ethics Commission; and Broward took in and sunset their Ethics Commission, but also they, and I don't recommend this I'm against this idea, but Broward took in part of the accounting functions of the county and moved it in with Broward, and Broward's only costing \$2 million a year. And looking at population sizes, I'm thinking that our County would cost about a million. That's what Duval's costing and they're just getting up to speed. They're spending \$800,000 on the IG and \$200,000 on the Ethics Commission. So . . .

Barfield: Okay, Frank Clifford. Thank you for hanging in there with us.

Clifford: Good evening Commissioners. Just like to supplement a few things that . . .

Barfield: Excuse, the first we need your name and address.

Clifford: Oh, sorry, Frank Clifford, 7667 North Wickham Road, District 4, retired lawyer. Would just supplement a few things that Pam said. I've been studying this even a little bit before she started. We've really been looking for something that's truly, truly independent. There are a few counties that do have an IG but the IG works for the Clerk of Courts, so it's truly not an independent office. The other important thing is not only auditing finance, but if you know auditing, you know there is such a things as performance audits, too; and what you have to do is set a process for everything that has to be done in each of the so called charter offices, and then when it comes time when the employees have to follow that, each of the Charter Officers will not have an auditor anymore. They certainly would have a bookkeeper/accountant to try to track inflows and outflows of money. That's important. The other thing, too, it seems to me, is that right now the Clerk of Courts constitutionally is vested with broad latitude for audit. That would have to be removed and consolidated into

the Inspector General. So, that's what I wanted to supplement with . . . the whole idea is to give fidelity to the process. This would include at least extensive county wants, anywhere our money goes our Inspector General can go if a redevelopment authority is giving real estate tax breaks based upon projected employment, we want to have some way of verifying that hey, what's going on right now may be perfectly honest and upright, maybe 100 percent, but the citizens don't know that until it can be put under the microscope of examination of the process. How many jobs are being created? Is there a smoke and mirrors going on of what constitutes the job here in Brevard as opposed to the company's headquarters back in another state that oversees the work here in Brevard. We don't intend that to be part of redevelopment job, and we want the job fiscally right here. Again, this all may be considered right now, but we don't know, we need that kind of verification from an independent entity. So, thank you.

Barfield: Thank you. Ron Bobay.

Bobay: Ron Bobay, 5944 Windover Way, Titusville, Florida. I just wanted to make a few comments that are favorable towards the potential of an Inspector General. Certainly the scope of work would have a lot to do with the cost of the program, because I've heard pretty wide range of things that don't necessarily fit within what I would consider need to come under that particular umbrella; but my concerns have more to do with I think consistency, not only with the Board of County Commissioners, but with our Constitutional Officers. My understanding is, is that each of you, including the Constitutional Officers, had to do a comprehensive financial audit. I don't know whether it comes from the federal requirements or whether they are state, but all of you consistently are doing that. Where I see the difference is that you have created an Audit Committee and apparently you have volunteers from the professional sector that give some direction as to internal audits, and these are looking for risk factors where you have maybe some potential for risk in helping you to come up with policies and procedures to kind of deal with those. The Constitutional Officers, I'm not sure have the same process. In any event, since they are independent, don't necessarily have the same consistency. I think if something like this were implemented, I think that the two functions of the Clerk of the Courts, one being taking minutes for the County Commission, as well as the control over the finance piece that's with the Clerk, should be residing with the County. I mean I've never personally quite understood why with the staff that you have that you can't take your own minutes; and I also don't understand why you can approve a budget and you can issue purchase orders but you can't pay the bill. And that is apparently what happens in the process unless I don't understand it correctly. If an IG was actually created, it would seem to me they would need budget money for doing the actual studies where they would contract with external groups for the various kinds of studies they may need to do. You obviously set up a budget for your own Audit Committee, so obviously if you're going to expand the scope, and I would suggest something like a half of a percent or a percent against all the budgets that would actually provide that pool of money in some consistent fashions for those audits. Pam mentioned that the Charter Review Committee did have this suggestion. It was one of the few things that I saw that there was interest at the Charter Review Commission that just completed their work even though they didn't act on it; and I do know, I'm aware, that the League of Women Voters of the Space Coast has looked at this particular position even though they have not taken a position about it, they have continued to study the feasibility of the benefits of it. I don't personally see it as a response to widespread fraud or waste management, but I think it provides an opportunity for risk factors in terms of the policies

and procedures that we currently follow; and I know in previous Charter Review Commissions we've talked some about how we could do some efficiency studies. You know, we're going forward in my mind in good faith to try to do the best we can with the resources we have, but there may be opportunities for us to look at improving our way of doing business; and an IG, in a position dedicated to that, might be able to do that. But again in summary, I think the consistency for all the Constitutional Officers, as well as yourselves, obviously you've got your own Audit Committee and you do internal audits. I think that the same should apply to the Constitutional Officers. This kind of position could do it. In terms of the Ethics, it's a good place to lodge it, but I think you can also do your own ordinances relative to ethics, and some of that might minimize the costs. But anyway, I appreciate it.

Barfield: Carol Hamilton. Good evening, name and address for the record please.

Hamilton: Yes, Carol Hamilton, 522 Carmel Drive, and I'm in Suntree. The proposal that Pam has proposed I believe that every one of us would benefit from this. Taxpayers would see that they are getting maximum from their tax dollars. I believe it would increase efficiency in the government, the County government, it would take criticism off the County Commissioners and place responsibility on the Inspector General's Office. Just for example now, people like or don't like some of the things that you propose, and they blame you for it. This would take that off your shoulders. Just for example, now some taxpayers are criticizing paved walkways in Wickham Park instead of using that money to fix some of our bad roads, so that would take that responsibility off you. So I would just ask that you would please consider Pam's lead and push for a County Charter Amendment; and I'd like to just mention one other thing too, regarding the stadium, I think it's great that you found a solution to the empty stadium, but please keep in mind about the local residents and the quality of life that we might be losing as a result of this. Wickham Road is completely bogged down now. I live in Suntree off Wickham. I've lived there for 16 years. I remember when it was cow country out there. Used to take me five minutes to get to the 95 and both the circle wasn't there yet. Now it takes me almost 30 minutes to get there. I have friends who live in Satellite Beach. Recently we met at Perkins for dinner. They were caught in the traffic. They said how do you stand living here? We would never live here in this area. So, please keep our residents quality of life in mind as you go forward with this endeavor. Thank you very much.

Barfield: Thank you.

Smith: Carol, Carol, I just wanted to point out that an Inspector General would tell you as a citizen that would ask the question regarding the pedway in Wickham Park that it isn't general funds building that pedway. So, it's, it's . . .

Hamilton: It comes from the Parks Department. Right, but the Parks Department money comes from where?

Smith: Well, it's allocated, and once . . .

Hamilton: Right, but it's still, it still comes from the citizens, right?

Smith: Well, that was part . . .

Anderson: That was part of the Park Bonds that can only be spent on Park projects. You cannot spend it on roads.

Smith: It can only be spent on what it is being spent on.

Hamilton: Right.

Smith: We can't say, you know what, roads would be a better place for it, or a charity would be a better place for it. It's not our choice.

Hamilton: Right. It is designated money for that purpose, I understand that.

Smith: And as far as the Wickham Road, we all drive it. We hate it. I tell people it's a permanent, temporary problem.

Hamilton: Well, we're not getting any satisfaction from The Viera Company that's for sure. They're turning their nose up at the residents of Suntree.

Smith: Thank you for your input.

Hamilton: Sure.

Fisher: Ms. Hamilton, just also too, on the, we have County Attorney's Office that's responsibilities is to make sure we also spend it legally, money legally, and also you have a Clerk, that kind of seems to be interested in making sure we spend money legally; and so, we don't have any problems people telling us whether we're spending money legally or not believe it or not. But what I know being in this job for seven and one-half years, people will accuse you of anything. Inspector General isn't going to stop them from accusing you. They'll, and there's all kind of avenues to, if somebody's doing something wrong, there's a big Sheriff with a big gun with a big place . . .

Hamilton: Well, no one's accusing you of doing anything wrong, it's just that it would take some of the responsibility off your shoulders and do some investigating.

Fisher: No, we get accused a lot of doing something wrong. You haven't, but we do, trust me on that one. That comes about every other day, so . . .

Anderson: The Inspector General would be accused of being part of the good ole boy network. I mean if he didn't do what they want . . .

Hamilton: He'll be completely independent. You've got to make sure of that.

Anderson: Nobody is completely independent. Everybody has friends unless they are anti-social and lock themselves in the house every night.

Fisher: Thank you. Appreciate you.

Hamilton: Thank you.

Barfield: Okay, that was my last comment card. Any discussion?

LaSalle: I have something. I just wanted to add that I really want to . . . Funding, Palm Beach funds their IG through a quarter of a percent of fee on contracts. So, they, that's how they solicit funding. Now you think, oh well, they're going to add to the contract costs so they'll pass that on to the county. The IG will get a more efficient contract. I disagree with the Wickham situation of what you all were just saying, because an IG involved in the contract could have dates set and have performance levels that they have to meet. So, you know, I, and as far as the other departments that have oversight, they're not really independent. This Board controls their pay. This only, and IG being totally independent, and they are, is going to have the authority to go in a look anywhere that this County spends money and not have to answer to anyone other than their own professional level of performance.

Anderson: Pam, who appoints the IG?

LaSalle: Okay, if this gets passed, there will be a Commission set up. Now that could be temporary or not, and then they will . . . normally it's like the State Attorney, the Public Defender, a Judge, that sort of arrangement, and then they make a selection. Now, Human Resources will collect packets. I know when Palm Beach got theirs they had 65 applicants, but in your packet you will see that the IG has a lot of specific requirements, and at some point, and as far as the good ole boys, at some point we have to have faith that something is going to work. What we've got hasn't been working.

Anderson: My point of the comment is, like Robin said, is one of the reasons I'll never go back into politics, there is no good ole boys. That's a misnomer.

LaSalle: Cronies, whatever you want to call it.

Anderson: It's not cronies, it's we make decisions based, at least I do, based on my research and what the people I represent want, and so that's why, you know, I get, so if I wanted to be an Inspector General and I'm a lawyer and I know the Sheriff, I know the Judge, I know the State Attorney, I just go lobby them and make sure I get the job. Guess what? You still have the good ole boy system, and I know that happens in South Florida, because I think one of their IG's, didn't one of their IG's get indicted at some point?

LaSalle: Not that I've found. Not in Palm Beach and Broward, but they're fairly new.

Anderson: Well, in South Florida somewhere I think one was indicted or their comptroller. They were part of their crony group that was doing bad things.

LaSalle: Nothing is going to really fix government except transparency and citizen participation. This is a tool, and Inspector General is a tool for the employees and volunteers and it involves citizens to be able to go to.

Anderson: I have a lot of respect for you, ma'am. I just think there's a lot of false negatives that are put out there, especially in a campaign season, and I'll challenge anybody, a lot of blatant lies just so people can get elected to certain things.

Commissioner Infantini, I'm not talking about you. I want to be clear.

Infantini: I haven't made any comments on this, so I'm not making any campaign pledges on this.

Anderson: No, no, no, no, I didn't want you to take that wrong, that's not what I meant. So, that's what gets me. Everything's directed by some false narrative because somebody doesn't like a CRA.

LaSalle: But we don't know, that's it. We don't know, and an Inspector General has the authority and is independent and can go in. I can't go in. I don't know who could go in.

Anderson: Anybody can go to a CRA board anytime they want. That's . . .

LaSalle: But you can't get into their, I can't go up to the EDC or the CRA and say I want to see all your books.

Anderson: If they don't show you books, let me know because they have violated the Sunshine Law.

LaSalle: But, then, okay . . .

Fisher: They all file a report. They all, their tax returns and their reports are online.

LaSalle: And I would like to have a professional. I don't want to do it. I'm not an Inspector General. As a citizen, I would like for us to have an opportunity for us as a body to take a vote. I'm not asking for you all to install it, I'm asking to give us a chance to vote on it.

Fisher: Okay, everybody's always telling me they want less government, and then we always come back for more government.

Anderson: Well, you know, when I brought this up in 2013 I got accused by the same people, and the same group that wants it now, of creating a bigger bureaucracy, bigger government, where are we going to get the money? Now it's not in their favor. I'm not voting for it. This is nothing to do with you. I'm just talking about I have a bad taste in my mouth what happened in 2013, and there's a group of people that all of a sudden talk about flip flopping, flip their whole attitude on this. So, if they were right then, I'm sticking with that decision they made then.

Fisher: Let me tell you something else, too. I believe that you can probably put it on the ballot, it would probably get voted in and it would be a new expense and it would be a new cost for this body who's fighting for dollars every day; but I can also say we put on the ballot, and we're only one of 67 counties, that put on the ballot the cap, charter cap amendment, and guess what it's doing to this County? It's killing it. It is actually killing this County. The only County that got it but it got voted in because it sounded like a good idea. It was a horrible idea, and the person that brought it up to the Board, she actually represented Indian River County and they pulled it off, and so it didn't happen with Indian River County. Her husband, I'm sorry. I'm glad you cleared me on that. But anyway, it

ended up, you know, we got it right? So, you get these kind of things and all of a sudden you start trying to figure out how to pay, how it caps your hands, and stuff like that, because most of the times, those things aren't very, very well, and I just hear what the voters say. A lot of them don't know what it says, and they voted for me because they thought I was a good girl because my name is Robin.

Barfield: We're still wondering about that.

Fisher: I've had more than one person tell me that.

Barfield: You know, the whole, this whole thing with Inspector General and the examples that you gave, Palm Beach County, Broward County, Dade County, Duval, each one, the reason they got the Inspector General is because they had people going to jail for stuff they did. Yeah, you know, and those are reasons. That is fraud . . . excuse me, we're talking now, we're discussing now. Excuse me.

LaSalle: Duval didn't go. A councilman in Duval said I work part time, I . . .

Barfield: Excuse me, we're having discussion. So, the situations, there's a lot for why it happened. Now, the other thing is, there's a lot of other laws, other means, of addressing. First of all, I don't know where fraud, waste, and management is here. I don't know, I haven't seen it, but there is a whistle blower, Florida Statute, already in place. In fact, I think one of these documents, I think it was Broward County, even referenced that document to comply with that. The other thing is with some of these other counties, actually all of them, they also have responsibility over cities, and I don't know if get our cities to come in onboard with that. So, you know, there is Ethics policies in Florida, but the most important thing is if someone thinks there is fraud, waste, and abuse, they need to go to our District Attorney. They need to go and have them investigate it, because that's, people go to jail obviously in some of the other counties they did. So, there is a means. You know, I, and I also agree we don't need multiple layers of management for this. It's already enough. So . . .

Anderson: And just to echo, the State Attorney has a special unit just for these things already set up. That's how the former Clerk of Court got busted.

Fisher: Well, I want to say something. Okay, go ahead. So, my light was first.

Infantini: He's already spoken.

Fisher: So, the problem with the former Clerk issue was, and I'm not going to say he's guilty until they prove it, but what I will say is this, in the Clerk's Office today, you can sign a \$20 million contract without bringing it to anybody. These Constitutional Officers do not have the same level of going through like we do, and so, and I don't believe Mr. Ellis would do that, but you could. Mr. Needleman made that decision on that contract without, he didn't have the same process we have of advertising, going out for Request for Proposals, bring it before the Board of County Commissioners, the County Commission making a decision on it. You did not have that in that Constitutional Officer position.

Barfield: Commissioner Infantini.

Infantini: He could not sign the contract that he signed. It was, Stockton can sign the contract just as well. It's not lawful, but you can do it. I could sign away your rights to your house. I could do it, but it's not lawful. That is why he got arrested. He did it and it was not a lawful act. That is what happened.

Fisher: He did not bring it in front of this Board.

Infantini: Stockton doesn't have to bring something in front of this Board to sign it.

Fisher: Yes he, yes he does. Yes he does.

Infantini: The act he did was unlawful. You can do anything you want, but you don't have the legal authority to do it.

Fisher: Okay, no, no.

Infantini: You have the physical capacity and he exerted his physical capacity of picking up the pen and signing.

Barfield: He broke the law.

Infantini: He did not have legal capacity.

Barfield: He broke the law.

Infantini: This is entirely different.

Fisher: No, no, the law does not say that he has to bring the contract before anybody.

Infantini: No, but he was not that . . .

Fisher: The law says that we do.

Infantini: It does, depending upon what the terms, because the terms, he violated his authority as the Clerk of Courts to sign that contract. He had no legal authority to sign that one. That is why he is in trouble.

Anderson: No, they, they're supposed to go out for RFP like everybody else and have a selection committee.

Infantini: Right, he can't, but he also can't be fudging paying up front like that, he could not do all that. So, it was not lawful. So, you're mixing apples and oranges there thinking that the Clerk has this all omniscient power.

Fisher: Mr. Whitten, if you have a \$20 million contract, what is that process?

Infantini: He violated his own process.

Fisher: I asked Mr. Whitten a question.

Infantini: Okay, but he violated his own process, Commissioner Fisher.

Fisher: What is the process, Mr. Whitten, because I didn't know you could sign a \$20 million contract if you wanted to.

Whitten: Everything over \$100,000 has to come to the Board. The purchasing policy requires justification of OEM's or sole source, but normally it requires bids, RFP's, or Request for Proposals.

Fisher: The Constitutional Officer has to do that?

Whitten: I can only speak for the Board.

Anderson: There is procurement legislation that they're supposed to follow; and now, they can manipulate the system, and I don't know what happened.

Infantini: Anybody can manipulate the system. We could manipulate the system. He did something unlawful and that's why he got arrested.

Anderson: But I think the second part of that, that's why, Commissioner Infantini, they strengthened the Ethics legislation this past legislation, because it's happened in other places, and that's why they put these additional provisions in there.

Barfield: So bottom line is anybody who wants to break the law, who wants to do something illegal, they can, they will do it. They're going to follow the rules, follow the processes, they're still going to, if they're going to break the law and do something underhanded, they can do that, they will do that. Is that what you're saying? Anymore discussion on this? Okay, let's move on to VI.F.2.

Infantini: I would like to, I will go out and continue looking into this because I don't know that it's a dead deal, because I do think it has a decent amount of merit; but at the same time, I also don't know how we're going to fund it, because I don't necessarily want to go out and charge an extra fee to get something funded. So I don't know that it necessarily is going to survive for lack of funding in part.

OFFICE OF INSPECTOR GENERAL NEWSLETTER



A Quarterly Publication of the Office of Inspector General, Palm Beach County

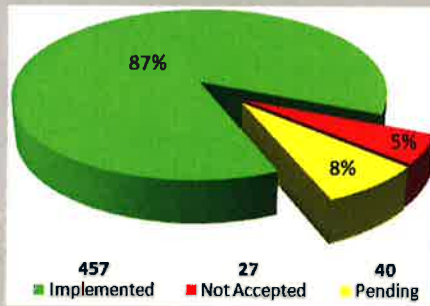
SPRING ISSUE 2016

06/28/2010-03/31/2016

Total Recommendations/Corrective
Actions

524

Management Acceptance Rate
94%



Total Hotline/Office Calls
7,223

Questioned Costs
\$20,546,829

Identified Costs
\$1,973,816

Avoidable Costs
\$19,967,732

The Dashboard is a snapshot of some OIG workload and results indicators, updated quarterly.

Reporting Back to You

Greetings from your Inspector General! This Newsletter provides some highlights and our office's efforts to promote efficiency, effectiveness, and integrity while rooting out fraud, waste, and abuse.

The Inspector General's six month status report with the Inspector General Committee is scheduled for **May 12, 2016; 9:00 a.m. to 12:00 p.m.** The six month status meetings are held at the Governmental Center, 6th floor Commission Chambers, 301 N. Olive Avenue, West Palm Beach and can be watched on PBC Channel 20. Following the meeting, the presentation and video can be found on the OIG website at: <http://www.pbcgov.com/oig/meetings.htm>

Some highlights of our OIG's activities and accomplishments during the last six months include the following. We received and took action on over **500** Hotline calls and correspondences. We discovered over **\$2.1 million** in questionable costs, over **\$133 thousand** in costs that have the potential to be returned to offset taxpayers' burden, and over **\$155 thousand** in potential future avoidable costs. We made 47 recommendations to make our government better. As a result of the keen eye of one of our auditors detecting possible fraud and our follow on investigation, we referred a case over to the State Attorney's Office that resulted in the **arrests of 3 public officials on felony charges.**

All OIG released Audits, Investigations, and Contract Oversight Reports are posted on our website. You can view all current fiscal year reports at: <http://www.pbcgov.com/oig/reports.htm>

Recent Reports

- ❖ [03-31-16 - PBC - Palm Tran Connection - 2015-0006](#) - Investigative Review
- ❖ [03-22-16 - Royal Palm Beach - Fleet/Fuel Review](#) - Audit Activity
- ❖ [03-02-16 - Delray Beach - Purchasing Redacted - 016-A-0002](#) - Audit
- ❖ [02-19-16 - Delray Beach Employee Vendor Purchases - 2015-0003](#) - Investigative Report

We Continue to Need Your Help

While we work hard with county, municipal, Children's Service Council, and Solid Waste Authority leaders to make government better and promote integrity; good government is everyone's business. If you have ideas to make government better or suspect fraud, waste, or abuse, please get back with us via the contact information listed below.

Thank for your continued support.

Sincerely,
John

John A. Carey
Inspector General



**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY**

P.O. Box 16568
West Palm Beach, FL 33416
HOTLINE: 877-283-7068 • fax: 561-233-2370

**Office of Inspector General
(OIG) Website:
www.pbcgov.com/OIG**

"Enhancing Public Trust in Government"



**BROWARD OFFICE OF THE
INSPECTOR GENERAL**

**2014 - 2015
ANNUAL REPORT**

A MESSAGE FROM THE INSPECTOR GENERAL

It is my privilege to present you with the 2015 Annual Report for the Broward Office of the Inspector General. This report describes the function of the OIG as Broward's independent watchdog and details our efforts to investigate fraud, corruption, waste, abuse, and gross mismanagement in government.

This year has seen significant progress on a number of previously reported OIG investigations. It reminds us all that, in addition to our investigation, report, and recommendation functions, the OIG is tasked with referring our findings to other agencies for enforcement when appropriate. To date, we have referred over 20 individuals to outside agencies including federal and state prosecutors, the Florida Commission on Ethics, the Florida Elections Commission, and other state and local administrative agencies. Understandably, their enforcement mechanisms take time.

However, our efforts are now coming to fruition, as you will note in the new "update" feature of this report. Within this reporting period, enforcement agencies brought misconduct charges against a former Margate vice-mayor and his campaign treasurer, a former Lauderdale Lakes commissioner, and two former Fort Lauderdale Building Services Division supervisors. In this reporting period we also referred new findings of misconduct by the Deerfield Beach Mayor and two high-ranking Lauderhill officials to the Florida Commission on Ethics.

We have also moved forward with enforcement actions of our own. The OIG filed its own ethics complaints against a Margate mayor and a former Lauderdale Lakes commissioner. Adding to the list of milestones, the complaint filed against the Margate mayor was also the OIG's first ethics settlement and resulted in the first fine for a violation of the Broward Ethics Code.

The OIG has emphasized the prevention of misconduct through our ethics training efforts. But as we move forward, we also remain committed to identifying, prosecuting, and referring criminal and civil matters for enforcement.

John W. Scott
Inspector General



Sincerely,

A handwritten signature in blue ink that reads "John W. Scott". The signature is written in a cursive, flowing style.

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BROWARD OIG MISSION STATEMENT

THE MISSION OF THE BROWARD OFFICE OF THE INSPECTOR GENERAL (OIG) IS TO ACT AS AN INDEPENDENT WATCHDOG FOR THE RESIDENTS OF BROWARD COUNTY. WE PROMOTE INTEGRITY AND ACCOUNTABILITY BY INVESTIGATING ALLEGATIONS OF MISCONDUCT—INCLUDING FRAUD, CORRUPTION, AND ABUSE—AND GROSS MISMANAGEMENT, BY OFFICIALS AND EMPLOYEES OF THE CHARTER GOVERNMENT OF BROWARD COUNTY, ITS THIRTY-ONE MUNICIPALITIES, AND ALL ENTITIES AND PERSONS WHO PROVIDE GOODS AND SERVICES TO THE COUNTY AND THE MUNICIPALITIES. THE OIG PUBLICLY REPORTS ITS FINDINGS TO KEEP RESIDENTS INFORMED. WHENEVER APPROPRIATE, THE OIG SEEKS CRIMINAL PROSECUTION, CIVIL RECOVERIES, ADMINISTRATIVE AND MONETARY SANCTIONS, AND ETHICS SANCTIONS OF THOSE RESPONSIBLE FOR FRAUD, WASTE AND ABUSE IN GOVERNMENT.

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AUTHORITY AND RESPONSIBILITIES

The OIG's purpose, authority and responsibilities are codified in Section 12.01 of the Charter of Broward County. The Charter authorizes the OIG to investigate misconduct—including fraud, corruption, abuse, and ethics violations—and gross mismanagement.

The OIG functions as an independent watchdog on behalf of approximately 1.8 million residents of Broward County. The OIG's authority extends over:

- all elected and appointed county officials and employees;
- all elected and appointed officials and employees of the 31 municipalities located in the county; and
- all entities and persons who provide goods and services to the county and the municipalities.

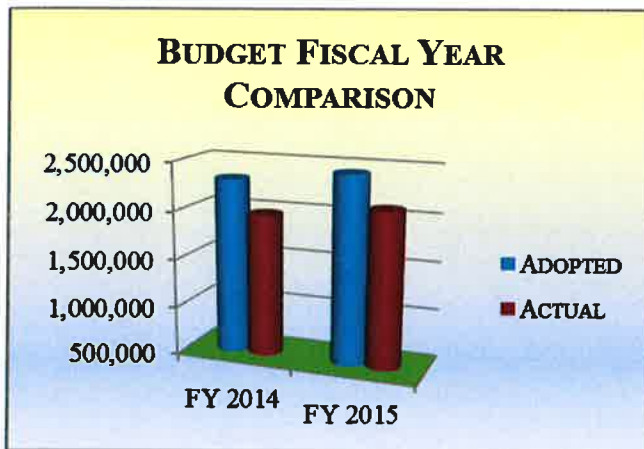
This responsibility encompasses county and municipal budgets totaling approximately \$8.9 billion, more than 26,000 employees, and over 450 separate divisions and departments of government. In addition, the OIG has oversight responsibility for more than 170 elected officials including county commissioners, mayors, vice mayors, city commissioners, and town council members, as well as more than 36,000 registered vendors who provide goods or services to the county and municipalities.

The Inspector General (IG) has the authority to investigate violations of state and federal statutes and codes, county and municipal ordinances and codes, and conduct involving fraud, corruption and abuse. In connection with an investigation, the IG has the power to subpoena witnesses, administer oaths, and require the production of documents and records. As part of an investigation, the IG may audit any program, contract, or the operations of any division, department, or office of the county or municipalities, as well as the operations or performance of any provider as it relates to its contract with the county or municipality. The OIG is also charged with the responsibility to enforce the Code of Ethics for Elected Officials, which was made applicable to all Broward elected officials in January 2012.

BUDGET

Although the OIG's budget is funded through the county general fund, the Charter requires that the OIG remain an independent organization to assure that no interference or external influence affects the objectivity of the office. Each year the Inspector General, pursuant to the Charter, submits a proposed budget to the County Commission in accordance with the county's regular budget process. The proposed budget includes a reasonable estimate of operating and capital expenses, which includes funds required to retain hearing officers. The funds must be approved by the County Commission. In addition, the County Administrator and the Office of Management and Budget provide

resources and support throughout the budget process.



The OIG is committed to operating in a fiscally responsible manner. The approved budget for fiscal year (FY) 2014 was \$2,311,860, with actual expenditures of \$1,970,312. The approved budget for FY 2015 was \$2,434,390 with an estimated actual expenditure of \$2,102,309.¹ The OIG's FY 2015 budget represented 0.06% of the county's total budget. For FY 2015 the OIG was budgeted for 18 positions. The adopted budget for FY 2016, which commenced on October 1, 2015, is \$2,682,740 with 20 budgeted positions.

THE OIG TEAM

The OIG is led by Inspector General John W. Scott. Inspector General Scott was selected as the first Broward Inspector General in 2011 by the independent Selection-Oversight Committee who, in December 2014, unanimously voted to

¹The OIG has provided an estimate of actual expenditures because the Broward County Office of Management and Budget had not finalized actual expenditures for FY 2015 as of the preparation of this report.

renew him for a second term. Before becoming the Inspector General, Mr. Scott spent most of his career with the United States Department of Justice, where he investigated and prosecuted public corruption and fraud cases across the nation. Those cases included allegations of misconduct by federal, state and local officials including members of Congress, governors, judges, city council members, state legislators, members of the military, and law enforcement officials, as well as vendors, lobbyists and representatives of the banking, securities and finance industries.

The Inspector General is aided by a management team that is comprised of a Deputy Inspector General, an Assistant Inspector General and a General Counsel. The OIG team is comprised of a diverse group of highly qualified individuals who bring to the organization a variety of specialties and skill sets. The team consists of an Ethics Counsel, Assistant Legal Counsel, Audit Manager, Special Agents, Contract Oversight Specialists, an Office Manager and an Investigative Support Specialist. The professional qualifications of our team include a certified public accountant; attorneys including former federal and state prosecutors; former federal, state, local, and military law enforcement officers; former state regulatory investigators; procurement specialists; and administrative specialists. Our team holds certifications as fraud examiners, inspector general investigators, public accountants, public procurement

Officers and criminal justice information system operators.

PROFESSIONAL DEVELOPMENT

The Inspector General recruits the highest quality professionals within their respective fields. As an accredited agency we are committed to maintaining the highest level of professionalism by investing in our most valuable assets, our staff. To date OIG staff members have received over 2200 hours of training, 524 of which have occurred during this fiscal year. The OIG provides in-house training to all new staff members on topics including the mission, function, and authority of the OIG; the Charter, the Broward County Code of Ordinances, and municipal codes; county and municipal government organization and function; ethics codes and the Sunshine laws; the accreditation process; the OIG Manual of Directives; and proper investigative techniques and protocols. Staff members have also completed ethics training that is provided to elected officials by our Ethics Counsel.

In addition to new staff member training, the OIG provides resources for continuing education to further develop, cross-train, and add new skills to our staff of professionals. Staff members have participated in training provided by the county including new employee training, Microsoft Office applications, contract central overview, procurement system, purchase card program, web publishing and cyber security awareness.

Throughout the year, staff members have

participated in training and conferences provided by various government entities and associations including:

- Sunshine Law, Public Records and Ethics;
- Florida Accreditation Conference;
- Governance, Risk and Compliance Conference;
- Data Analytics to Detect Fraud and Error;
- Challenges and Opportunities in the World of Government Auditing;
- 6th Annual IIA/ACFE Fraud Conference;
- Procurement Fraud: Improve Fiscal Responsibilities with Procurement Fraud Detection;
- Property Room Management Training Seminar;
- Interview Techniques: Advanced Interviewing Skills in Law Enforcement;
- Criminal Justice Officer Ethics, and
- Constitutional Considerations.

OIG staff members are affiliated with the Association of Inspectors General (AIG), a national organization comprised of state, local and federal inspectors general and their staffs. The AIG's goals include

encouraging professional development, sponsoring educational programs and standardizing practices, policies and procedures. The AIG awards the designation of Certified Inspector General, Investigator and Auditor to individuals who meet the eligibility requirements regarding education and experience, and successfully complete the respective certification program.

In 2015, two members of the OIG's management team were awarded the designation of Certified Inspector General. All OIG Special Agents have received the designation of Certified Inspector General Investigator after undergoing training and testing by the AIG.

ACCREDITED AGENCY

In October 2014, the OIG was accredited by the Commission for Florida Law Enforcement Accreditation (CFA). The CFA reviews and accredits law enforcement agencies and OIGs that meet or exceed the principals and standards established for Offices of Inspectors General. By attaining accreditation status, the OIG has demonstrated that it is committed to maintaining high standards of professionalism, which has resulted in enhanced quality of investigations, accountability and transparency. To ensure consistent and continued compliance with these standards, the CFA reviews agencies every three years for reaccreditation. This year the OIG has remained engaged in the CFA process as the Commission considers potential amendments to the accredited inspector general standards.

The OIG has maintained regular communications with inspectors general throughout the state, attended meetings and provided feedback to the CFA to help maintain the highest level of accountability and professionalism for the inspector general community.

COMPLAINTS, TIPS AND INFORMATION

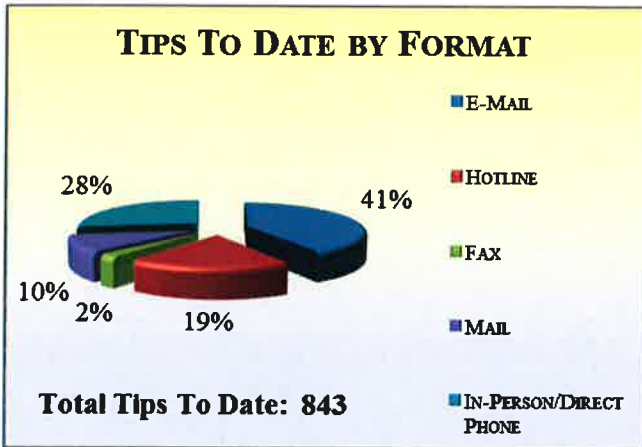
Investigations are initiated based on complaints, tips and other information that is thoroughly evaluated. The Inspector General has the authority to commence an investigation based on the existence of good cause to believe that any official, employee, or provider has engaged in misconduct or gross mismanagement. The Inspector General may find good cause based upon his own initiative or on a signed sworn complaint.

Tips and Information

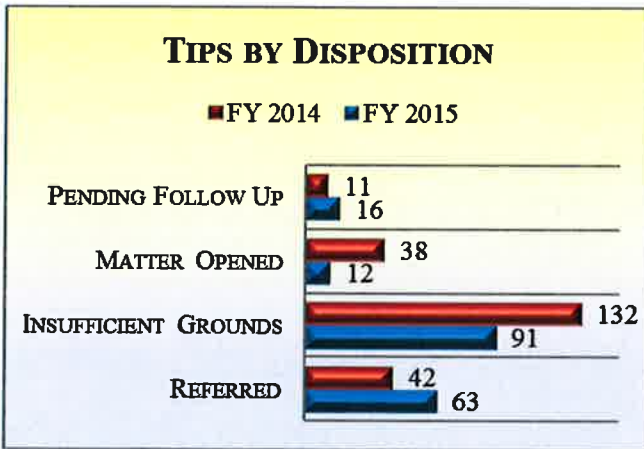
All county and municipal employees and residents are encouraged to assist the OIG in combating fraud, waste, misconduct and gross mismanagement by providing tips and information. There are a number of ways to provide information to the OIG. We accept tips and information through our Hotline at (954) 357-TIPS (8477), email at InspectorGeneral@broward.org, fax at (954) 357-7857, mail, or in person. Information may be provided without disclosing a name or contact information, although the OIG encourages persons to identify themselves should additional

information be needed during the investigative process.

To date the OIG has received 843 tips, 171 of which were received during this reporting period.



Once a tip is received it is reviewed to determine the appropriate action and assignment.

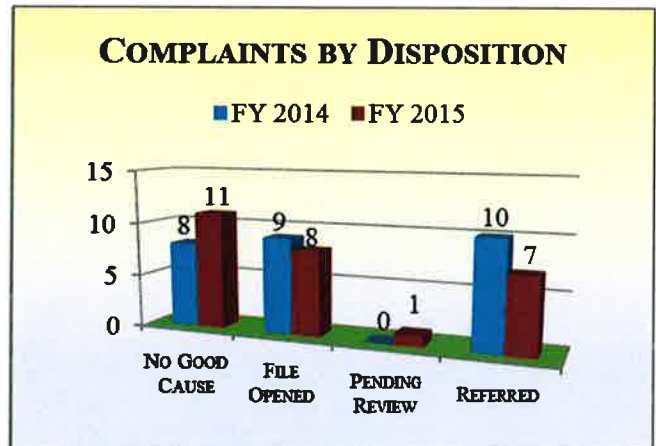


Since May 2011, 116 tips have resulted in the initiation of investigative matters and 217 tips have been referred to other governmental agencies. Of the tips received in the past year, 28 have resulted in investigative matters or are currently pending a final determination by the OIG.

Complaints

The Inspector General may find good cause based on a signed, verified complaint. The Charter requires a complaint to be signed, under a penalty of perjury, with a statement that the complainant has personal knowledge of the facts. Persons who wish to file a complaint with the OIG may obtain a complaint form from the OIG website or by contacting the OIG at (954) 357-7873. The complaint must be completed, signed and delivered to the Broward Office of the Inspector General, One North University Drive, Suite 111, Plantation, Florida, 33324.

To date, the OIG has received 103 signed complaints, including 27 received during this reporting period.



Our review of those 27 complaints has led to the establishment of good cause to open eight investigations. The OIG has referred 26 complaints to other government agencies for their appropriate action.

PROGRAMS

The OIG is structured to support its primary mission of investigating gross mismanagement and misconduct, as well as enforcement of the Broward Code of Ethics for Elected Officials. The OIG structure includes Investigations, Contract Oversight, Ethics, and Audit, all of which work together to fulfill the broad and varied jurisdiction of the Inspector General. Audit is the newest addition to our structure and continues to evolve as a result of the efforts of our Audit Manager.

As a result of the combined efforts of the various OIG programs more than \$20 million dollars in questionable expenditures have been identified to date, with \$10.9 million being identified this fiscal year. In addition, as a result of an OIG investigation that was reported last fiscal year, the City of Weston recovered \$211,792.48 for overbilled landscape services.

The Investigations, Contract Oversight and Ethics programs are discussed in more detail below.

INVESTIGATIONS

The Deputy Inspector General is responsible for overseeing all investigative functions of the OIG. The Special Agents in the Investigations unit are tasked with investigating credible allegations of misconduct and gross mismanagement by Broward and municipal elected officials, employees and providers. Misconduct is defined as “any violation of the state or

federal constitution, any state or federal statute or code, any county or municipal ordinance or code; or conduct involving fraud, corruption, or abuse.” Gross mismanagement is defined as “the material waste or significant mismanagement of public resources.” The Special Agents also investigate alleged violations of the Broward Code of Ethics for Elected Officials, the Florida Code of Ethics for Public Officials and Employees, and municipal ethic codes—as was the case in our investigation of Deerfield Beach Mayor Jean Robb, which is addressed below. They also assist on procurement oversight matters.

Special Agents are responsible for reviewing and corroborating information from hundreds of tips and complaints. They must also:

- conduct thorough, well documented investigations;
- perform extensive background checks; and
- carry out detailed ethics compliance reviews

Although OIG investigations vary in size and complexity, most require interviews of witnesses and implicated parties, review of numerous documents, analysis of financial records, and preparation of detailed reports summarizing investigative findings.

The OIG issues reports at the conclusion of investigations involving allegations of

gross mismanagement. We also issue reports involving allegations of misconduct when we determine that such a report will assist the county or any municipality in preventing similar future misconduct. When the issuance of a report is not warranted, the OIG may issue a memorandum notifying officials of the closure of the investigation and detailing its work. Following are summaries of significant investigative findings made by the OIG during this reporting period.

Misconduct by Employees of the City of Fort Lauderdale Building Services Division

The OIG issued a final report finding that former employees of the City of Fort Lauderdale Building Services Division (BSD) wrongly issued permits for two multi-building developments: Northwest Gardens and The Pearl. We found that in the case of Northwest Gardens, the BSD approved permits and issued ten certificates of occupancy for apartment buildings despite the fact that they were in violation of the Florida Building Code's flood zone requirements. The OIG discovered that Glen Osborn, the former BSD Structural Plans Reviewer, approved faulty plans and later signed the certificates of occupancy knowing that the buildings were not in compliance. Christopher Augustin, the former BSD Building Official, was responsible for the issuance of all certificates of occupancy by the BSD. With regard to the Pearl, the OIG discovered that four of its five buildings

also failed to comply with the flood zone requirements.

The OIG investigation also revealed that flood elevation regulations incorporated into the revised Building Code in March of 2012 were overlooked or ignored by the BSD, and that this oversight was not identified until several major construction projects were nearly completed. In addition, the investigation revealed that the BSD had no written policies nor procedures in place relating to the review of plans and elevation certificates, nor the approval process for building permit applications and certificates of occupancy.

During the investigation, numerous city officials candidly acknowledged that mistakes had been made in the application and enforcement of the Building Code. The City Manager stated that "I'm not saying that we have clean hands here" and observed that "issues should have been caught." The OIG is encouraged by the remedial steps the city has taken, including obtaining waivers from the Federal Emergency Management Agency (FEMA), which eliminated ongoing flood compliance concerns for the housing developments at issue; developing a manual of BSD policies and procedures; and bolstering BSD staffing.

The OIG referred this matter to the Florida Department of Business and Professional Regulation (DBPR) and the Broward County Board of Rules and Appeals for their independent assessment of the applicable laws and authorities. Subsequently the DBPR found probable

cause for one violation of Florida administrative law against Mr. Augustin and two violations against Mr. Osborn. The count against Mr. Augustin charges that he overlooked or ignored Florida Building Code requirements that were applicable to certain buildings vulnerable to flooding. The first count against Mr. Osborn charges that he acted without authority when he approved certain certificates of completion, and the second count charges that he approved the certificates of completion even though he knew them to be false. The final outcome of this action is still pending.

Unsubstantiated Allegation of Gross Mismanagement by the Broward County Environmental Licensing and Building Permitting Division – Elevator Section

The OIG issued a final report finding that the County's Elevator Section did not engage in gross mismanagement in its handling of elevator inspections. Although the OIG's investigation established there was a significant backlog of annual inspections, the OIG found that there were several extraordinary factors that contributed to the backlog. The OIG investigation, however, also identified inadequacies in the Elevator Section's management which contributed to the backlog. These inadequacies were addressed in the final report along with recommendations designed to alleviate the mismanagement issues and enable more timely compliance with inspection requirements mandated by Florida legal and administrative authorities. The OIG has requested that the Elevator Section

provide a status report in January 2016 updating the number of elevators overdue for annual inspection as well as updating its progress in adopting and implementing the recommendations featured in the report.

Contractor's Scheme to Misrepresent County Business Enterprise Subcontractor Participation

The OIG issued a report finding that Sunshine Cleaning Systems, Inc., the prime contractor on a \$62 million janitorial services contract at the Fort Lauderdale–Hollywood International Airport, misrepresented its compliance with the County Business Enterprise (CBE) program participation requirements and its contractual obligations.

Sunshine led the County to believe that 30 percent of the funds paid by the County were going to CBEs, while in reality the CBEs were receiving only nominal payments. Our investigation determined that, for the time period beginning with the Contract's inception through March 31, 2012, Sunshine paid the CBEs a total of \$658,335.37 while representing to the County that it paid \$10,897,043.32.

When contractors flout their contractual obligation to employ CBEs, the resources committed by the County in furtherance of the CBE provisions are squandered. Accordingly, the OIG recommended that the County incorporate provisions to recoup its investment in the CBE program. County contracts should require prime contractors who fail to achieve CBE participation goals to reimburse the County for damages tied to

the County's cost of administering and enforcing the CBE program and requirements. The County could prospectively hold a prime contractor, such as Sunshine, accountable for damages proportional to the costs of the County's CBE program. In her response to the report, the County administrator stated that her office will work with the County Attorney and propose legislative changes.

Update: Elections Law Violation by Lauderdale Lakes City Commissioner

In the 2012-2013 Annual Report we reported on allegations that a City of Lauderdale Lakes Commissioner was no longer residing in the City of Lauderdale Lakes as required by the city charter. We also identified evidence that Commissioner Eric Haynes engaged in misconduct in connection with his voting in the November 2012 general election by falsely swearing or affirming to residing at an address within the city. The OIG referred the matter to the City Commission and the Florida Elections Commission. Although the City Commission voted to not remove Mr. Haynes for residing outside the city, in May 2015 the Florida Elections Commission, acting upon the complaint filed by the OIG, fined Mr. Haynes for violating the Florida elections code. Specifically, the Commission determined after a hearing that Mr. Haynes willfully violated Florida Statute 104.011(1), false swearing in connection with voting or elections, and assessed a fine of \$500.

Update: Elections Law Violation by City of Margate Commissioner and His Campaign Treasurer in the Handling of Campaign Funds

In the 2013-2014 Annual Report we reported on misconduct by former City of Margate Vice Mayor and Commissioner David Mclean and his campaign treasurer, Michael Natale. In August 2015, the FEC, again acting upon a complaint filed by the OIG, found probable cause for 19 violations of the Florida Ethics Code against former Margate Commissioner McLean and 62 counts against Mr. Natale. Eighteen of the nineteen probable cause violations committed by Mr. McLean involved the willful certification of campaign finance reports known to be incorrect, false, or incomplete. The remaining probable cause violation related to the disposition of his surplus campaign funds following the November 2012 election. The OIG's report, released in January 2014, had concluded that Commissioner McLean permitted his campaign treasurer, Mr. Natale, to improperly receive \$905.82 in surplus campaign funds after the 2012 election.

We identified additional violations of Florida campaign finance law by Mr. McLean and Mr. Natale, including filing Campaign Treasurer's Reports that contained false, incorrect, and incomplete information; making and accepting a \$400 cash contribution made in the name of Mr. Natale's sister but without her knowledge and permission; and writing campaign account checks on at least three occasions when there were insufficient funds to cover

them. Mr. Natale also stated that he did not know the whereabouts of any campaign finance-related documents, which Florida law required him to retain for four years following the election.

CONTRACT AND PROCUREMENT OVERSIGHT

In order to fulfill its responsibility as an independent watchdog over the expenditure of taxpayer funds, the OIG has a specialized investigative program focused on public procurement and contract execution. The Contract and Procurement Oversight Program (CPOP) is a natural outgrowth of the OIG's responsibility to detect gross mismanagement, defined as "material waste or significant mismanagement of public resources."

The objective of CPOP reviews is to detect the vulnerabilities that make government entities susceptible to the waste of public resources, and to prevent that waste whenever possible. Utilizing the OIG's collective procurement, investigative and legal experience, the program is designed to randomly review recent or ongoing procurements and test the processes of each governmental entity. Occasionally, CPOP reviews identify misconduct or gross mismanagement that has already resulted in waste, fraud or abuse, in which case the CPOP staff proceeds to investigation.

Over the course of the past four years, our CPOP staff has initiated 36 reviews, spanning 18 governmental entities and contracts valued over \$113 million. This

past year the CPOP lost two of its three Contract Oversight Specialists to career advancement opportunities. The OIG went on to complete a successful recruiting drive with responses from over 190 candidates. Ultimately, the OIG has been able to expand the expertise of the program by hiring two individuals with extensive professional experience in public procurement and oversight of internal controls.

Gross Mismanagement by the City of Pompano Beach in the Development of George Brummer Park

The OIG issued a final report finding that the City of Pompano Beach significantly mismanaged public resources when it violated contractual and procedural requirements during the development of George Brummer Park. The report detailed the failure of the city's controls and procedures with regard to the construction of the bocce courts, tennis courts, and sidewalks.

The investigation revealed that city staff disregarded controls relating to change orders in order to expedite a project that was behind schedule. The OIG also found that although the contract required that a value—cost or credit—be established prior to authorizing a change, the staff authorized changes without determining a value, leaving the city vulnerable to overbilling at the completion of the project.

Controls such as spending limits are a valuable tool in preventing fraud, waste

and abuse, but only if properly executed and enforced. Here, city staff did not document or present the City Commission with the changes until months after the Park had been constructed. It was only after the contractor had performed the changes that staff began to discuss pricing and potential credits. The report contained a number of recommendations to assist the city in strengthening its procurement and project management functions.

Update: Employee and Vendor Misconduct and Gross Mismanagement by the City of Weston

In the 2013-2014 Annual Report we reported that Varney & Sons, a contractor for the City of Weston, engaged in a scheme to fraudulently overbill the city. On 41 invoices alone, the OIG was able to verify over \$114,000 in overbillings. During this reporting period, the city terminated its contract and approved a settlement of \$211,792.48 with the contractor. The city also competitively solicited and approved new contracts with new vendors for landscaping services.

ETHICS

The OIG's charter mandate includes the investigation, referral, and enforcement of ethics codes that apply to Broward's officials and employees, including the Code of Ethics for Elected Officials, found at Broward County Code of Ordinances Section 1-19 (Broward Code of Ethics). The OIG's investigative efforts in prior

reporting periods has resulted in several significant reports of ethical misconduct, ethics code complaints, referrals to the Florida Commission on Ethics, and independent probable cause and violation findings by other agencies in the current reporting period. As in the past, we continued to balance this enforcement effort with our ethics compliance and education endeavors.

Ethics Enforcement

During the reporting period, the OIG reviewed 34 tips and complaints and concluded 11 investigations involving potential misconduct as defined by state and local ethics law. We issued three investigative reports of ethical misconduct, filed two Broward ethics complaints, and made three referrals to the Florida Commission on Ethics.

The OIG closed investigations of potential state and local ethics code violations resulting from the travel of two municipal mayors to Saudi Arabia. After consulting with attorneys for the Florida Commission on Ethics, the OIG filed a complaint with the Commission to determine if the trip qualified as a gift under state law. Ultimately, the full commission determined that there was not probable cause to believe the trip qualified as a gift. The OIG subsequently closed the related investigations of violations of the Broward Code of Ethics, which relies on the state's definition.

Ethical Misconduct by Deerfield Beach Mayor Jean Robb

On November 7, 2014, the OIG issued a final report finding that City of Deerfield Beach Mayor Jean Robb misused her elected position by attempting to obstruct the city's code enforcement efforts involving a luxury automobile dealership whose owner had made charitable donations. Specifically, Mayor Robb told a Broward Sheriff's Office Deputy who was the city's code enforcement officer that "I want you to leave [the dealership] alone. He just gave me two \$500 checks."

The investigation also uncovered other instances of misconduct by Mayor Robb: (1) using her position to obtain benefits for her church and pastor by directing city staff to issue an employee parking sticker to the pastor, and to use city employees and equipment to clean the church's parking lot; (2) attempting to block the city from awarding a contract to a vendor she personally disfavored; (3) unilaterally committing the city to pay for transportation for a Little League baseball team, in circumvention of procedures that required the participation and approval of city employees; and (4) attempting to personally direct the duties of the City Purchasing Manager. In furtherance of her aims, Mayor Robb repeatedly personally directed and attempted to personally direct the duties of city employees—and committed city resources in doing so—without the requisite knowledge or authorization of the City Manager, as plainly required by the city's charter and code.

The OIG investigation established probable cause to believe that Mayor Robb engaged in acts of ethical misconduct. In accordance with our Charter mandate, in November 2014 the OIG referred the matter to the Florida Commission on Ethics and the City of Deerfield Beach for their independent assessment of the application of state and local ethics law.

Ethics Complaint: Lauderdale Lakes Commissioner's Failure to Disclose Outside Employment and Remuneration

In September 2015, the Inspector General filed an ethics complaint against former City of Lauderdale Lakes Commissioner Eric Haynes for disclosure violations of the Broward Ethics Code. The OIG identified probable cause for disclosure violations of the Broward Code of Ethics. It is alleged that Mr. Haynes failed to disclose and file for public inspection his compensation from outside employers for the calendar years of 2012 and 2013, and failed to file for inspection a copy of his State of Florida Commission on Ethics Form 1 Statement of Financial Interests for calendar year 2013. The Ethics Code requires all Broward elected officials to make these disclosures. The complaint seeks \$15,000 in fines. The matter is currently presided over by a hearing officer, pursuant to Broward County Charter Section 12.01.C.

Ethical Misconduct by the Mayor of the City of Margate

The OIG released a report in September 2015 concluding that, as mayor of the City of Margate, Lesa Peerman knowingly

accepted \$150 worth of disc jockey services from a business tenant of Margate's Community Redevelopment Agency (CRA), for which she serves as a Board Member, at a wedding celebration held in the city in 2014. The OIG concluded that the acceptance of the DJ services for free violated the Broward Ethics Code's \$50 limit for a gift given in the donee's official capacity. Also at the event, the then-mayor informed party guests that she preferred charitable donations over wedding gifts and then arranged to set out two boxes labeled for the two charities she specified. She collected and delivered the cash that was donated to the organizations but failed to disclose the solicitations online as required by the Broward Ethics Code.

The OIG filed a companion ethics complaint against Ms. Peerman based on its probable cause findings. After Ms. Peerman paid the value of the DJ services to the CRA tenant at the OIG's request and filed the necessary disclosures, she and the Inspector General executed an agreement in which she admitted liability and agreed to pay a \$500 fine for these violations. The Ethics Complaint charged the former mayor with one count of the gift ban and one count of the solicitation disclosure rule. On October 15, 2015, a hearing officer accepted the Agreement, and Ms. Peerman paid the fine.

Ethical Misconduct by Employees of the City of Lauderhill

The OIG issued a preliminary report during the reporting period that resulted in a final

report on October 7, 2015, concluding that two high-level City of Lauderhill employees—including the Assistant City Manager—are violating state ethics law by obtaining loans from their own agency via a program administered by their subordinates and over which they have managerial authority. Kennie Hobbs, Jr. is the Assistant City Manager and City Finance Director, and also serves as Executive Director of the Lauderhill Housing Authority (LHA). Julie Saunders is the City Operations Manager who serves as LHA Deputy Director. Each obtained a mortgage from the LHA. Ms. Saunders signed loan related documents for Mr. Hobbs, and Mr. Hobbs signed loan related documents for Ms. Saunders. The OIG found probable cause to believe that both loans were obtained, are administered, or are being monitored in violation of the Florida law that prohibits a public employee from entering into any contractual relationship that creates a continuing conflict between his or her private interests and his or her public duties.

In conducting its investigation, the OIG uncovered the lack of internal controls that laid the foundation for these employees' actions. Consistent with its Charter mandate, the OIG is referring this matter to the Florida Commission on Ethics for its independent assessment of the application of state ethics laws. In addition, the OIG has requested the city to provide a status report by January 5, 2016 regarding its actions in response to the findings and recommendations within the report.

Ethics Compliance Review

The OIG issued a memorandum in April 2015 reporting its finding that, through this office's efforts, all current Broward County elected officials had complied with the requirement that they post copies of their 2013 State financial disclosure forms on their governmental entities' websites. To expand transparency in government and encourage public participation in the oversight of public officials, the Broward Code of Ethics obligates each mayor and member of the governing bodies of the county and its municipalities to ensure that his or her *COE Form 1: Statement of Financial Interests* or *COE Form 6: Full and Public Disclosure of Financial Interest*, as applicable, is made available to the public on the internet. In our initial review of internet postings, the OIG determined that 18% of the forms (involving nine municipalities) were missing. We then communicated and worked with municipal clerks, attorneys, and office holders, after which time we observed that all officials were in compliance.

Ethics Education

Although this year resulted in a significant number of ethics enforcement measures, the OIG continued to maintain an uninterrupted focus on ethics education to help officials come into compliance with ethics requirements. The OIG held five free ethics training sessions, primarily for Broward's elected officials, during the reporting period.

In October 2014, the OIG held its basic four-hour training session on the Broward Ethics Code, and in November 2014 it held a four-hour review course designed to refresh and sharpen Broward and municipal commissioners' and mayors' understanding of the standards of conduct and disclosures required by that code.

For the first time, on January 29, 2015, the OIG conducted an ethics training session tailored to meet a new state law requirement for municipal elected officials that became effective January 1, 2015. The law now requires that municipal elected officials receive four hours of training each year in state ethics, public records, and open meetings ("Sunshine") laws. Twenty-eight commissioners and mayors from the County and ten municipalities attended the four-hour class.

The OIG offered the Broward review course again in April and May of 2015. A total of fifty-five officials, including eleven mayors, from twenty-four out of the thirty-one Broward municipalities attended the four-hour classes.

Since late 2012, we have provided ethics training on 13 occasions for 328 (non-OIG staff) attendees.

The OIG has also continued its practice of obliging its staff to obtain continuing education on ethics laws and rules applicable to them as well as those whom they investigate. To that end, five Special Agents attended the training session with elected officials in October 2014, and our two new Contract Oversight Specialists

underwent in-house ethics training in August 2015.

Ethics Counsel continues to provide ongoing guidance to the public, local officials, and the press on the OIG's interpretation of applicable ethics laws.

Update: Ethics Reform

As reported in the 2013-2014 annual report, the OIG issued a report detailing our review of the existing ethics structure for Broward County and its municipalities. In May 2015 the OIG appeared before the Broward County Commission along with representatives of the Broward League of Cities to discuss potential changes to the ethics code or structure. The OIG provided information obtained through its enforcement and educational efforts. The county is currently pursuing a number of changes addressing a variety of concerns with ethics code. The OIG will continue to provide feedback as necessary to inform the process.

INTERGOVERNMENTAL COOPERATION AND OUTREACH

In order for the OIG to effectively accomplish its mission of identifying and investigating misconduct and gross mismanagement, it is essential to engender the cooperation of the individuals and entities that we examine. Many of the violations the OIG investigates are also enforceable only by other state or local agencies. Therefore, the OIG must actively

pursue opportunities for outreach and intergovernmental cooperation.

The OIG continues to maintain relationships with federal, state and local law enforcement, regulatory, and governmental agencies throughout the state. We have referred completed OIG investigations to various regulatory agencies including the Florida Ethics Commission, Elections Commission and Department of Business and Professional Regulation who have initiated action in a number of matters that were detailed in the related program sections above.

The OIG is also a member of the South Florida Inspectors General Council, and the Financial Institution Security Association. We participate in the Law Enforcement Coordination Committee, which brings together law enforcement executives at the federal, state and local levels to discuss issues of mutual interest. We work with both the Miami-Dade and Palm Beach County Offices of Inspectors General regarding issues of mutual interest. We participate as members of the National and Florida Chapter of the Association of Inspectors General.

Maintaining communications with local government leaders, stakeholders, and residents of the county regarding their concerns and to inform them of the OIG's mission and the services it provides is an integral part of the OIG's success as an organization. The Inspector General has made it a priority since his selection in 2011 to periodically meet with the Mayors of the 31 municipalities in Broward

County. In 2015, the Inspector General met individually with the mayors of ten municipalities. He also met with five members of the County Administrator's management team. In addition, the Inspector General met with the other government leaders including the Directors of the Office of the Medical Examiner and Trauma Services, Public Communications, Intergovernmental Affairs and Professional Standards, Economic and Small Business Development, Management and Budget, Regional Communications and Technology, and Greater Fort Lauderdale Convention and Visitors Bureau and ten Broward County Department Directors. He also routinely interacts with elected officials during ethics training provided by the OIG.

In addition to the training opportunities for local Broward elected officials regarding ethics, in February 2015 the OIG hosted five visitors from Macedonia interested in anti-corruption efforts and how government transparency assists those efforts. We presented on the disclosure requirements of the Broward Ethics Code; the searchable internet databases of the county and municipal websites for those disclosures; and the OIG's efforts to promote the transparency of its own activity, intended to ensure officials' compliance with disclosure rules and to inform Broward's press and public of the availability of the disclosures. The visiting Macedonian officials visited United States cities under the U.S. Department of State's International Visitor Program and were hosted locally by Global Ties Miami.

We also spoke on disclosure rules of the Broward Ethics Code at the Broward County Municipal Clerks' Association's bimonthly meeting in February 2015. The discussion centered on the requirement that Broward's municipal elected officials make certain forms available on searchable municipal websites; practical considerations for municipal clerks in helping officials fulfill this requirement; and how the OIG facilitates training, posting, and compliance reviews for these disclosures.

The OIG's website, www.browardig.org, is an essential resource both for providing and receiving information and for staying connected with all those whom we serve. It is designed to allow users to easily navigate the site to obtain information about the OIG including its mission, structure, authority and responsibilities. Users can access information about our activities, read our issued reports, stay up-to-date about our recent activity, and find out how to contact us. Users can navigate from anywhere on the site to our "Report Misconduct" application, which encourages them to assist the OIG in combating fraud, waste, misconduct and gross mismanagement by providing information in a number of ways.

To find out more about the OIG or to provide information regarding misconduct and gross mismanagement, please visit our website at www.browardig.org. The OIG also uses social messaging to inform the public of the issuance of reports and important activities. To stay connected to the OIG, follow us on Twitter @BrowardIG.

MOVING FORWARD

As the Inspector General begins his second term of service it is important for the OIG as an organization to continue to build upon its successes and consistently engage in a process of individual and organizational self-assessment. Accreditation is the conduit by which we regularly assess our administrative and operational processes.

With the addition of our Audit Manager we look forward to further developing the audit program in the coming year. To that end, an additional audit position was approved as part of our 2016 budget. Already the Audit Manager has identified questionable practices and weaknesses in controls within various governmental entities. In conjunction with our investigative team these activities will be reported on in the coming year.

A continuing goal for the use of our audit resources is to proactively use data analytics to identify vulnerabilities and weaknesses within various governmental processes, augmenting our investigative and CPOP work. The program will endeavor to reach out to municipal management to coordinate internal control

reviews, a cornerstone for identifying risks and vulnerabilities of mismanagement, misconduct and fraud.

The OIG will continue the process of enhancing its information management system. We are working to upgrade our existing system to a comprehensive solution that will provide increased structure and efficiency, automate workflows, streamline processes, enhance productivity and provide ease of use.

In the coming year, we also plan on continuing to provide information and feedback to the county and municipalities as they work to make changes to the local ethics code and structure. Whatever changes are made, we will provide innovative in-person training to ensure that elected officials and others remain informed of their ethical responsibilities.

Finally, the convening of the Charter Review Committee is an opportunity to further evaluate the county's ethics code and related concerns. The OIG looks forward to providing that board with any information it seeks in furtherance of its work over the coming years.

**BROWARD OFFICE OF THE
INSPECTOR GENERAL**

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**Miami-Dade County
Office of the Inspector General**

Annual Report 2015

*Get involved...make a splash, create a ripple, cause a wave.
Report fraud to the OIG and help ensure integrity in government.*



Message From The Inspector General

I am pleased to present the Fiscal Year 2015 Annual Report. In the pages that follow you will find our activities for the period of October 1, 2014 through September 30, 2015. This Report is provided as a summary of our activities and achievements as we work to fulfill our mission of reducing fraud, waste and abuse in Miami-Dade County.

Recently I had the pleasure of speaking at the annual Ethics Conference sponsored by Florida Atlantic University. It was an opportunity to research and digest the importance of whistleblowers in ferreting out fraud, waste and abuse, and to showcase the work of the Board of County Commissioners (BCC) in amending our local law, the Employee Protection Ordinance. A review of national whistleblower cases demonstrates the stark need to protect the identity of those who come forward with information regarding fraud, waste and abuse in our County. In amending our local ordinance, the BCC recognized the importance of training all County employees to ensure that they are aware that they can report misconduct confidentially.

We are looking forward to this new year, during which we will be going through reaccreditation by the Commission on Law Enforcement Accreditation and a Peer Review by the Association of Inspectors General. We acknowledge and embrace our role as an independent oversight agency of the County and, as such, are committed to holding ourselves to the highest standards.

I would also like to thank the staff at the OIG for their dedication to their cases and their work to add value to our County government. They are committed to bringing their best to enhance the process and make meaningful recommendations.

Sincerely,

Mary T. Cagle

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Mission Statement

To detect, investigate and prevent fraud, waste, mismanagement, misconduct, and abuse of power through independent oversight of County affairs, and seek appropriate remedies to recover public monies.

Vision Statement

To be recognized as the premier agency in holding Miami-Dade County government accountable, ensuring it continues to provide excellence every day.

OIG VALUES

INTEGRITY

We govern ourselves honestly and ethically

IMPARTIALITY

We conduct our work objectively and independently

PROFESSIONALISM

We maintain a staff of diverse and highly skilled professionals

ACCOUNTABILITY

We take responsibility for providing thorough and fair findings and recommendations



COMMITMENT
is a pledge to pursue
a course of action

We are committed to providing the Miami-Dade community with independent and autonomous oversight of County affairs, without political interference.

We are committed to detecting, investigating and preventing fraud, waste, mismanagement, and the abuse of power in County government.

We are committed to promoting transparency in County programs, projects, contracts, and transactions.

We are committed to adhering to the professional standards set for the Inspectors General community that ensure our work conforms to the highest level of quality.

We are committed to maintaining a staff of diverse, highly skilled professionals.

We are committed to following our Vision Statement as we work towards accomplishing our goals.

We are committed to incorporating our OIG Values as a guide in our daily work.

We are committed to striving to restore trust in County government.



Watchdog Agency of Miami-Dade County

6,251,065,000 Miami-Dade County approved Budget for FY 2014-2015

5,728,840,034 Dollar value of County contracts

2,644,650 Population of Miami-Dade County

25,427 County employee positions in the FY 2014-2015 Budget

11,435 Registered County vendors

1,249 Active County contracts for goods and services

25 County Departments

13 Commission Districts

1 County Watchdog

THE WATCHDOGS: OFFICES OF INSPECTORS GENERAL

Offices of inspectors general, often referred to as watchdog agencies, are currently found in all levels of government: federal, state and local. The tradition of Inspectors General in the United States dates back to the American Revolution when an Inspector General for the Army was appointed to report on the proper expenditures for wartime munitions and supplies. Shoddy and defective equipment, mismanagement, and bribery were concerns back then as scarce resources were stretched to fulfill the war effort. Combatting waste, fraud and abuse in the supply chain was instrumental to our successes on the battlefield.

With the passage of the Federal Inspector General Act in 1978, Offices of Inspectors General (OIG) were first instituted in twelve federal agencies. Today, the federal Inspector General (IG) community includes over 72 watchdogs in all sectors of the federal government, including the military, defense and intelligence agencies. At the state level, Florida leads the way by having the highest number of OIGs of any state. The Florida Legislature followed the federal model by codifying, in 1994, the addition of an Office of the Inspector General in all of its state agencies. Florida also has a Chief Inspector General within the Office of the Governor who coordinates the activities of all executive branch agency OIGs.

The Miami-Dade County OIG was the first local OIG in the State of Florida. The enabling statute of the Miami-Dade County OIG has been nationally recognized as a leading model of what should be included in an OIG statute. Throughout the years, this Office has been contacted by numerous jurisdictions seeking ways to emulate our statutory and organizational best practices. OIGs have now been established in Palm Beach and Broward Counties, and the consolidated government of the City of Jacksonville and Duval County.

THE ORDINANCE FOUNDING THE MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

In 1997, the Miami-Dade OIG ordinance was codified in Section 2-1076 of the Code of Miami-Dade County, after the Board of County Commissioners (BCC) passed the ordinance unanimously. Additional amendments have since been passed to expand OIG authority to include oversight of County contracting, selection, and negotiation processes; specifying procedures for how the OIG issues its findings and recommendations; establishing future IG selection procedures; and clarifying the OIG's investigative authority over County affairs and its ability to conduct criminal investigations.

OIG AUTHORITY ESTABLISHED BY STATUTE

The Miami-Dade County OIG shall have the authority to make investigations of County affairs and the power to review past, present and proposed County and Public Health Trust (PHT) programs, accounts, records, contracts and transactions. Below are pertinent excerpts of Section 2-1076 that define the powers of our Office.

- The Office shall have the power to report and/or recommend to the BCC whether a particular project, program, contract, or transaction is or was necessary or was efficient both financially and operationally.
- The Office may, on a random basis, perform audits, inspections, and reviews of all County contracts.

HOW OUR INDEPENDENCE IS SECURED BY STATUTE

- The Office shall have the power to require reports from the Mayor, County Commissioners, County agencies and instrumentalities, County officers and employees, and the PHT and its officers and employees on any matter within the jurisdiction of the IG.
- The IG shall be appointed by an Ad Hoc Inspector General Selection Committee, subject to approval by the majority of the whole number of members of the BCC.
- The IG shall be appointed for a term of four years, is given an employment contract subject to BCC approval, and may only be removed upon the affirmative vote of two-thirds of the whole number of members of the BCC.
- To provide for the cost of random audits, inspections and reviews, an IG fee shall be incorporated into the contract price of most contracts and shall be 1/4 of 1% of the contract price. (See page 36 for exclusions)
- The IG shall have, subject to budgetary allocation by the BCC, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.
- The organization and administration of the OIG shall be independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the OIG.

BUDGET OF THE OIG

The Office is funded by three distinct sources. This includes the IG Contract Fee assessed on County contracts, direct payments collected through Memorandums of Understanding (MOU) entered into with various County departments where we have committed substantial resources, and General Funds allocated through the County's budget process. The availability of carryover (higher than expected returns on IG proprietary fees and unspent accumulated savings) offsets the OIG's need for General Fund dollars.

The chart below shows the OIG's financial summary and comes directly from the County's Fiscal Year 2015-2016 Adopted Budget:

FINANCIAL SUMMARY

(dollars in thousands)	Actual FY 12-13	Actual FY 13-14	Budget FY 14-15	Adopted FY 15-16
Revenue Summary				
General Fund Countywide	1,612	1,969	1,931	1,510
Interest Earnings	2	2	0	0
Miscellaneous Revenues	11	13	0	0
Carryover	249	437	217	938
Departmental Oversight MOUs	721	759	850	860
Fees & Charges	2,520	2,848	2,550	2,725
Total Revenues	5,115	6,028	5,548	6,033
Operating Expenditures Summary				
Salary	3,593	3,274	3,989	4,367
Fringe Benefits	656	733	1,015	1,122
Court Costs	1	0	2	2
Contractual Services	18	2	6	6
Other Operating	387	348	482	482
Charges for County Services	23	17	36	36
Capital	0	8	18	18
Total Operating Expenditures	4,678	4,382	5,548	6,033
Non-Operating Expenditures Summary				
Transfers	0	0	0	0
Distribution of Funds In Trust	0	0	0	0
Debt Service	0	0	0	0
Depreciation, Amortizations & Depletion	0	0	0	0
Reserve	0	0	0	0
Other Non-Operating Adjustments	0	0	0	0
Total Non-Operating Expenditures	0	0	0	0

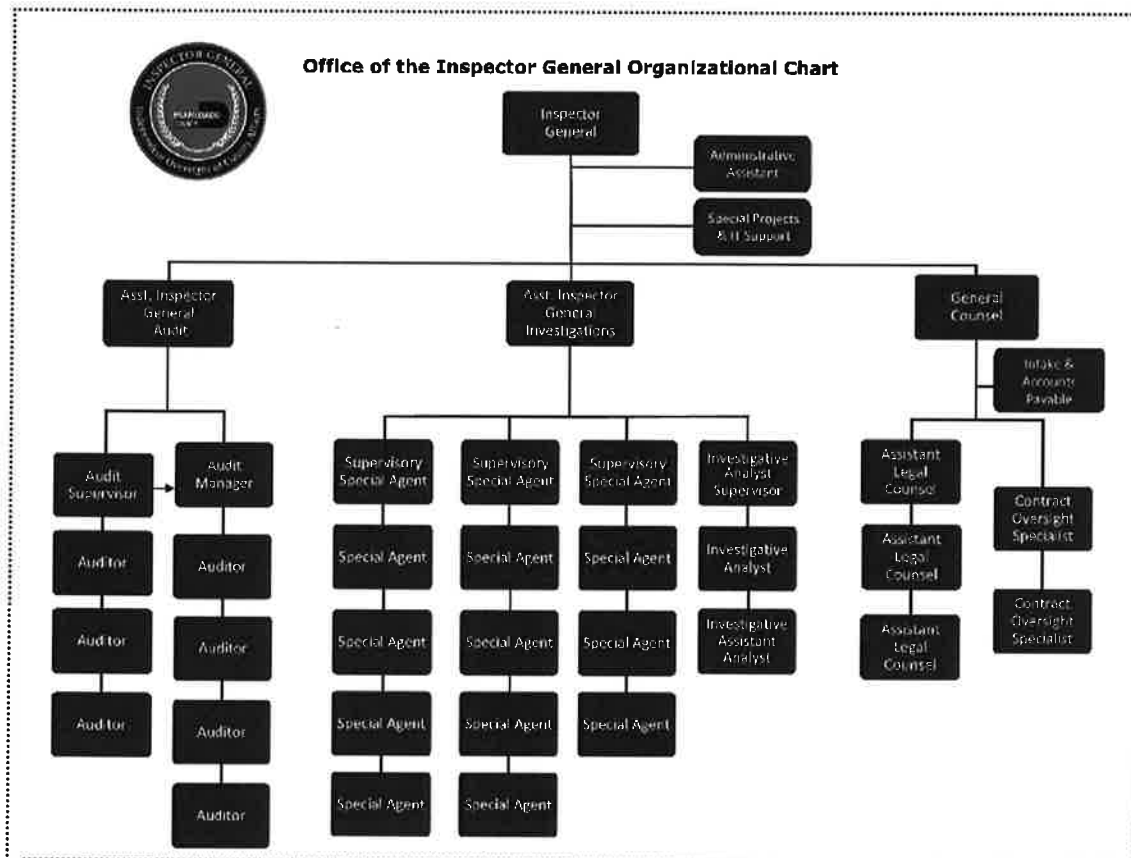
BLUEPRINT OF THE OIG

...to adopt a business strategy that empowers our employees to take a holistic approach to ferretting out fraud, waste and abuse.

Mary T. Cagle

Inspector General Cagle focused on a holistic approach in structuring the operations of the Office that led to some redesign of the core framework of the OIG in order to increase its overall effectiveness. With the IG at the head, two Assistant IGs steer the two primary activities of the Office: audit and investigations. The Assistant IG for Audit is charged with designing the OIG's audit plan with an emphasis on the prevention of fraud, waste and abuse throughout County programs. The Assistant IG for Investigations directs fact-finding activities to ferret out and detect criminal, fraudulent and abusive actions. The Assistant IG for Investigations coordinates with criminal prosecutors to shepherd OIG cases to a successful legal resolution. Both units work together to advance the mission of the Office.

The General Counsel also reports directly to the IG and heads the Legal Unit, which includes the Contract Oversight function. The Legal Unit provides the Audit and Investigation Units with the fundamental guidance necessary to set the stage to effectively pursue legal action to prevent, remedy, and rectify loss and damage caused by those committing fraud, waste and abuse in County affairs. Below is the OIG Organization Chart.





THE AMENDED EMPLOYEE PROTECTION ORDINANCE SAFEGUARDING THE HEROES THAT REPORT FRAUD

On October 20, 2015, the BCC unanimously passed amendments to the Employee Protection Ordinance. The amendments were intended to ensure County employees are aware of their protections when reporting fraud, waste and abuse. The OIG has already started training County employees on the amendments.

The Employee Protection Ordinance (EPO), also known as the “Whistleblower” ordinance, was amended to empower employees to take responsibility for an efficient and effective government and to be empowered to safely and securely disclose activity that constitutes misconduct. It provides clarification regarding employees’ rights under the ordinance, and below we highlight the changes in the law.

Why was the Employee Protection Ordinance enacted, what is its intent, and how was it amended? The EPO was initially enacted to provide protections for employees who came forward and reported misconduct they observed in County government. The initial ordinance was modeled, in part, on the State of Florida’s Whistleblower law. The recent amendments simplify how and where to report and clarify the afforded protections.

Who should the misconduct be reported to? Prior to the October 2015 amendments, the misconduct had to be reported to either the OIG or the Mayor or his designee. The only exception was that misconduct at the Miami-Dade Aviation Department was to be reported to either the OIG or the Commission on Ethics and Public Trust (COE).

The EPO was amended so that all County employees, regardless of their department, can now report misconduct to the OIG, COE, or to the Mayor or his designee—without losing the protections provided under the ordinance. A section was also added that provides that the COE or the Mayor or his designee, at their discretion, may refer appropriate complaints to the OIG for investigation.

Does the EPO provide protections to employees regardless of the type of misconduct reported? No, only reports of certain types of misconduct are covered. This section of the ordinance was not amended. An employee only receives protections provided under this ordinance if the nature of the misconduct is:

- A violation of any law, rule, or regulation that creates a substantial and specific danger to public health or safety
- Gross mismanagement
- Gross waste of public funds
- Gross neglect of duty
- Malfeasance
- Misfeasance

What are some examples of the types of misconduct employees should report to the OIG, COE, or Mayor under the Ordinance?

Examples include contractor overbilling, payroll fraud, bid rigging, kickback schemes, bid steering, bribery, theft, gross mismanagement of a program that puts others at risk, and fraud or cover-ups by employees or contractors that endanger the public. Generally, employee grievances involving personnel matters do not fall into the protected category under the EPO and should be handled through the County's grievance procedures.



How should an employee report? Employees disclosing information to the Mayor, his designee, or the COE need to report in a written and signed complaint to receive the protections afforded by the EPO. The new amendment allows for additional methods of reporting to the OIG. Employees can now report to the OIG in a variety of ways and still be protected: through our website (www.miamidadeig.org), our hotline (305) 579-2593, email, in person to OIG staff, or by written and signed correspondence.

When an employee reports information regarding misconduct to the appropriate entity, what protections are provided to them?

CONFIDENTIALITY: The most important protection provided to the employee under the ordinance (based on state law) is that they can report the information confidentially—their identity will not be revealed during or subsequent to the investigation. The only exception is in the event criminal charges are filed; then the decision regarding confidentiality will be at the discretion of the State Attorney's Office or a judge.

PROTECTION FROM RETALIATION: In the event the identity of the complainant is known or discovered, and the complainant feels they are being retaliated against because they have disclosed the misconduct, then they may file for protection with the Mayor's Designee (the Director of Human Resources) through the grievance process. If unsatisfied, they may file a complaint with the COE and ask the COE, as an independent body, to investigate their retaliation complaint.

What happens if an employee makes a false complaint alleging misconduct by another employee? The ordinance was amended to put employees on notice that providing false information will be taken seriously, and investigated and prosecuted where appropriate. Additionally, an employee who is involved in the misconduct does not receive the protections provided to others under the ordinance.

Were there any other amendments to the EPO that employees should be aware of? The monetary awards provision was deleted.

Where can questions be answered regarding the EPO and the new amendments?

The ordinance was amended to ensure that employees receive information regarding their protections. The amendment mandates the OIG to provide training. The COE and the Mayor's Designee (the Director of Human Resources) may also provide information regarding the ordinance. Employees can contact:

- OIG at (305) 375-1946 or online at www.miamidadeig.org
- COE at (305) 579-2594 or online at www.miamidade.gov/ethics
- Human Resources Department at (305) 375-4171

REPORTING FRAUD

In accordance with our mission to detect, investigate and prevent fraud, waste, mismanagement, misconduct, and abuse of power through independent oversight of County affairs, we provide the public with a process to register and address their concerns to ensure that the County operates with honesty and integrity.



Tips from citizens, employees, vendors, contractors, and subcontractors have resulted in many of the criminal cases, audits, and reviews featured in our annual reports. Information from employees has helped create and strengthen policies and procedures, and the enforcement of existing statutes and regulations. In many cases, pursuant to the Employee Protection Ordinance, a complainant's identity remains confidential even after the case is closed.

PROCESSING COMPLAINTS

When the OIG receives a complaint, it is logged in and reviewed. If a determination is made that further review is warranted, then it is assigned to an analyst, investigator, auditor, or contract oversight specialist.

CONTACT US TO REPORT FRAUD



HOTLINE (305) 579-2593



ONLINE www.miamidadeig.org



MAIL TO 19 West Flagler Street, Suite 220
Miami, FL 33130



FAX TO (305) 579-2656

Some complaints result in OIG contact with the appropriate entity and the complainant is notified of the results. Some complaints involve personnel matters or other issues that may best be referred to the appropriate County departments to address. The OIG also receives complaints that are not within our jurisdiction that are referred to other governmental agencies that can directly address the concerns. When we refer a complaint, typically the complainant's contact information is included (unless the OIG was asked not to disclose the identity of the complainant) so that the department or agency can make contact if more information is needed.

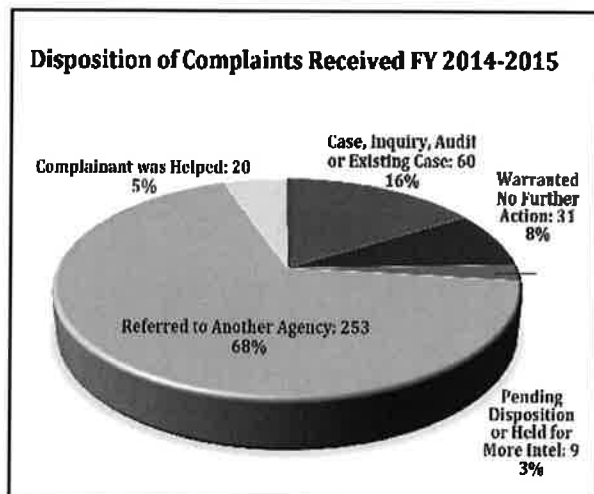
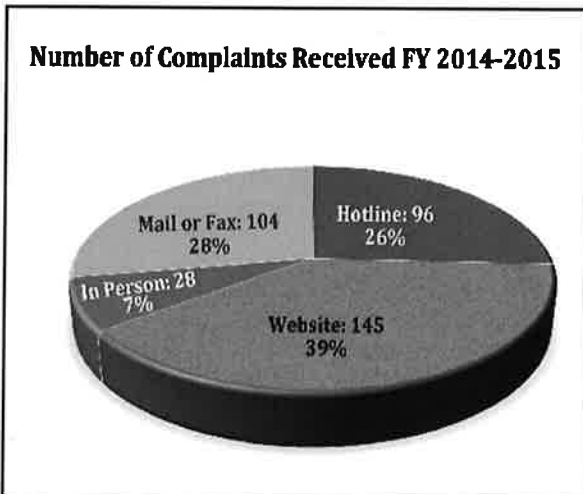
Because the OIG does accept anonymous complaints, we often receive complaints that have insufficient information or detail to warrant further review. When possible, the OIG will provide the results of its review to the complainant. When contact information is provided, the OIG copies complainants on its complaint referrals.

THIS YEAR'S COMPLAINTS

The Office received 373 complaints in FY 2014-2015, which was an 8% increase over last fiscal year. Of these, 96 were received through our hotline, 104 by mail or fax, 145 were made using our website's on-line complaint form, and 28 were received from individuals who came to the Office and met with an investigator.

The majority of the complaints received (68%) were referred to the appropriate County departments or other governmental agencies that could directly address the complaints. The OIG provided direct assistance to 5% of the complainants. It was determined that 8% warranted no further action for various reasons, such as a lack of sufficient detail. However, 16% of the complaints received led to the initiation of an audit, inquiry, or investigation. The remaining 3% are still under review or are pending additional information or resources.

During an active inquiry, case, or review, all of our work product is deemed confidential by statute. When the case is closed, the identity of the complainant remains confidential in many situations. Specifically, this applies if the complaint concerned possible violations of any federal, state, or local law or regulation that presented a substantial and specific danger to the public's health, safety or welfare, or the commitment of an act of gross mismanagement, gross waste of public funds, malfeasance, misfeasance, or gross neglect of duty.





Much of the OIG's workload involves the examination of selected programs, projects, contracts, transactions, entities, and individuals. These examinations may be in the form of audits, investigations, or contract oversight. While the OIG's mission to detect, investigate and prevent fraud,

waste, mismanagement, misconduct, and abuse of power is focused Countywide, the methods to accomplish these results differ among the OIG's units.

THE INVESTIGATIONS UNIT

Investigative Analysts—Providing Support to Our Investigations

OIG investigative analysts provide intelligence support for criminal and administrative investigations and other inquiries undertaken by the OIG. OIG analysts process intelligence information collected from a variety of sources that is compiled, analyzed, and disseminated in support of OIG activities. Analysts retrieve and examine records such as bank accounts, civil court records, and criminal histories. They produce court exhibits, bank analyses, and criminal intelligence charts. In essence, they collaborate with investigators and exchange information that may support their investigations.

OIG investigative analysts are dedicated to maintaining relationships with the intelligence community and other organizations such as the Financial Institution Security Association (FISA) and the Florida Department of Law Enforcement (FDLE). Two members of the OIG's staff are certified through the FDLE and hold the title of Certified Law Enforcement Analyst.

In 2009, the BCC required the OIG to assist with the Advisory Board appointment process by conducting Florida Criminal History Background Checks on Advisory Board Nominees. Advisory Boards are groups created by the Mayor or the BCC to advise or inform in the decision-making process through fact-finding discussions, information gathering, and reporting. This past fiscal year, OIG analysts conducted 155 Florida Criminal History Background Checks to support the BCC in its appointment of candidates to the Advisory Boards.





OIG CASE HIGHLIGHTS AND SUMMARIES

The OIG’s Investigations Unit engages in both criminal fraud investigations and administrative investigations involving allegations of waste, abuse and mismanagement.

Throughout its 18-year history, the OIG has maintained a successful partnership with the Miami-Dade State Attorney’s Office (SAO) that has led to the successful prosecution of over 200 wrongdoers. Our mandate to “investigate County affairs” allows us the scope and flexibility to examine programs, contracts, and transactions across the entire spectrum of County government. From these efforts, criminal cases over the past year resulted in charges of Absentee Voter Fraud, Filing a False Insurance Claim, Workers’ Compensation Fraud, Forgery and Uttering Forged Instruments, False Official Statements, Organized Scheme to Defraud, Grand Theft, and Aggravated Identification Fraud. The cases summarized below highlight some of the wide variety of criminal investigations the OIG conducted during the fiscal year.

Childcare Benefits-for-Cash Scheme

An OIG investigation concluded in January 2016 with three individuals pleading guilty to submitting fraudulent paperwork to the County’s former Child Development Services (CDS) Division of the Community Action & Human Services Department (CAHSD). The trio were arrested in February 2015 for the fraudulent submission of referrals for subsidized pre-school and day care services. Until July 2013, the County’s CDS contracted with the Early Learning Coalition of Miami-Dade/Monroe to process the applications and determine eligibility of children to the School Readiness Program. The fraudulent paperwork submitted to the

County categorized children as “at-risk,” enabling the parents to obtain immediate placement in the subsidized pre-school and day care services. The trio scammed the parents by charging them up to \$500 for the referrals and they scammed the County by submitting false and forged documents. Their scheme resulted in the disbursement of over \$156,000 in childcare benefits. The ringleader worked for the social service agency

*Facts from Office of Early Learning
Florida Department of Education*

- *There are approx. 1.3 million children younger than age 6 in Florida.*
- *About 49% of those children are from low-income families. Of this 49%, approximately 25% were in the School Readiness Program.*
- *In 2012-2013, 222,817 children received school readiness services from 9,818 providers.*



Children’s Home Society, where she not only falsified the paperwork submitted to the County, but forged the signatures of CHS supervisors. The trio were charged with Organized Scheme to Defraud and Grand Theft, and the ringleader was also charged with Uttering Forged Instruments.

OIG investigators also found that four of the ringleader’s co-workers similarly submitted forged and false applications to benefit their friends and family. They were subsequently arrested and have entered into deferred prosecution agreements with the State.

This investigative effort by the OIG and the SAO could not have succeeded without the collaborative efforts of the Offices of the Inspector General for both the Office of Early Learning and the U.S. Department of Health and Human Services. Their partnership and commitment to eliminating program fraud is appreciated.

PHT Contractor Arrested for Forgery

An OIG investigation uncovered that CT Mechanical Co., a mechanical construction firm, submitted a Schedule of Intent Affidavit to the Jackson Health System’s Procurement Department that contained the



forged signature of the president of a Community Small Business Enterprise (CSBE) firm. The fraudulent Schedule of Intent Affidavit was allegedly submitted in order for CT Mechanical to be awarded a contract for the replacement of an air handler unit at Jackson Memorial Hospital. CT Mechanical was paid \$484,817 for the job. The

CSBE program measures for this project required the prime contractor to subcontract a minimum of 10% of the total value of the project to a CSBE certified subcontractor. By allegedly submitting the forged Schedule of Intent Affidavit, four other prime contractors who submitted qualified bids, along with the certified CSBE firms, were denied access to the work and related compensation. Based on our investigative findings, criminal charges have been filed against the president of CT Mechanical. The case is pending trial.



The OIG will also seek to prevent this company from doing any future business with the Jackson Health System or the County.

Would-be Lobbyist Charged with Tainting Local Elections Process

In July 2014, a County resident contacted the State Attorney's Office and the Miami-Dade Elections Department alleging that his home address was being wrongfully used by a candidate for a Community Council position. The Elections Department then notified the OIG of the complaint. Thanks to this resident's tip, a joint investigation by the OIG and the SAO's Public Corruption Task Force uncovered evidence that a would-be lobbyist solicited unqualified individuals to run for Community Council positions.



The investigation uncovered that the subject used Facebook to phish for candidates, based upon their names, after determining that candidates whose names appear first on the ballot have a better chance of being elected. The subject also allegedly used social events and other networking techniques to solicit candidates. If identified candidates did not



live in the Community Council areas, the subject allegedly overcame this obstacle by finding fraudulent addresses for the candidates to use in order to meet the residence requirements necessary to qualify to run for election. The subject hoped to control the Community Council candidates' qualification process by filing false and fraudulent documents with the Elections Department. A review of digital video security footage from the Miami-Dade Elections Headquarters shows the subject meeting with candidates to exchange documents. The subject allegedly procured one person to submit false voter registration information, and allegedly submitted various campaign treasurer reports containing false information on behalf of multiple candidates.

When the candidates were campaigning, the subject allegedly directed the candidates to make campaign expenditure payments to his family members and to vendors who, although unfamiliar to the candidates, had an affiliation to him. The investigation determined that the subject expected to obtain influence from the candidates that he had installed in order to benefit his lobbying and consulting business. His attempt to corrupt the political process, by putting individuals whose votes he could control on the Community Council, thwarts good government

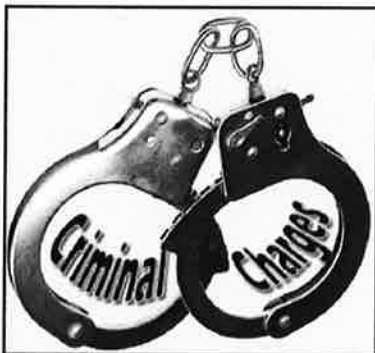
for the people. Based on our joint investigative findings, the case is pending trial and multiple criminal charges have been filed.

Quitclaim Deed Fraud: Stealing Homes from the Vulnerable

In an offshoot of a 2012 investigation into \$2.4 million in fraudulent real estate transactions that resulted in the arrest of 4 people, the OIG and SAO discovered that the head of that ring was allegedly still active and committing crimes while on house arrest and pending trial on the original charges. In this new scheme, the ringleader sent out family members and acquaintances to scout for distressed-looking abandoned homes. Once identified, computer research revealed that many of the owners of the homes were deceased. The subjects then allegedly drafted a Quitclaim Deed, forging the signature of the deceased owner. The fraudulent deeds were recorded at the Miami-Dade County Clerk's Office, changing the owner of record. The subjects then allegedly mortgaged or sold the properties to innocent third parties. In one case the owner was alive and the subjects had her evicted from her home, rendering her homeless for six months. An OIG investigator located her and took her to Legal Aid of Miami-Dade County, where an emergency civil action was filed to get her back into her home.



The OIG and SAO identified at least 15 homes involved in this scheme. These criminals took advantage of a loophole in the County Recorder's Office procedures. According to the County Recorder, the Recorder's



Office does not have legal authority to refuse to record facially sufficient deeds. Deeds are allowed to be recorded by anyone, without presentation of any identification. The ringleader was re-arrested and is in jail awaiting trial. Additional arrests are anticipated. The OIG and SAO have joined with the Miami-Dade Police Department, the Miami-Dade Clerk's Office, the Administrative Offices of the Court, and Miami-Dade Legal Aid to find

a collaborative solution to this problem. This process is underway. As a result of this investigation, the SAO has created a special Hotline for citizens to call if they suspect they are the victim of this type of fraud. The Hotline acts as a clearinghouse to help coordinate investigative efforts. After only one month in operation, the Hotline has netted a tip on a second ring of thieves utilizing the same scheme of fraudulent

deeds to illegally gain title to approximately 27 homes in Miami-Dade County. If you believe you have been the victim of deed fraud or wish to report suspicious activity related to deed fraud, please contact the SAO Hotline at (305) 547-3300.



Joint Investigation Puts the Brakes on Parking Garage Scheme

At the request of the Internal Services Department (ISD), the OIG and the Miami-Dade Police Department (MDPD) initiated an investigation into the handling of collected parking fees by the ISD's Parking Office. ISD senior management discovered—through a preliminary reconciliation of monthly parking receipts issued versus deposits—that \$13,000 could not be accounted for during the preceding six months.

Throughout the course of the investigation, the OIG and MDPD reviewed records related to the collection of monies at the County Parking Management Office, including the results of an internal audit by ISD.

One of the County employees working in the parking office admitted to investigators that he stole \$4,000 to \$5,000 in cash from the Parking Management Office. He took the investigators to his home, showing them where he kept Miami-Dade County receipts detailing the amount of money he had taken. The receipts totaled \$6,088, and a portion of the stolen money was recovered from his home. He was arrested and has since pled to a felony charge of Grand Theft.

As a result of this investigation, the Parking Facilities Manager was terminated and an account clerk voluntarily resigned. ISD has enhanced the monthly parking payment process, instituted training, and established stricter internal controls in the money collection process.

Clerk's Office Employee Caught with Hand in the Till

The OIG received a confidential tip that a cashier at the Miami-Dade County Clerk's Office was stealing money, which resulted in her arrest. The employee was charged with one count of Organized Scheme to Defraud. The twenty-five year employee was assigned to the Marriage License Bureau. The investigation found 15 incidents of theft during a



six-month period. The employee stole cash fees when she could void the cash payment and charge the ceremony costs to the credit card of an unsuspecting, subsequent customer. To complete the thefts, she manipulated up to 30 different customer transactions. As a result of the investigation the employee resigned from her position and pled guilty.

PortMiami Facilities Superintendent Submits False Inspection Reports

A PortMiami Facilities Superintendent was found to have submitted false reports to the County's Life Safety Inspectors. As part of his duties, the Facilities Superintendent was responsible for ensuring that PortMiami's fire sprinkler systems were properly maintained, inspected, and repaired as required. PortMiami contracts with companies to conduct annual inspections that are required by state law. The inspection reports prepared by these private companies are provided to the County's Fire Marshal.

The OIG investigation was initiated based on a complaint made by an inspection company that alleged the superintendent requested that the deficiencies be listed on a separate document, and not contained in the actual inspection report. The prior firm had noted in its inspection reports that there were numerous deficiencies throughout PortMiami's various facilities, including passenger terminals, requiring repair. The OIG investigation revealed that the vast majority of the deficiencies were not repaired during the following year, and some were not fixed until our investigation brought these issues to light.



PortMiami then contracted with a new firm to perform the annual inspections. The Facilities Superintendent requested that the new company exclude identified deficiencies in the inspection report, and instead list them in a separate document. The new firm acquiesced and prepared two separate documents: the annual inspection report and the list of deficiencies. The repairs were not made. Instead, the employee

knowingly furnished the sanitized inspection reports to the County's Life Safety Inspectors. He did not provide the separate list of deficiencies and, in fact, expressed to them that there were no deficiencies noted. The failure to repair the deficiencies exposed the public to potential life safety issues and the County to potential liability. Upon learning of the deficiencies and the OIG's investigation, PortMiami made the necessary repairs to correct the deficiencies and a new fire sprinkler inspection vendor was hired to perform the annual inspections. The Facilities Superintendent pled no contest to making false official statements.

Supervisor Caught Stealing Fuel from Parks, Recreation and Open Spaces

The OIG and the Miami-Dade Police Department's Public Corruption Unit caught a supervisor with the Parks, Recreation and Open Spaces Department (PROS) stealing diesel fuel. The employee used various fuel cards designated for PROS equipment to fill a large tank in the bed of his County pickup truck. Once the tank was full, he sold the diesel fuel to a local resident for \$2 a gallon. The scheme took place over a four-month period and resulted in losses in excess of \$6,700. The employee has pled guilty.



ADMINISTRATIVE INVESTIGATIONS



In addition to pursuing criminal wrongdoing, OIG Special Agents investigate a wide variety of non-criminal allegations ranging from employee misconduct to waste of taxpayer resources. Our investigative findings are shared with County management and the BCC, and we provide recommendations aimed at improving operations and procedures. The OIG frequently requests that management provide updates so that we can monitor the implementation of our recommendations. The following is an example of one of the non-criminal cases the OIG investigated during the fiscal year.

OIG Makes Recommendations to the Value Adjustment Board (VAB) to Improve the Timely Certification of the Tax Rolls

In April 2014, the OIG began its review of the Miami-Dade County Value Adjustment Board's process of handling citizen appeals of property valuations made by the Property Appraiser's Office (PAO).



The Miami-Dade County Public Schools Superintendent requested that the OIG look into his concerns that continuous delays in the VAB appeal process resulted in the late certification of the tax rolls, and consequently delayed revenue to the School District. The Miami-Dade County School District suffers from a two-year lag in recouping funds as a result of the VAB's delays in hearing appeals and consequent delay in certification of the tax rolls.

The OIG's review focused on three primary areas of concern. First, whether tax agents filed petitions with the VAB without the authorization and knowledge of the taxpayers, thereby increasing the number of petitions and contributing to the delays. Second, whether excessive and improper rescheduling of hearings, due to taxpayer requests, contributed to delays in the VAB process. Finally, the third concern was whether improper relationships between special magistrates and tax agents resulted in rulings favorable to the tax agents and taxpayers at the expense of the taxing authority.

On September 14, 2015, the OIG issued its final report on the VAB. The OIG's comprehensive review yielded sixteen recommendations for the VAB, the Clerk of Courts (COC), and the PAO to consider. The objective of our recommendations was not merely to revamp processes and procedures, but to ensure the completion of the VAB hearings and certification of the tax rolls in a timelier manner.



In January 2016, the OIG met with representatives of the COC, PAO, and the VAB to discuss and review the implementation of the OIG recommendations. Documentation was provided to the OIG from each of these entities, establishing that eleven of the sixteen recommendations were implemented or in the process of being adopted. The OIG will continue to work with the VAB, the PAO, and other stakeholders in furtherance of these initiatives.



THE AUDIT UNIT

The OIG Audit Unit supports the overall OIG mission by conducting independent, objective analysis and evaluation of programs, operations, and finances, and issuing public reports proposing targeted recommendations to enhance the delivery and quality of

County services. The Audit Unit conducts compliance, performance, operational, financial, and forensic audits that typically focus on assessing the efficiency, effectiveness, and financial integrity of programs and processes.

The Audit Unit derives its jurisdictional authority from Section 2-1076 of the County Code, empowering the OIG to audit, inspect and review past, present and proposed County programs, accounts, records, contracts, and transactions; conduct reviews and audits of County departments, offices, agencies, and boards; and perform random audits, inspections, and reviews of County contracts.

During the last year, the Audit Unit augmented its workforce to better meet the County's needs, and is fully-staffed with professionals who bring valuable, diverse auditing backgrounds and experiences to the Unit. In September 2016, the Audit Unit will be formally peer-reviewed by the Association of Inspectors General, for purposes of confirming compliance with *Generally Accepted Government Auditing Standards* (GAGAS or "Yellow Book") established by the United States Government Accountability Office. This peer-review will also assess the Audit Unit's conformance with the quality assurance requirements of the *Principles and Standards for Offices of Inspector General* ("Green Book").

In 2016, the OIG will also publish its first Annual Audit Plan, presenting its fiscal year priorities and objectives by proposing a list of potential audit topics. Our inaugural Audit Plan proposes 15 projects in five functional groups that are aligned with the County's Strategic Plan. The audit projects listed below are not prioritized. Please visit the OIG's website at <http://www.miamidadeig.org> to view the full text of the Audit Plan.



OIG AUDIT PLAN 2016

TRANSPORTATION

1. Miami-Dade Aviation Department Permittees (in progress)
2. Miami International Airport Concessions
3. Miami-Dade Transit Bus Maintenance and Operations

NEIGHBORHOOD AND INFRASTRUCTURE

4. Water and Sewer Dept. ID Badge and Security (in progress)
5. Water and Sewer Dept. Capital Construction Management (in progress)

ECONOMIC DEVELOPMENT

6. Community Redevelopment Agency (in progress)

HEALTH AND HUMAN SERVICES

7. Homeless Trust
8. Children's Trust
9. Administration of Federal Neighborhood Stabilization Program Funds by Miami-Dade Public Housing and Community Development

GENERAL GOVERNMENT

10. County Procurement and Inventory Strategies
11. Management and Use of Temporary Services Contracts
12. Internal Services Department Fleet Management
13. Professional Services Direct Labor Multipliers
14. Water and Sewer Department Overtime
15. Internal Services Department Cost Recovery and Chargeback

*It should be noted that the Audit Plan is intended to be a guiding document, and is subject to change, as circumstances may arise that alter planned project priorities.

AUDIT REPORTS



PWWM Application of Internal Charges to PTP Neighborhood Improvement Funds

The OIG is presently auditing the Public Works and Waste Management Department's (PWWM) application of administrative charges to People's Transportation Plan (PTP) construction projects. Our primary objective is to assess the accuracy and propriety of PWWM's calculation and allocation of Administrative Charges, as concerns were raised about amounts shown on an internal PWWM document entitled *PTP Neighborhood Improvements Balance Report* (Balance Report).



The PTP is funded by a "One-Half Cent Charter County Sales Surtax" approved by voters in 2002. Funds collected are to be used for transportation and transportation-related County projects and programs. These include free Metromover service; free public transportation for individuals over age 65; Metrorail extension; traffic signalization upgrades; highway, roadway, and neighborhood improvements; and various municipal projects. The Citizens' Independent Transportation Trust (CITT) oversees the PTP and use of surtax funds. PWWM administers PTP funds for highway, roadway and neighborhood improvements and related projects. Under the "Neighborhood Improvements" component of the PTP, the 13 Commission Districts have received an aggregate \$9.14 million annually during the last 10 years, with individual allocations to each District based on population and roadway lane miles. Annual allocations averaged \$703,000, ranging from \$288,000 (District 5) to \$1,205,000 (District 8).

Our audit is examining the composition of administrative charges presented on PWWM's Balance Report. We are also reviewing the processes and procedures involved in acquiring and compiling these administrative charges. Our report containing our findings and observations will be released in the first half of 2016.

MDAD Permittees Review

Consistent with the OIG's on-going oversight efforts at the Miami-Dade Aviation Department (MDAD), we are currently auditing MDAD's Real Estate Management & Development Division's (MDAD Properties) permittee application and renewal process. Our audit involves reviewing MDAD Properties' policies, procedures, and internal controls to promote accountability and transparency throughout the Permittee management and oversight process.

Any individual or entity requiring access to a Miami-Dade County airport property to transact business with an airline or other airport tenant operating outside a terminal must obtain a Permit Agreement or other similar written instrument (such as a lease or license) issued by MDAD Properties. The MDAD Rates, Fees & Charges Schedule (MDAD Fee Schedule) for FY 2015-2016 prescribes an "Opportunity Fee," applicable to most Permittees, of 7% of the Permittee's gross revenues derived from



services performed at a County airport. Permits are annual agreements, but may be extended for up to one additional year at the discretion of the Aviation Department, after which reapplication is required.

Our audit is examining the efficiency and effectiveness of procedures used by MDAD Properties to grant new permits, extensions and renewals, and ensure that these activities are conducted with consistency and timeliness. Our audit report is expected to be finalized and released in the first half of 2016.

Closeout of the Building Better Communities General Obligation Bond Program Not-for-Profit Community Organization Capital Fund

Over the course of a series of audits, the OIG concluded that the County's General Obligation Bond (GOB) Program Not-for-Profit (NFP) Community Organization Capital Fund achieved its primary purpose of using bond proceeds to fund NFP capital needs. These funds enabled NFP recipients to upgrade their facilities, making them better able to provide services to their client populations, and thus benefiting the entire community. Through September 2015, the County awarded \$28.8 million to 34 NFPs that, with few exceptions, administered and utilized funds received in accordance with the terms and conditions of their grant agreements, as well as the Program's Administrative Rules.



The OIG issued four final audit reports and four audit closeout letters,



covering 19 grant recipients. We generally found that these NFPs lacked sufficient understanding of many of the requirements outlined in the Administrative Rules and grant agreements. While each NFP is responsible for familiarizing itself with these requirements, we believe many lacked experience and adequate resources to manage the associated recordkeeping and reporting

requirements. We suggested that, going forward, the County increase its assistance and guidance to the NFP community concerning the County's requirements.

Our audits also noted that GOB grant agreements did not always include a "reverter" clause to protect the County's interests in grant-funded projects, as each grantee is required to "maintain the Project for a minimum of twenty-five years." The Board of County Commissioners subsequently responded on September 4, 2013, by

approving Resolution #R-697-13. This resolution requires that future GOB NFP grants in excess of \$25,000 be in the form of a loan secured by a mortgage or other security instrument recorded in the County's public records. These loans may be forgivable or provide for deferred interest and payments as long as the recipient's obligations are fully performed. County staff has assured that future agreements would include covenants and restrictions to better protect the County's investments.

In 2015, we closed out our audit of GOB NFP recipients by reviewing the remaining 15 grantees, who received over \$18.1 million in funds. Through August 2015, eleven of these grantees had completed their projects, while three others were still in progress.

The last of the 15 projects, The Children's Psychiatric Center (currently known as the Institute for Child & Family Health, Inc.), recipients of a \$2.5 million grant, had not yet been initiated. We had no reportable findings for 13 of the 14 completed and in-progress projects. But in the case of South Florida Urban Ministries, Inc. (currently known as Branches, Inc.), this \$1 million grant recipient lacked complete records and proper support for payment requisitions. As a result, OIG auditors could not determine whether the grantee's administration and use of funds complied with



terms and conditions of its grant agreement and the Administrative Rules. Nonetheless, OIG site visits and interviews of grantee and County staff indicated that funds were used toward the project's successful completion, and that it was providing services for the public's benefit.

CONTRACT OVERSIGHT

Contract oversight activities generally involve the assessment of procurement activities, contract negotiations, and real-time performance as events unfold. Our mandate and authority to engage in contract oversight stems directly from the OIG's enabling statute, Section 2-1076 of the Code of Miami-Dade County. These subsections provide for:



- Monitoring existing projects and programs and reporting whether they are on-time, within budget, and in conformity with plans, specifications, and applicable law.
- Analyzing the need for and reasonableness of proposed change orders.
- Monitoring, oversight, and inspection of procurement processes to include the establishment of project design and bid specifications, bid submittals, and activities of the contractor.
- Recommending whether a particular program, contract or transaction is necessary, and assisting the Board of County Commissioners in determining whether the project or program is the most feasible solution to a particular need or program.
- Attending procurement selection and negotiation meetings and posing questions and concerns consistent with the functions, authority, and powers of the Inspector General.

The OIG's contract oversight function strives to promote accountability and transparency in decision-making processes and provide County staff with independent observations and comments relative to the propriety and soundness of proposed actions.

Many of the County's high-profile procurements and capital projects are multi-year and require continuous monitoring by the OIG. Some of the

procurements and projects monitored during 2015 included the *Request for Proposals for Master Developer Agreements with the County for the Design, Financing, Construction, Maintenance and Operation of a Compressed Natural Gas (CNG) Program* for the County's Transit, Public Works and Waste Management, Water and Sewer, and Internal Services departments. The Master Developers will be expected to renovate existing fuel facilities, provide the natural gas, and acquire (on behalf of the County) new CNG buses and other heavy-duty vehicles.

Reverse Osmosis Water Treatment Plant located in the City of Hialeah

Under a Joint Participation Agreement (JPA), the County and the City are equal partners in paying costs for the design, construction, operation, and maintenance of the plant. Likewise, the County and City equally share



the water produced. The City, however, is responsible for the design, construction, operation and maintenance of the plant. The project cost was estimated at \$160 million at the completion of Phase 3—when the plant would have a capacity of 17.5 million gallons per day. Construction began in September 2011. In August 2013, WASD requested the OIG's assistance to provide independent monitoring of this project. At present, the project still has not achieved Phase

1 completion, which is significantly overdue. In the past two years, the OIG has been actively monitoring discussions and negotiations concerning the application of delay damages, proposed change orders, proposed settlements of contractor claims, as well as proposed amendments to the JPA between the County and City. We have also been vocal in the need to make sure that the contractor "certifies" its claims as a safeguard measure. The OIG is committed to continued monitoring of this much anticipated capital project.

Jackson Health System's Miracle-Building Bond Program

In November 2013, Miami-Dade County voters approved the issuance of \$830 million in general obligation bonds for the modernization and expansion of the Jackson Health System (JHS). These funds are committed towards JHS's 10-year capital modernization and expansion—a program totaling \$1.3 billion. Within this program, some of the projects that the OIG is actively monitoring include:

- The procurement processes to select professional consultants;
- Expansion of the medical service area that includes Jackson West and urgent care centers; and
- Modernization projects at Jackson North, Jackson South, and Jackson Main.



Building Better Communities General Obligation Bond Program, Economic Development Fund, Projects 124 and 320

In November 2004, Miami-Dade County voters approved the issuance of \$2.9 billion in general obligation bonds to make vast capital and public improvements throughout Miami-Dade County. Some of these funds were granted to cities to fund public improvements within their municipal boundaries and to not-for-profit organizations to fund facility improvements. The County also set aside \$75 million (Project 124) to be awarded to countywide economic development projects. Similarly, \$15 million was set aside (Project 320) for economic development projects in targeted urban areas. During the fiscal year, the



BCC authorized eleven grant allocations from Project 124 funding and six allocations from Project 320 funding. The Administration has been negotiating the actual terms of the proposed grant agreements and the OIG has been actively monitoring those discussions. We have provided input and asked questions aimed at clarifying certain agreement metrics and criteria. The negotiated agreements will still require BCC approval.

Miami-Dade County Public Private Partnership Task Force



On February 2, 2015, the BCC adopted Resolution #R-150-15 to create the Miami-Dade County Public Private Partnership (P3) Task Force. The Task Force was created to recommend changes to ordinances, resolutions and regulations, and to implement orders and administrative practices that would advance public private partnerships. The OIG has been monitoring the progress of the Task Force, which has included attending Task Force meetings and reviewing draft Task Force reports. We are pleased that the Task Force recognizes the importance of OIG contract oversight in the future success of public private partnerships.

Water & Sewer Department's \$13.5 Billion, 15-Year Countywide Capital Improvement Program

The OIG actively monitors the program's four major areas of work: (1) the federal environmental consent decree; (2) pump station improvements; (3) ocean outfall legislation; and (4) improvements to the wastewater and water treatment transmission and distribution systems.



To date, the OIG's oversight activities have focused on the procurement and contract execution processes, and the development and authorization of individual task orders. Base program services are commissioned on an annual basis, via task order, specifying "not-to-exceed" amounts. Other task orders are issued for discrete program

and project services. Active monitoring has resulted in our questioning some task order authorizations as being outside the scope of the consultant's contract, as duplicative of other tasks being commissioned and/or being performed in-house, and not properly planned and/or not adequately supported by labor resource estimates. Our comments and observations have been well-received by WASD management and adjustments have been made, as appropriate.

Replacement of Metrorail Cars, Construction of the New Test Track, and Upgrades of the Lehman Storage Yard



This Transit project includes the design, fabrication and delivery of 136 new heavy rail cars that would be assembled locally. Concurrent with this is the construction of a new one-mile test track and additional storage tracks, and systems expansion in the Lehman Yard. The OIG began its oversight with the procurement

process and has continued through to the design development of the rail cars and the yard enhancements, the department's review and approval processes, and the construction and testing of the test and yard track systems. This project is behind schedule for the track and systems expansion; however, these delays are not anticipated to affect the expected delivery date for the new rail cars. Reaching the milestones that are scheduled to be achieved in the early months of 2016 will prove critical to the overall successful completion of this project.

APPENDIX: CODE OF MIAMI-DADE COUNTY

Sec. 2-1076 Office of the Inspector General

(a) Created and established. There is hereby created and established the Office of Miami-Dade County Inspector General. The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) Minimum Qualifications, Appointment and Term of Office.

(1) Minimum qualifications. The Inspector General shall be a person who:

(a) Has at least ten (10) years of experience in any one, or combination of, the following fields:

(i) as a Federal, State or local Law Enforcement Officer;

(ii) as a Federal or State court judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;

(b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

(c) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary; and

(d) Has a four-year degree from an accredited institution of higher learning.

(2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved by a majority of the whole number of members of the Board of County Commissioners at the next regularly scheduled County Commission meeting after the appointment. In the event that the appointment is disapproved by the County Commission, the appointment shall become null and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the County Commission. The Selection

Committee shall be composed of five members selected as follows:

- (a) The State Attorney of the 11th Judicial Circuit for Miami-Dade County;
- (b) The Public Defender of the 11th Judicial Circuit for Miami-Dade County;
- (c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust;
- (d) The President of the Miami-Dade Police Chief's Association; and
- (e) The Special Agent In Charge of the Miami Field Office of the Florida Department of Law Enforcement.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the Miami-Dade County Employee Relations Department.

- (3) Term. The Inspector General shall be appointed for a term of four years. In case of a vacancy in the position of Inspector General, the Chairperson of the Board of County Commissioners may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The Commission may by majority vote of members present disapprove of the interim appointment made by the Chairperson at the next regularly scheduled County Commission meeting after the appointment. In the event such appointment shall be disapproved by the County Commission, the appointment shall become null and void and, prior to the next regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for the full four-year term.

Upon expiration of the term, the Board of County Commissioners may by majority vote of members present reappoint the Inspector General to another term. In lieu of reappointment, the Board of County Commissioners may reconvene the Selection Committee to appoint the new Inspector General in the same manner as

described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

(4) Staffing of Selection Committee. The Miami-Dade County Employee Relations Department shall provide staffing to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The County Employee Relations Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The County Employee Relations Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

(c) Contract. The Director of the Employee Relations Department shall, in consultation with the County Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.

(d) Functions, Authority and Powers.

(1) The Office shall have the authority to make investigations of County affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions.

(2) The Office shall have the power to require reports from the Mayor, County Commissioners, Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

(3) The Office shall have the power to subpoena witnesses, administer oaths and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question. Prior to issuing a subpoena, the Inspector General shall notify the State Attorney

and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation.

- (4) The Office shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the Board of County Commissioners in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications and applicable law.
- (5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.
- (6) The Inspector General may, on a random basis, perform audits, inspections and reviews of all County contracts. The cost of random audits, inspections and reviews shall, except as provided in (a)-(n) in this subsection (6), be incorporated into the contract price of all contracts and shall be one quarter (1/4) of one (1) percent of the contract price (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:
 - (a) IPSIG contracts;
 - (b) Contracts for legal services;
 - (c) Contracts for financial advisory services;
 - (d) Auditing contracts;
 - (e) Facility rentals and lease agreements;

- (f) Concessions and other rental agreements;
- (g) Insurance contracts;
- (h) Revenue-generating contracts;
- (i) Contracts where an IPSIG is assigned at the time the contract is approved by the Commission;
- (j) Professional service agreements under one thousand dollars;
- (k) Management agreements;
- (l) Small purchase orders as defined in Administrative Order 3-2;
- (m) Federal, state and local government-funded grants; and
- (n) Interlocal agreements;
- (o) Grant Agreements granting not-for-profit organizations Building Better Communities General Obligation Bond Program funds.

Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of the IG contract fee in any contract. Nothing contained in this subsection (c)(6) shall in any way limit the powers of the Inspector General provided for in this section to perform audits, inspections, reviews and investigations on all County contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.

- (7) Where the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of one (1) of the ordinances within the jurisdiction of the Ethics Commission, he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate.
- (8) The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees,

lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

- (9) The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions.
- (10) The Inspector General may exercise any of the powers contained in Section 2-1076 upon his or her own initiative.
- (11) The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the County is to be discussed. The notice required by this subsection (11) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed County meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by Section 2-1076, may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.
- (12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.

(e) Physical facilities and staff.

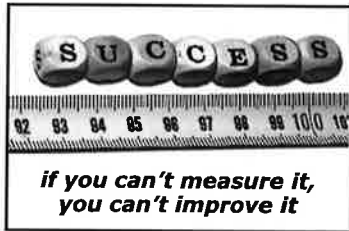
- (1) The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.
- (2) The Inspector General shall have, subject to budgetary allocation by the Board of County Commissioners, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

- (f) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected.** Notwithstanding any other provisions of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.
- (g) Reporting.** The Inspector General shall annually prepare and submit to the Mayor and Board of County Commissioners a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews.
- (h) Removal.** The Inspector General may be removed from Office upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.
- (i) Abolition of the Office.** The Office of the Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.
- (j) Retention of the current Inspector General.** Notwithstanding any provision to the contrary, the incumbent Inspector General, Christopher R. Mazzella⁽¹⁾, shall serve a four year term of office commencing on December 20, 2009, as provided in the Memorandum of Understanding approved by Resolution No. R-1394-05, and shall not be subject to the appointment process provided for in Section 2-1076(b)(2).

⁽¹⁾ Mr. Chris Mazzella, the County's first Inspector General and the incumbent when this subsection was enacted, retired in April 2013. Mary Cagle, the current Inspector General, was appointed in February 2014.

(Ord. No. 97-215, § 1, 12-16-97; Ord. No. 99-63, § 1, 6-8-99; Ord. No. 99-149, § 1, 10-19-99; Ord. No. 00-105, § 1, 7-25-00; Ord. No. 01-114, § 1, 7-10-01; Ord. No. 05-51, § 1, 3-1-05; Ord. No. 06-88, § 2, 6-6-06, Ord. No. 07-165; § 1, 11-6-07)

MEASURING OUR FISCAL YEAR SUCCESSES



While the OIG derives valuable numerical performance measures from its investigative, audit, and contract oversight activities, there is no statistical gauge for a significant component of our positive impact. Specifically, these are the frauds, schemes, and other bad acts that were deterred, or prevented by our Countywide presence and outreach efforts. The OIG's holistic approach to coordinating the talents and experiences of its professional staff, coupled with their extensive knowledge of County operations and leadership, facilitates expanding our visibility and influence in areas with high levels of inherent risk. This provides unique opportunities to obtain actionable information for strategic, proactive risk identification and mitigation, which serves as a powerful tool for combatting fraud.

Identified Financial Impacts

For Fiscal Year 2014-2015, the OIG identified \$6.1 million in questioned costs, damages, losses and overpayments impacting the County.

Monetary Achievements

For Fiscal Year 2014-2015, OIG investigations, audits and other oversight activities resulted in achieving over \$8.1 million in restitution, recoveries, savings and funds that the County can put to better use.

Arrests Made This Fiscal Year

OIG investigations resulted in 16 arrests and the indictment of one company during Fiscal Year 2014-2015.

Criminal Charges Filed

These arrests included charges of Absentee Voter Fraud, Filing a False Insurance Claim/Workers' Compensation Fraud, Forgery and Uttering Forged Instruments, False Official Statements, Organized Scheme to Defraud, Grand Theft, and Aggravated Identification Fraud.

This Year's Publications

The OIG issued eight public reports and eighteen advisory memoranda during the fiscal year. The reports include our audit reports and administrative investigative reports. Our advisory memoranda typically involve notices of investigations resulting in arrest and the dispositions of those criminal cases.



Felix Jimenez (Asst. Inspector General) recognizing the exemplary work of Juan Koop (Special Agent) and Carol Jordan (Attorney)



Field visit with Inspectors General from the Florida Department of Transportation and the City of Montreal



OIG Strategic Planning Staff Meeting



OIG Executive Team Left to Right: Felix Jimenez (Assistant Inspector General, Investigations), Patra Liu (General Counsel), James Rosenberg (Assistant Inspector General, Audit), Mary T. Cagle (Inspector General)

Report Fraud, Waste, and Abuse

**Miami-Dade Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, Florida 33130**

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Fax: (305) 579-2656

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Website: www.miamidadeig.org



EXCERPTS FROM CHARTER OF PALM BEACH COUNTY, FLORIDA

ARTICLE VIII. - ETHICS REGULATION^[2]

Footnotes:

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Editor's note—Ord. No. 2010-019, adopted July 20, 2010, was approved at an election held Nov. 2, 2010, to become effective Jan. 1, 2011.

Sec. 8.1. - County code of ethics.

The County shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below.

(Ord. No. 2010-019, pt. 1, 7-20-10)

Sec. 8.2. - Commission on ethics.

The County shall, by ordinance, establish an independent Commission on Ethics, comprised of a minimum of five members not appointed by or subject to removal by the County Commission or by any other entity subject to the jurisdiction of the Commission on Ethics, with the authority to review, interpret, render advisory opinions and to enforce the Palm Beach County Code of Ethics, and to provide ethics training to local governments, citizen groups and the general public of Palm Beach County. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below. The Commission on Ethics shall be adequately funded by the County Commission and all other governmental entities that elect to be subject to the authority of the Commission on Ethics pursuant to interlocal agreement.

(Ord. No. 2010-019, pt. 1, 7-20-10)

Sec. 8.3. - Inspector general.

The County shall, by ordinance, establish an Office of Inspector General to provide independent oversight of publicly funded transactions, projects, and other local government operations. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below (hereinafter "Implementing Ordinance"). The Implementing Ordinance shall provide that the Inspector General shall be selected by a Selection Committee, comprised of the Commission on Ethics, the State Attorney or designee, and the Public Defender or designee. The Implementing Ordinance shall further provide that the Inspector General shall serve a fixed term, and prior to completion of that term, may be removed only for cause and pursuant to a procedure requiring, at a minimum, supermajority votes at duly noticed public hearings of the Board of County Commissioners and the Selection Committee. The Office of Inspector General shall be funded at minimum in an amount equal to one quarter of one percent of contracts of the County and all other governmental entities subject to the authority of the Inspector General (the "Funding Base") as determined by the Implementing Ordinance. The Board of County Commissioners may increase or decrease the Funding Base upon a showing of need for such adjustment based upon criteria contained in the Implementing Ordinance but in no event shall the Funding Base be reduced below one quarter of one percent unless the request for such reduction is made by the Inspector General. The

demonstration of need shall be subject to review and recommendation by the Review Committee, which recommendation shall only be overruled by a supermajority vote of the Board of County Commissioners. No adjustment shall occur if such adjustment results in the Office of the Inspector General not being adequately funded.

(Ord. No. 2010-019, pt. 1, 7-20-10)

Sec. 8.4. - Ordinance preparation, adoption, and amendment.

Ordinances providing for implementation and funding of Article 8, Ethics Regulation, of the Palm Beach County Charter shall be prepared, adopted, and amended in the following manner:

- (a) The Board of County Commissioners has adopted ordinances establishing and providing for the funding, authority and powers of the Palm Beach County Commission on Ethics and the Office of Inspector General (the "Existing Ordinances"). The drafting committee described below shall develop the ordinances enabling this Charter Amendment by beginning with the Existing Ordinances and making those changes necessary to conform the Existing Ordinances to the requirements of this Charter Amendment and proposing other such changes deemed necessary and proper by the drafting committee.
- (b) Each ordinance shall be developed by a drafting committee consisting of two representatives appointed by the Board of County Commissioners; two representatives appointed by the Palm Beach County League of Cities, Inc. (the "League") or any successor entity to the League; the County Attorney or his or her designee; and the General Counsel for the League or his or her designee. In addition, the committee will include the Executive Director of the Palm Beach County Commission on Ethics for matters pertaining to the Code of Ethics and Commission on Ethics Ordinances, and will include the Inspector General for matters pertaining to the Inspector General Ordinance ("the Initial Ordinance Drafting Committee"). The Initial Ordinance Drafting Committee may by majority vote agree to add up to three additional members representing other governmental entities that are subject to the regulation of the Inspector General, the Commission on Ethics, or both.
- (c) The Board of County Commissioners may adopt any ordinance recommended by the Initial Ordinance Drafting Committee (the "Recommended Ordinance") by an affirmative vote of four members of the Board. If the Board of County Commissioners desires to change any Recommended Ordinance, the Board shall refer all proposed changes to the Initial Ordinance Drafting Committee, which shall either modify the Recommended Ordinance to include a proposed change or recommend that a proposed change not be adopted. Adoption of any change to a Recommended Ordinance requires an affirmative vote of five members of the Board. If the Initial Ordinance Drafting Committee fails to submit the Recommended Ordinance to the Board of County Commissioners within 90 days of effective date of this charter amendment or fails to take action on a proposed change within 30 days of receipt of such change from the Board, the Board of County Commissioners may take action to adopt the ordinance by an affirmative vote of four members.
- (d) Amendments to any of the ordinances adopted pursuant to Section 8 of the Charter may be proposed by the Board of County Commissioners, the League, the Ethics Commission, the Inspector General, or the Executive Director of the Commission on Ethics. All proposed amendments must be reviewed by a committee with the same make-up as the Initial Ordinance Drafting Committee (the "Review Committee"). The Review Committee's recommendation shall be forwarded to the Board of County Commissioners. Any change recommended by the Review Committee may be adopted by an affirmative vote of four members of the Board of County Commissioners. Adoption of any change not recommended by the Review Committee requires an affirmative vote of five members of the Board of County Commissioners. If the Review Committee fails to submit an ordinance amendment to the Board of County Commissioners within 90 days after referral of an amendment from one of the above parties, the Board of

County Commissioners may adopt the amendment by an affirmative vote of four members of the Board.

(Ord. No. 2010-019, pt. 1, 7-20-10)

PALM BEACH COUNTY

DIVISION 8. - COMMISSION ON ETHICS^[20]

Footnotes:

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Editor's note—Ord. No. 2011-010, § 1(Exh. 1), adopted May 17, 2011, repealed div. 8 and enacted a new division as set out herein. The former div. 8, §§ 2-254—2-260 and 2-260.1—2-260.10, pertained to similar subject matter and derived from Ord. No. 2009-050, § 1, adopted Dec. 15, 2009; and Ord. No. 2010-042, pt. 1, adopted Sept. 28, 2010.

Cross reference— Code of ethics, § 2-441 et seq.

Sec. 2-254. - Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to any person required to comply with the countywide code of ethics, the county lobbyist registration ordinance, and the county post-employment ordinance, and may further extend to persons or entities required to comply with additional ordinances and regulations duly adopted by other county, local, or municipal government and any commission, bureau, district, or other governmental entity located in Palm Beach County as more fully set forth below. The jurisdiction of the commission on ethics is not exclusive. Any person or entity subject to a complaint to the county's commission on ethics may also be subject to a separate complaint to the state commission on ethics or pursuant to a municipality's ethics ordinance. A finding by the county's commission on ethics is not binding on the state and may not be binding on the municipality, depending on the nature of the complaint and whether the municipality's ethics ordinance is more restrictive than the countywide ethics code.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-255. - Membership, qualifications, terms, vacancies.

- (a) *Composition and appointment.* The commission on ethics shall be composed of five (5) members. The members of the commission on ethics shall be appointed as follows:
- (1) The president of the county association of chiefs of police shall be requested to appoint a former law enforcement official with experience in investigating white collar crime or public corruption.
 - (2) The president of the Hispanic Bar Association of Palm Beach County, the president of the F. Malcolm Cunningham, Sr. Bar Association, and the president of the county bar association shall be requested to appoint an attorney with experience in ethics regulation of public officials and employees.
 - (3) The president of Florida Atlantic University (FAU) shall be requested to appoint a faculty member who teaches at an institution of higher education with a campus located in the county and who has taught a course in professional legal ethics or has published or performed services in the field of professional legal ethics.
 - (4) The president of the Palm Beach Chapter of the Florida Institute of CPAs shall be requested to appoint a member who possesses at least five (5) years experience as a certified public accountant (CPA) with forensic audit experience.

- (5) The board of directors of the Palm Beach County League of Cities, Inc. shall be requested to appoint a person who has served as a former elected official for a governmental entity in the county.

All appointing officers or entities identified in subsections (a)(1) through (5) shall in good faith endeavor to appoint members of the commission on ethics within forty-five (45) days of the effective date of the ordinance from which this division is derived. Each appointing entity shall promptly provide notice of each appointment to the county administrator.

- (b) *Additional qualifications.* Each member of the commission on ethics shall be of outstanding reputation for integrity, responsibility and commitment to serving the community. The members of the commission on ethics should be representative of the community-at-large and should reflect the racial, gender and ethnic make-up of the community. Before entering upon the duties of office, each appointee on the commission on ethics shall take the prescribed oath of office pursuant to Florida Constitution, Art. II § 5(b). Members of the commission on ethics shall serve without compensation.
- (c) *Term.* The members of the commission on ethics shall serve staggered terms of four (4) years each, provided that of the original members, two (2) members described in subsections (a)(1) and (2) shall be appointed for an initial term of two (2) years. The remaining three (3) members shall be appointed for an initial term of four (4) years. Thereafter, all members of the commission on ethics shall serve terms of four (4) years.
- (d) *Vacancies.* A vacancy occurring during or at the expiration of a member's term on the commission on ethics shall be filled as provided in subsections (a) and (b), no later than sixty (60) days after the vacancy occurs.
- (e) *Additional requirements.* No individual, while a member of the commission on ethics, shall:
 - (1) Hold or campaign for any elective political office;
 - (2) Hold office in any political party or political committee;
 - (3) Actively participate in or contribute to any political action committee, or to any campaign for state or local office or for any U.S. Congressional or Senate office serving the State of Florida;
 - (4) Be employed by Palm Beach County, any municipality within the county, or any other governmental entity subject to the authority of the commission on ethics or the inspector general; or
 - (5) Allow his or her name to be used by a campaign in support of or against any candidate for political office or any referendum or other ballot question. Nothing herein shall preclude a member of the commission on ethics from signing a petition in support of or against any referendum or other ballot question.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-256. - Applicability of code of ethics ordinance.

The countywide code of ethics ordinance shall be applicable to all persons and/or entities within the jurisdiction of said ordinance and shall apply to the members and staff of the commission on ethics.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-257. - Organization.

- (a) The commission on ethics shall elect one (1) of its voting members as chairperson who shall serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive terms.

- (b) The commission on ethics shall adopt bylaws and rules of procedure which are consistent with the provisions of this division and rules and regulations for the commission on ethics' governance. The commission on ethics shall hold regular meetings in accordance with the bylaws of the commission and may hold such other meetings as it deems necessary.
- (c) All meetings of the commission on ethics shall be public, and written minutes of the proceedings thereof shall be maintained by the commission on ethics. All actions taken at the meetings of the commission on ethics shall be promptly and properly recorded. Copies of all minutes, resolutions, decisions or advisory opinions of the commission on ethics shall be forwarded to the clerk to the board of county commissioners no later than thirty (30) days subsequent to any meeting of the commission on ethics.
- (d) The commission on ethics shall be empowered to appoint an executive director and to remove such appointee at will. The commission on ethics shall utilize a competitive selection process when selecting an executive director. The commission on ethics shall fix the executive director's salary, subject to ultimate budget approval by the board of county commissioners. The executive director shall be empowered to appoint, remove, and suspend employees or agents of the commission on ethics, subject to ultimate budget approval by the board of county commissioners. The executive director shall be further empowered to adopt personnel and management policies consistent with like policies in place for county personnel.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-258. - Powers and duties.

- (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the:
 - (1) Countywide Code of Ethics;
 - (2) County Post-employment Ordinance; and
 - (3) County Lobbyist Registration Ordinance.
- (b) As set forth in the Office of Inspector General, Palm Beach County, Florida Ordinance, the commission on ethics shall serve with one (1) delegate each from the state attorney's office and public defender's office for the Fifteenth Judicial Circuit as the inspector general committee. The inspector general committee shall be authorized to select the inspector general, to determine whether or not to renew the term of an inspector general, and to participate in the removal of the inspector general as set forth in greater detail in the Office of Inspector General, Palm Beach County, Florida Ordinance.
- (c) The commission on ethics shall from time to time review ordinances and state and federal laws relating to ethics in government and shall report and make recommendations to the board of county commissioners and municipal elected officials as it deems appropriate.
- (d) The commission on ethics shall develop and deliver ethics training and outreach programs for the benefit of county and municipal employees and officials, county and municipal vendors, nonprofit corporations, and other entities that do business with or are regulated by the county or the municipalities located within the county. The commission on ethics may recommend that the board enter into agreements with other entities to provide such training and outreach programs to be administered by the commission on ethics.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-258.1. - Extended jurisdiction by interagency agreements.

It is anticipated that taxing districts, and other public officials and entities will recognize and desire to benefit from the services of the commission on ethics. The commission on ethics may additionally be empowered to review, interpret, render advisory opinions, and enforce similar rules or regulations duly adopted by any commission, bureau, district, or other governmental entity located in the county, pursuant to agreements or memoranda of understanding between the commission on ethics and said entity. The memorandum of understanding or agreement shall include a provision for fees to be paid to the commission on ethics from the public entity in exchange for such benefits at a rate established by the commission on ethics. All fees paid under any such agreement shall be used solely to fund the operations of the commission on ethics and its staff. Any such agreement or memorandum of understanding is subject to final approval of the board, but such approval shall not be unreasonably withheld.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-259. - Financial support for the commission.

- (a) The commission on ethics shall establish a fiscal year which coincides with that of the county. Pursuant to its annual budget process, the county shall provide sufficient financial support for the commission on ethics to fulfill its duties as set forth in this division. The commission on ethics shall timely submit to the board of county commissioners a budget request including a reasonable estimate of operating and capital expenditures, which request shall not be implemented until approved by the board of county commissioners.
- (b) The commission on ethics budget request shall be prepared on official county budget forms in a format prescribed by the county office of financial management and budget, shall be reviewed in a manner similar to that in which of other county departments are reviewed, and shall be incorporated in the proposed budget and timely submitted to the board of county commissioners each year. Nothing contained herein shall be construed to prohibit the commission on ethics from submitting to the board of county commissioners supplemental budget requests which, if approved, shall constitute amendments to the county budget.
- (c) In addition to budgetary appropriations made by the county, the board of county commissioners, may, for the benefit of the commission on ethics, accept grants, contributions or appropriations from the federal government, state government, any municipality within the county, or any academic institution or nonprofit entity which has not entered into a contract or transacted business with the county or any governmental entity subject to the provisions of this division. The commission on ethics may accept grants, contributions or appropriations from an academic institution or nonprofit entity which has entered into a contract or transacted business with the county if the board of county commissioners by resolution approves the grant, contribution, or appropriation. No other grants, contributions or appropriations may be accepted by the commission on ethics.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-260. - Procedure on complaints filed.

- (a) *Filing of complaints.*
 - (1) Any person may file a complaint with the commission on ethics.
 - (2) The inspector general, executive director of the commission on ethics or the state attorney may file a complaint with the commission on ethics.
- (b) *Legal sufficiency of complaints.*
 - (1) In order to be found legally sufficient, complaints filed by persons under subsection (a)(1) above, must:
 - a. Be in writing, and executed on a form prescribed by the commission on ethics;

- b. Allege the elements of a violation within the commission on ethics' jurisdiction in the complaint and/or supporting documents provided;
 - c. Be based substantially upon the personal knowledge of the complainant; and
 - d. Be signed under oath or affirmation by the complaining person.
- (2) In order to be found legally sufficient, complaints filed by the inspector general, executive director of the commission on ethics or the state attorney, must:
- a. Be in writing, and executed on a form prescribed by the commission on ethics;
 - b. Allege the elements of a violation within the commission on ethics' jurisdiction in the complaint and/or supporting documents provided;
 - c. Be sworn to by the person filing the complaint before a notary public and contain the following language: "Personally known to me and appeared before me, _____, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith."

Upon a finding of legal sufficiency by the Executive Director, the Commission on Ethics shall initiate a preliminary investigation.

- (c) *Documents provided to the respondent.* Within twenty (20) days of a legal sufficiency finding, a copy of the complaint and all documents in support thereof shall be sent to the alleged violator, otherwise known as the respondent.
- (d) *Preliminary investigation and public hearing.* A preliminary investigation shall be undertaken by the Commission on Ethics of each legally sufficient complaint over which the Commission on Ethics has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the Commission on Ethics finds no probable cause to believe that a violation has been committed, the Commission on Ethics shall dismiss the complaint with the issuance of a report to the complainant and the respondent. If the Commission on Ethics finds from the preliminary investigation probable cause to believe that a violation has been committed, it shall set the matter for a public hearing and notify complainant and respondent via certified mail, hand delivery, or courier. The Commission on Ethics or the hearing officer conducting the public hearing may conduct such further investigation as it deems necessary, and may enter into such stipulations and settlements as it finds to be just and in the best interest of the citizens of the county. The public hearing provided for in this section shall be held within one hundred twenty (120) days of the probable cause determination unless extended by the Commission on Ethics or the hearing officer conducting the public hearing for good cause based on the request of a party or on its own initiative.
- (e) *Investigations.* Investigations shall be conducted by Commission on Ethics staff or by any other person or agency so designated by the Commission on Ethics under the supervision of the Executive Director and/or the inspector general. 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. Subsequent to the filing of a complaint and notice to the respondent, the commission on ethics has an ongoing duty to disclose to the respondent any and all additional documents, statements of witnesses and other evidence, not otherwise subject by statute to nondisclosure, obtained by the Commission pursuant to the ongoing investigation of a complaint.
- (f) *Counsel.*
 - (1) *Counsel to Commission on Ethics.* The Commission on Ethics shall select counsel to advise the Commission on Ethics.
 - (2) *Advocate.* The Commission on Ethics shall retain legal counsel to serve as the advocate. The advocate shall prosecute cases before the Commission on Ethics or hearing officer. The

executive director may serve as advocate provided the executive director is a member of the Florida Bar in good standing.

- (3) Counsel to the Commission on Ethics, the advocate, or both may serve on a volunteer basis.
- (4) Respondent. The 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 respondent's lawyer.
- (g) *Public records exemption.* The Commission on Ethics and its staff shall be considered "an appropriate local official" for the purposes of whistleblower protection provided for in F.S. § 112.3188(1). The complaint and all records held by the Commission on Ethics and its staff related to an active preliminary investigation are confidential and exempt from disclosure in a manner consistent with the provisions in F.S. § 112.324(2)(a) and (3) and § 112.3188(2). In addition, any proceeding conducted by the Commission on Ethics pursuant to a complaint or preliminary investigation is exempt from the provision F.S. § 286.011, and Article 1, § 24(b) of the Florida Constitution, as set forth in F.S. § 112.324(2)(a) and (3). Once a preliminary investigation is complete and a probable cause determination made, all other proceedings conducted pursuant to this subsection shall be public meetings within the meaning of F.S. ch. 286, and all other documents made or received by the Commission on Ethics or hearing officer shall be public records within the meaning of F.S. ch. 119, subject to whistleblower confidentiality as provided for in F.S. § 112.3188(1).
- (h) *General power of subpoena.* The Commission on Ethics shall be empowered to subpoena and investigate. In the case of a refusal to obey a request for documents or for an interview during an investigation, the Commission on Ethics may subpoena relevant witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other relevant items. The Commission on Ethics may delegate to its staff the authority to administer oaths and affirmations. In the case of a refusal to obey a subpoena issued to any person, the Commission on Ethics may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the Commission on Ethics and to produce evidence, if so ordered, or to give testimony relevant to the matter in question. Any person who fails to obey the order may be punished in a court of law. Seventy-two (72) hours prior to serving a subpoena, the Executive Director shall provide written notice to the State Attorney and the U.S. Attorney for the Southern District of Florida. The Commission on Ethics shall not interfere with any ongoing criminal investigation or prosecution of the State Attorney or the U.S. Attorney for the Southern District of Florida. When the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Commission on Ethics in writing that the commission's investigation is interfering with an ongoing criminal investigation or prosecution, the Commission on Ethics shall suspend service of subpoena, examination of witnesses, or other investigative activities as set forth in the notice.
- (i) *Subpoenas for discovery.* At any time after the Commission on Ethics orders a public hearing of the matter, the Commission on Ethics or the hearing officer conducting the public hearing may issue subpoenas, as provided in subsection (h), to effect discovery upon the written request of respondent or advocate. The requesting person shall give the name and address of each witness he or she wishes to have deposed and shall describe with particularity those documents or other items that the person wishes to have the witness produce pursuant to a subpoena *duces tecum*. The chairperson or a member of the Commission on Ethics designated by the chairperson, or the hearing officer may issue appropriate orders to effectuate the purposes of discovery and to prevent delay.
- (j) *Subpoenas for public hearing.* The respondent and the advocate shall submit to the Executive Director a list of all witnesses he or she wishes to have subpoenaed to attend the hearing. The lists shall contain the correct names and addresses of the witnesses and shall describe with particularity those documents or other items that he or she wishes to have the witness bring to the hearing pursuant to subpoena *duces tecum*. Subpoenas shall be issued as provided in subsection (h).
- (k) *Motions.*

- (1) All motions shall be in writing unless made on the record during a hearing, and shall fully state the actions requested and the grounds relied upon. The motion shall include a statement that the movant has conferred with the advocate and all other parties of record and shall state whether there is any objection to the motion.
 - (2) The original written motion shall be filed with the Commission on Ethics and a copy served on all parties or their attorneys. The Commission on Ethics staff shall send a copy of the motion to the chairperson or the hearing officer conducting the public hearing.
 - (3) The chairperson, or a member of the Commission on Ethics designated by the chairperson, or the hearing officer conducting the public hearing shall conduct such proceedings and make such orders as are deemed necessary to dispose of issues raised by motions, but is not required to hold a hearing on the motion in order to rule upon it.
 - (4) Every written motion may be accompanied by, or included in, a written memorandum stating the grounds upon which the motion is based. Other parties to a proceeding may, within seven (7) days of service of a written motion, file written memoranda in opposition.
- (l) *Prehearing conferences.* The chairperson, a member of the Commission on Ethics designated by the chairperson, or the hearing officer conducting the public hearing may conduct one (1) or more prehearing conferences for the purpose of hearing arguments on pending motions, clarifying and simplifying issues, discussing the possibilities of settlement of the issues, examining exhibits and documents, exchanging names and addresses of witnesses, and resolving other procedural matters.
- (m) *Exchange of witness lists.* Unless otherwise ordered by the chairperson, a member of the Commission on Ethics designated by the chairperson, or the hearing officer conducting the public hearing as a result of a prehearing conference, the advocate and the respondent(s) or counsel for respondent(s) shall exchange the names and addresses of witnesses at least ten (10) days prior to the public hearing, with a copy being provided to the chairperson. Names and addresses of witnesses discovered subsequently shall be disclosed to the other party or parties and to the chairperson as soon as possible. Failure to disclose the name and address of a witness may result in the exclusion of the witness testimony, according to the rule applied in civil judicial proceedings.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11; Ord. No. 2015-032, pt. 1, 9-22-15)

Sec. 2-260.1. - Public hearing procedures.

- (a) *Right to public hearing.* After finding of probable cause, a respondent is entitled to a public hearing on the complaint. The respondent may elect to have the hearing conducted by the Commission on Ethics or by a hearing officer selected from a list established by the Palm Beach County Bar Association, the F. Malcolm Cunningham, Sr. Bar Association, and the Hispanic Bar Association of Palm Beach County. The associations will strive to reflect the racial, general and ethnic make-up of the community in creating and maintaining the list. The list of hearing officers shall contain no more than ten (10) names of individuals who shall serve on a rotating basis. Hearing officers shall serve without compensation. Hearing officers shall be appointed for a term of two (2) years. In order to be eligible for inclusion on the list, hearing officers shall have the following minimum qualifications:
- (1) Be a member, in good standing of the Florida Bar for at least the preceding five (5) years; and
 - (2) Be experienced in matters of governmental ethics, including the current version of the Palm Beach County Code of Ethics, related ordinances, and rules, practices and advisory opinions of the Palm Beach County Commission on Ethics; and
 - (3) Attorneys with prior judicial experience or experience as a hearing officer, mediator or special master shall be deemed uniquely qualified; and
 - (4) Be of outstanding reputation for integrity, responsibility and commitment to serving the community; and

- (5) No individual, while a hearing officer for the Commission on Ethics, shall:
- a. Hold or campaign for any elective political office;
 - b. Hold office in any political party or political committee;
 - c. Actively participate in or contribute to any political action committee, or to any campaign for state or local office or for any U.S. Congressional or Senate office serving the State of Florida;
 - d. Be employed by Palm Beach County, any municipality within the county, or any other governmental entity subject to the authority of the Commission on Ethics or the inspector general;
 - e. Allow his name to be used by a campaign in support of or against any candidate for political office or any referendum or other ballot question. Nothing herein shall preclude a hearing officer from signing a petition in support of or against any referendum or other ballot question.
- (6) Hearing Officers shall be subject to the Palm Beach County Code of Ethics in the same manner as an individual serving as a Palm Beach County advisory board member.
- (b) *Presentation of the case.* The advocate shall present his or her case first. Respondent may then present his or her case. Rebuttal evidence may be permitted in the discretion of the Commission on Ethics or hearing officer.
- (c) *Opening and closing statements.* Opening and closing statements may be presented by the advocate and the respondent. The advocate may make the first statement and the respondent may follow. Rebuttal by the advocate may be permitted or may be denied.
- (d) *Evidence.*
- (1) Stipulations may be received and are encouraged as to uncontested matters.
 - (2) Oral evidence shall be taken only on oath or affirmation.
 - (3) The respondent and the advocate shall have the right: to present evidence relevant to the issue; to cross-examine opposing witnesses on any matter relevant to the issue; and to impeach any witness regardless who first called him or her to testify.
 - (4) The hearing shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient itself to support a finding. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The Commission on Ethics or hearing officer shall not allow the introduction into evidence of an affidavit of a person when that person can be called to testify; this shall not preclude the admission of a deposition of such a person, however, for any reason permissible in a court of law under the Florida Rules of Civil Procedure.
- (e) *Transcript of proceedings.* The proceedings shall be recorded by recording instruments or by a court reporter. Respondent may, at his or her own expense, provide a court reporter or recording instruments. The Commission on Ethics may provide a court reporter to any proceeding conducted by the Commission or a hearing officer. No transcript of the proceedings shall be prepared unless requested by the Commission on Ethics, the hearing officer conducting the public hearing, or by the respondent. If the respondent requests that a transcript be prepared by a court reporter, the respondent shall pay the expense of transcription. If the respondent requests that the Commission on Ethics prepare a transcript from recording instruments and the Commission on Ethics grants such request, the respondent shall pay the Commission on Ethics the actual cost of transcription. If a court reporter records the proceedings, the court reporter's transcript shall be the official transcript.
- (f) *Proposed public report.* After the conclusion of the hearing, the respondent and the advocate may present written proposed public reports, within a time designated by the chairperson, a member of

the Commission on Ethics designated by the chairperson, or the hearing officer conducting the public hearing. If a proposed public report is filed by the respondent or the advocate, each proposed finding in the proposal that is rejected shall be accompanied by a statement summarizing the reasons for rejection.

- (g) *Motions to dismiss filed by advocate.* After probable cause is found and a public hearing is ordered by the Commission on Ethics, and after further investigation or discovery is made by the advocate, the advocate may move to dismiss the proceeding if the advocate concludes that there is insufficient evidence to proceed to the public hearing in good faith. Such a motion shall specifically state the grounds upon which it is made. The motion shall be heard by the Commission on Ethics in accordance with the procedure provided for in section 2-260(i).
- (h) *Public order imposing penalty.* Upon completion of any hearing initiated under this subsection, the Commission on Ethics or hearing officer shall make a finding and public report as to whether any provision within its jurisdiction has been violated. If the Commission on Ethics or hearing officer finds, by clear and convincing evidence, based upon competent substantial evidence in the record, that a violation has been committed, the Commission on Ethics or hearing officer shall issue an order imposing the appropriate penalty as provided in the ordinance being enforced. The public report and final order shall include a determination as to whether the violation was intentional or unintentional. The Commission on Ethics or hearing officer shall, within twelve (12) months of the filing of a complaint, render a final order disposing of said complaint unless extended by the commission or hearing officer for good cause. If a person fails to comply with an order issued by the Commission on Ethics or hearing officer, the Commission on Ethics on its own behalf or on behalf of the hearing officer may make application to any circuit court of this state which shall have jurisdiction to order the violator to comply with the order of the Commission on Ethics or hearing officer. Any violator who fails to obey the order may be punished by the court.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11; Ord. No. 2015-032, pt. 2, 9-22-15)

Sec. 2-260.2. - Notification and referral to other authorities.

As provided for by ordinance within its jurisdiction, the Commission on Ethics or hearing officer conducting the public hearing shall refer a matter to the state attorney or any other appropriate official or agency having authority to initiate prosecution when deemed appropriate. The state attorney or other appropriate agency may decline prosecution or enforcement of any matter referred under this division and refer the matter back to the Commission on Ethics or hearing officer. The Commission on Ethics shall notify the State of Florida Commission on Ethics, the state attorney, the U.S. Attorney for the Southern District of Florida, and other appropriate law enforcement agencies within ten (10) days of a finding of no probable cause or of a final order disposing of a complaint.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11; Ord. No. 2015-032, pt. 3, 9-22-15)

Sec. 2-260.3. - Dismissal of complaints.

Notwithstanding any other provisions of this division, the Commission on Ethics or hearing officer conducting the public hearing may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the Commission on Ethics or hearing officer dismisses a complaint as provided in this subsection, the Commission on Ethics or hearing officer shall issue a public report stating with particularity its reasons for the dismissal. The Commission on Ethics or hearing officer conducting the public hearing may, at the request of the state attorney or any other law enforcement agency, stay an ongoing proceeding. The Commission on Ethics or hearing officer shall not interfere with any ongoing criminal investigation of the state attorney or the U.S. Attorney for the Southern District of Florida.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11; Ord. No. 2015-032, pt. 4, 9-22-15)

Sec. 2-260.4. - Frivolous or groundless complaints.

In any case in which the Commission on Ethics or hearing officer conducting the public hearing determines that the complaining party filed a frivolous or groundless complaint as defined in F.S. § 57.105, or a complaint with malicious intent and with the knowledge that the complaint contains one (1) or more false allegations, or with reckless disregard for whether the complaint contains material false allegations, the Commission on Ethics or hearing officer shall order the complaining party to pay any costs and attorney's fees incurred by the Commission on Ethics and/or the alleged violator. The determination by the Commission on Ethics or hearing officer regarding whether a complaint is frivolous or groundless shall be deemed conclusive.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11; Ord. No. 2015-032, pt. 5, 9-22-15)

Sec. 2-260.5. - Effect on other laws.

The provisions of this division shall be deemed supplemental to any other applicable County ordinance or state or federal law and are not intended to replace or repeal any provision of state or federal law or of this Code.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-260.6. - Prospective jurisdiction.

The Commission on Ethics shall be empowered to consider alleged violations within its jurisdiction committed on or after the effective date of the ordinances set forth in section 2-258(a), as each may be amended from time to time. Any alleged violation committed before the effective date of any such ordinance or amendment shall be governed by the applicable law in effect at the time of the alleged violation.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-260.7. - Personnel proceeding.

Where an employee of the County or other governmental entity subject to the jurisdiction of this division is alleged to have violated an ordinance within the jurisdiction of the Commission on Ethics and, based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the County or other governmental entity subject to the jurisdiction of this division the Commission on Ethics shall stay consideration of a complaint until the conclusion of the personnel proceeding. Nothing herein shall abridge employees' constitutional right to collective bargaining.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-260.8. - Statute of limitations.

No action may be taken on a complaint filed more than two (2) years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. Where the allegations are the subject of a personnel proceeding or where the complainant is required to exhaust his or her administrative remedies prior to filing a complaint, the statute of limitations shall be tolled until the termination of said personnel proceeding or the exhaustion of administrative remedies.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-260.9. - Advisory opinion.

Any person within the jurisdiction of the Commission on Ethics, when in doubt about the applicability or interpretation of any provision within the Commission on Ethics' jurisdiction to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission on Ethics with a request for an advisory opinion to establish the standard of public duty, if any. A person requesting an advisory opinion may withdraw the request at any time up to ten (10) days before the Commission on Ethics convenes a public meeting to consider the request. An advisory opinion shall be rendered by the Commission on Ethics on a timely basis, and each such opinion shall be numbered, dated and published.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11)

Sec. 2-260.10. - Appeals.

- (a) Any final order of the Commission on Ethics or hearing officer may be appealed by filing a petition for writ of certiorari in the Fifteenth Judicial Circuit Court in and for Palm Beach County. The Commission on Ethics shall provide the index and record on appeal when required by, and in accordance with, the Florida Rules of Appellate Procedure. A fee shall be charged by the Commission on Ethics for the preparation and transmission of the record on appeal to the court of appropriate jurisdiction. Such fee may be waived by the executive director if the party requesting the record is indigent.
- (b) Costs or fees may not be assessed against the Commission on Ethics or hearing officer in any appeal from a final order or advisory opinion issued by the Commission on Ethics or hearing officer pursuant to this division.
- (c) Unless specifically ordered by the Commission on Ethics or by a court of competent jurisdiction, the commencement of an appeal does not suspend or stay a final order or advisory opinion of the Commission on Ethics or hearing officer.

(Ord. No. 2011-010, § 1(Exh. 1), 5-17-11; Ord. No. 2015-032, pt. 6, 9-22-15)

Chapter 602 - JACKSONVILLE ETHICS CODE^[1]

Footnotes:

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Editor's note—Ord. 97-890-E, § 1, effective June 4, 1999, amended the Code by repealing former Ch. 602, §§ 602.101—602.114, and added a new Ch. 602. Former Ch. 602 pertained to offenses relating to official duties, and derived from Ord. 83-591-400, § 1, and Ord. 92-1458-1427, § 1.

State Law reference— Public officers, Fla. Const. Art. II, § 5; ethics in government, Fla. Const. Art. II, § 8; code of ethics, F.S. § 112.311 et seq.; bribery, F.S. § 838.015; unlawful compensation or reward for official behavior, F.S. § 838.016; offenses by public officers and employees, F.S. Ch. 839; allowing escape, F.S. § 843.09 et seq.

PART 1. - IN GENERAL

Sec. 602.101. - Legislative intent and declaration of policy; aspirational goals.

It is declared to be the policy of the City of Jacksonville that all officials, officers and employees of the City of Jacksonville and its independent agencies are public servants of the people and hold their positions for the benefit of the public, and that imposing ethical standards upon officials, officers, and employees of all of these agencies serves an important public purpose and serves the public welfare. These public servants shall perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees shall strive to meet the highest standards of ethics consistent with this Code, regardless of personal considerations, recognizing that maintaining the respect of the people must be their foremost concern. This Code shall serve not only as a basis for discipline of public servants who violate these provisions, but also as an aspirational guide for conduct.

The City of Jacksonville consolidated in 1968 in an attempt to create a more responsible government. Since that time, various provisions from state and local law have been created or adapted to guide the ethical behavior of local public servants. This Code coordinates existing laws, adds new provisions outlining guidelines for appropriate behavior, and includes new substantive provisions which impose higher standards and expectations on public servants. Although the people of Jacksonville have learned from and responded to past mistakes, there should be an aspiration to much higher standards.

Ethics is defined as the study of the general nature of morals and moral choices to be made by the individual in his or her relationships with others. Ethics is more than the avoidance of criminal behavior. It is a commitment for public servants to take individual responsibility in creating a government that has the trust and respect of its citizens. There needs to be a proactive approach in strengthening the emphasis on ethics and in guiding City officers and employees in upholding them. To preserve and maintain the integrity of responsible government and its decision-making process, the City of Jacksonville believes it is necessary that the identity, activities and expenditures of certain persons who engage in efforts to influence officers and employees of the City on matters within their official cognizance, either by direct communication or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. The provisions and requirements of this Code shall apply to every person who attempts to influence government action, unless such person is clearly exempt herefrom by an express provision hereof.

With the above in mind, the City of Jacksonville hereby adopts the following goals for the City ethics program:

- (a) Promulgate and implement a comprehensive approach to ethics and integrity in Jacksonville government.

- (b) Promote public confidence in public officers and employees and the ethical operation of government.
- (c) Promote and ensure compliance with local, state, and federal ethics law.
- (d) Centralize laws and regulations on the ethical conduct of City officers and employees.
- (e) Heighten knowledge and understanding of the laws and ethical principles which are the inherent obligations of City officers and employees.
- (f) Establish a system to train City officers and employees to encourage compliance with these standards and to also provide for periodic review, education and certification on ethics.
- (g) Enact an Ethics Officer system that will continue to evolve and update our City's ethics program and to provide guidance and education to all City departments.
- (h) Educate City officers and employees to avoid the appearance of impropriety.

Through this comprehensive code and the above-stated goals, the City will strive to elevate the level of ethics in local government, to provide honest and responsible service to the citizens of Jacksonville, and to maintain the confidence and trust of the public that this government serves.

(Ord. 97-890-E, § 1; Ord. 2008-839-E, § 1)

PART 2. - DEFINITIONS

Sec. 602.201. - Definitions.

For purposes of this Chapter, the words and phrases defined in this Section shall have the following meanings:

- (a) *Advisory body* means any board, commission, committee, council or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than one percent of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations. Any board, commission or authority which has the authority to appropriate money or to exercise quasi-judicial functions is specifically excluded.
- (b) *Advisory body official* means any person appointed to an advisory body.
- (c) *Appointed employee* means a person holding one of the following public positions:
 - (1) Executive branch employees, appointed by the Mayor or by Constitutional Officers and confirmed by the Council;
 - (2) Any other person appointed by the Mayor or by Constitutional Officers, except persons employed solely in maintenance, clerical, secretarial or similar positions; the Mayor, working in coordination with the Constitutional Officers shall, on July 1 of each year, provide a list of appointees who qualify as "Appointed Employees" to the Ethics Office.
 - (3) Any person appointed by the City Council, except persons employed solely in maintenance, clerical, secretarial, or similar positions; the Council Secretary shall, on July 1st of each year, provide a list of appointees who qualify as "Appointed Employees" to the Ethics Office.
 - (4) The executive director or chief executive officer of any agency.
- (d) *Appointed official* means any person appointed to any board, commission, or authority, but excludes any advisory body official.

- (e) *Business entity* means a corporation, partnership, limited partnership, limited liability corporation, limited liability partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual or trust, whether fictitiously named or not, doing business in the City.
- (f) *City* means the Consolidated City of Jacksonville.
- (g) *Civil service employee* means any individual, other than an individual exempted by Section 17.06, Charter of the City of Jacksonville, receiving compensation for services performed for the City, except individuals performing services as independent contractors.
- (h) *Compensation*, as used in Sections 602.801-803, Jacksonville Ordinance Code, means any payment received or to be received by a lobbyist for the performance of lobbying activities, whether the compensation is in the form of a fee, salary, retainer, forbearance, forgiveness, or other form of valuable recompense, or any combination thereof.
- (i) *Code* means the Jacksonville Ethics Code, Chapter 602, Ordinance Code.
- (j) *Controlling interest* means that the person owns or has an interest in a business entity sufficient to allow him or her to control its operations. In the absence of evidence to the contrary, (1) ownership of (i) ten percent of the voting stock in a corporation or (ii) any interest in a partnership, limited partnership (if this interest is other than as a limited partner with no legal right of control, management or operation), firm, enterprise, franchise or association or (2) the holding of an office in the corporate or business structure which is associated with the management and operation of the business entity, shall be deemed to be a controlling interest.
- (k) *Elected official* means any individual elected to any office created by the Charter of the City of Jacksonville.
- (l) *Employee* means any individual, other than an elected official, receiving compensation for services performed for the City except individuals who perform services as independent contractors.
- (m) *Ethics commission* means the Jacksonville Ethics Commission.
- (n) *Executive branch department* means a department of the City created in Chapters 20-40, Ordinance Code.
- (o) *Fair market value* means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which neither party is compelled to enter.
- (p) *Gift*
 - (1) *Gift* means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for his or her benefit or by any other means, for which equal or greater consideration is not given. Among other things, a gift may be:
 - (i) Real property;
 - (ii) The use of property;
 - (iii) Tangible or intangible personal property;
 - (iv) The use of tangible or intangible personal property;
 - (v) A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similar situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin;
 - (vi) Forgiveness of indebtedness;
 - (vii) Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging or parking;

- (viii) Food or beverage;
 - (ix) Membership dues;
 - (x) Entrance fees, admission fees, or tickets to events, performance or facilities;
 - (xi) Plants, flowers, or floral arrangements;
 - (xii) Services provided by persons pursuant to a professional license or certificate;
 - (xiii) Other personal services for which a fee is normally charged by the person providing the services;
 - (xiv) Any other similar service or thing having an attributable value not already provided for in this Section.
- (2) *Gift* does not include:
- (i) Salary, benefits, services, fees, commissions, or expenses associated primarily with the donee's employment or business, or provided to the donee as part of the donee's bona fide fact finding efforts on behalf of his or her agency, or provided to the donee by the City, and does not include gifts provided by the City or any governmental agency, to the extent that such gift is not inconsistent with the applicable provisions of Section 112.3148, Florida Statutes;
 - (ii) Contributions or expenditures reported pursuant to F.S. Ch. 106, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party;
 - (iii) An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service;
 - (iv) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;
 - (v) The use of a public facility or public property, made available by a governmental agency, for a public purpose;
 - (vi) An honorarium or an expense related to an honorarium event paid to a person or a person's spouse;
 - (vii) Transportation provided to an officer or employee by an agency in relation to officially approved governmental business.
 - (viii) Gifts provided directly or indirectly by a state, regional or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials, officers, or employees, and whose membership is primarily composed of elected or appointed officials, officers, or staff, to members of that organization or officials, officers, or staff of a governmental agency that is a member of that organization.
 - (ix) Gifts solicited or accepted from a relative, as that term is defined in F.S. § 112.312(21).
- (3) For purposes of Section (1) above, *intangible personal property* means property as defined in F.S. § 192.001(11)(b).
- (q) *Governmental action* means any administrative or legislative action other than an action which is ministerial or quasi-judicial in nature.
- (r) *Honorarium*
- (1) *Honorarium* means a payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee, or to any other person on his or her behalf, as consideration for:

- (i) A speech, address, oration or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media;
 - (ii) A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.
- (2) The term *honorarium* does not include:
- (i) The payment for services related to employment held outside the reporting individual's public position which resulted in the person becoming a reporting individual;
 - (ii) Any ordinary payment or salary received in consideration for services related to the reporting individual's or procurement employee's public duties;
 - (iii) A campaign contribution reported pursuant to F.S. Ch. 106;
 - (iv) The payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.
- (s) *Immediate family* means:
- (1) A spouse and
 - (2) Any dependent minor child;
- while "family" includes a spouse, parent, grandparent, grandchild, child, or sibling.
- (t) *Independent agency* means the Duval County School Board, the Jacksonville Transportation Authority, the Jacksonville Port Authority, the Jacksonville Aviation Authority, the Police and Fire Pension Fund, JEA, the Jacksonville Housing Authority, and the Water and Sewer Expansion Authority.
- (u) *Lobbying principal* means any person providing compensation to a lobbyist in consideration of his or her performance of lobbying activities, regardless of the technical or legal form of the relationship between the principal and the lobbyist. Principal specifically includes a person whose employee or agent lobbies on behalf of the employer or for the benefit, or in the name of the employer.
- (v) *Lobbyist* means any natural person who, for compensation seeks, or sought during the preceding 12 months, to influence the governmental decision making of an officer or employee of the City or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by an officer or employee of the City.
- (w) *Material interest* means the direct ownership of more than five percent of the total assets or capital stock of a business entity.
- (x) *Officer* means any person elected to any City office and any appointed official.
- (y) *Permitting employee* means any employee of the City who participates through decision, approval, disapproval, recommendation or preparation of a permit or permit application.
- (z) *Person* includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (aa) *Procurement employee* means any employee of the City who participates through decision, approval, disapproval, recommendation or preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in Section 287.012, Florida Statutes, and Chapter 126, Ordinance Code.
- (bb) *Public official* means:

- (1) Member of the City Council and Council-appointed aides;
 - (2) The Mayor and the Mayor's appointed assistants and aides;
 - (3) Chief Administrative Officer;
 - (4) Head of an Executive department, appointed by the Mayor and confirmed by the Council, which also includes the Executive Director of the Human Rights Commission;
 - (5) Deputy director of an executive department, appointed by the Mayor and confirmed by the Council;
 - (6) Chief of a division of an executive department, appointed by the Mayor and confirmed by the Council;
 - (7) Administrative Aide to the Mayor, appointed by the Mayor under § 6.06 of the Charter; and
 - (8) Personal secretary to the Mayor, appointed by the Mayor under § 6.06 of the Charter; and
 - (9) Any individual whose title under civil service is exempt or unclassified;
- (cc) *Reporting individual* means and includes:
- (1) Elected officials;
 - (2) Appointed officials;
 - (3) Appointed employees;
 - (4) Procurement employees.
 - (5) Permitting employees;
 - (6) Zoning employees.
- (dd) *Zoning employee* means any employee of the City who participates through decision, approval, disapproval, recommendation or preparation of a zoning matter or application.

(Ord. 97-890-E, § 1; Ord. 1999-796-E, §§ 1, 2; Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 2)

PART 3. - INSPECTOR GENERAL

Sec. 602.301. - Establishment; Office of Inspector General.

There is created an Independent Office of Inspector General. The organization and administration of the Office shall be independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(Ord. 2014-519-E, § 5)

Sec. 602.302. - Purpose.

The purpose of this Part is to establish a full-time Office of Inspector General in order to provide increased accountability, integrity, and oversight of the executive and legislative branches of the City of Jacksonville, as well as the City Constitutional Offices and Independent Authorities, to assist in promoting economies and efficiencies, improving agency operations, and deterring and identifying waste, fraud and abuse. This Part shall not apply to the Office of the State Attorney, and the Office of the Public Defender.

(Ord. 2014-519-E, § 5)

Sec. 602.303. - Duties and Functions.

The duties and functions of the Office of Inspector General shall include the authority, power and responsibility to:

- (a) Review and evaluate internal controls to protect the City's resources against waste, fraud, inefficiency, mismanagement, misconduct, and other abuses;
- (b) Audit, evaluate, investigate and review past and present the activities, accounts, records, contracts, procurements, change orders, grants, agreements, and other programmatic and financial arrangements undertaken by the City, and any other function, activity, process or operation conducted by the City; its officials and employees, contractors, their subcontractors and lower tier subcontractors, and other parties doing business with the City, and/or receiving City funds.
- (c) Conduct investigations, audits, contract oversight and reviews, issue reports, and make recommendations in accordance with applicable laws, rules, regulations, policies and past practices. Audits, investigations, inspections and reviews conducted by the Office of Inspector General will conform to professional standards for Offices of Inspector General such as those promulgated by the Association of Inspectors General; in accordance with current International Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors, Inc., or where appropriate, in accordance with generally accepted governmental auditing standards. The Office of Inspector General shall develop and adhere to written policies in accordance with Florida accreditation standards for Inspector Generals.
- (d) Receive full and unrestricted access to the records of the City's officials and employees, contractors, their subcontractors and lower tier subcontractors, and other parties doing business with the City and/or receiving City funds.
- (e) Receive, review, and investigate any complaints regarding City projects, programs, contacts or transactions;
- (f) Establish a "hotline" to receive complaints, from either anonymous or identified persons.
- (g) Review referrals from the Director of the Office of Ethics Compliance and Oversight.
- (h) Require all City Officials and employees, contractors, their subcontractors and lower tier subcontractors, and other parties doing business with the City and/or receiving City funds to provide statements; administer oaths; and, require the production of documents, records and other information. In the case of refusal by an official, employee or other person to obey a request by the Office for documents or for an interview, the inspector general shall have the power to subpoena witnesses, administer oaths, and require the production of documents.
- (i) In the case of refusal to obey a subpoena served to any person, the Inspector General may make application to any court of competent jurisdiction to order the witness to appear before the Inspector General and to produce evidence, or to give testimony relevant to the matter in question.
- (j) Where the Inspector General suspects a possible violation of any state, federal or local law, he or she shall notify the appropriate law enforcement agencies.
- (k) The Mayor or other City Officials shall promptly notify the Inspector General of possible mismanagement of a contract (misuse or loss exceeding \$5,000 in public funds), fraud, theft, bribery, or other violation of law which appears to fall within the jurisdiction of the Inspector General, and may notify the Inspector General of any other conduct which may fall within the jurisdiction of the Inspector General.
- (l) Engage in prevention and outreach activities, including but not limited to: develop public awareness to inform government officials and employees, as well as the general public, of the authority and responsibility of the Office.

- (m) Recommend remedial actions to be taken by the City/department to overcome or correct operating or maintenance deficiencies and inefficiencies that were identified by the Office.
- (n) Issue an annual report to the Ethics Commission, Mayor, the Council and deliver to the full City Council a verbal briefing on activities of the Office every six months.
- (o) Monitor implementation of the recommendations made by the Office.
- (p) Monitor, inspect and review, without limitation, the operations, activities, performance, and procurement processes including, but not limited to, bid specifications, bid submittals, activities of the contractor, their subcontractors and lower tier contractors, its officers, agents and employees, lobbyists, City Officials and staff, in order to ensure compliance with contract specifications and detect corruption and fraud.
- (q) Be notified in writing prior to any duly noticed public meeting of a procurement selection committee where any matter relating to the procurement of goods or services by the City is to be discussed.
- (r) Establish policies and procedures to guide functions and processes conducted by the Office.
- (s) Negotiate and execute agreements or memorandum of understanding with other public entities, including Independent Authorities or Constitutional Officers, which would authorize the Inspector General to provide independent oversight of any or all of the public entity's transactions, projects and operations, and to exercise any and all authority, functions and powers set forth in this chapter for the benefit of such public entity. Inclusive in the memorandum of understanding or agreement shall include a provision for fees to be paid to the City from the public entity in exchange for such benefits. Such rate shall be established by the Inspector General and agreed to by the other public entity to cover the cost of such benefit.
- (t) Exercise any of the powers contained in this chapter upon his or her own initiative.
- (u) The Office records related to active audits, investigations and reviews shall be confidential and exempt from disclosure, as provided by F.S. § 112.3188(2) and F.S. Ch. 119.
- (v) The Inspector General is considered the "appropriate local official" of the City for purposes of whistleblower protection provided by F.S. § 112.3188(1);
- (w) The Inspector General has the power to appoint, employ, and remove such other personnel as is deemed necessary for the efficient and effective administration of the activities of the office. All such appointees shall serve at the pleasure of the Inspector General and shall be exempt from civil service. The Inspector General shall not have been employed by the City of Jacksonville or any other governmental entity subject to the authority of the Inspector General Office during the two-year period immediately prior to the selection, unless such employment has been with the Office of Inspector General, City of Jacksonville, Florida.
- (x) To enforce this chapter by all means provided by law, including seeking injunctive relief in the Fourth Judicial Circuit Court in and for Duval County.

(Ord. 2014-519-E, § 5)

Sec. 602.304. - Inspector General Established; Qualifications.

The Inspector General shall head the Office of Inspector General and shall have a bachelor's degree or higher from an accredited college or university, and at least ten years of experience in government auditing, investigation, or prosecutorial or criminal justice administration, public administration or business administration. A master's degree or higher is preferred. Professional certifications such as certified inspector general, certified inspector general auditor or investigator, certified public accountant, certified internal auditor, or certified fraud examiner are recommended. The Inspector General shall not have been found guilty of or entered a plea of nolo contendere to any felony, or any misdemeanor involving the

breach of public trust. Unless a certification is already held, the Inspector General shall be required to obtain certification within 24 months of becoming the Inspector General.

(Ord. 2014-519-E, § 5)

Sec. 602.305. - Selection, Term, Contract, Removal and Vacancy.

- (a) *Selection.* The responsibility for selecting the inspector general shall be vested with the Inspector General Selection and Retention Committee, hereinafter, the "Committee."

The Committee shall be composed of seven members selected as follows:

- (1) The President of the Jacksonville City Council or his or her designee;
- (2) The State Attorney of the Fourth Judicial Circuit or his or her designee;
- (3) The Chair of the Jacksonville Ethics Commission or his or her designee;
- (4) The Chair of the Jacksonville TRUE Commission or his or her designee;
- (5) The Public Defender of the Fourth Judicial Circuit or his or her designee;
- (6) The Chief Judge of the Fourth Judicial Circuit or his or her designee; and
- (7) The Mayor of the City of Jacksonville or his or her designee.

The members of the Committee shall elect a chairperson who shall serve until the Inspector General is confirmed by the City Council. The Committee shall select the Inspector General with no less than four members approving the appointment from a list of qualified candidates submitted by the Jacksonville Employee Services Department. The Committee's selection is subject to confirmation by City Council.

- (b) *Term.* The Inspector General shall be appointed for a term of four years. The Committee shall convene at least six months prior to the end of the four-year contract term to determine whether to renew the contract of the Inspector General or to solicit new candidates.
- (c) *Contract.* The Chair of the Committee, in coordination with the Office of General Counsel, shall negotiate a contract of employment with the Inspector General. The Inspector General shall be an appointed employee exempt from civil service and shall be entitled to all rights and benefits normally accorded to appointed employees.
- (d) *Removal.* The Inspector General may be removed based on specified charges initiated by the Committee for the following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct. The Inspector General shall be provided sufficient advance notice of the reasons for the possible removal, and shall be given an opportunity to be heard on the charges. A decision of the Committee to remove the Inspector General must be approved by a minimum of four members of the Committee and be confirmed by the City Council.
- (e) *Vacancy.* In the event of a vacancy in the position of Inspector General, the Committee shall appoint an interim Inspector General until such time as a successor Inspector General is selected and assumes office. The Interim Inspector General shall meet all qualifications provided herein for the Inspector General.

(Ord. 2014-519-E, § 5)

Sec. 602.306. - Records Disclosure.

The Inspector General's final reports shall be public records to the extent that they do not include information that has been made confidential and exempt from release to the public by Florida or federal law.

(Ord. 2014-519-E, § 5)

Sec. 602.307. - Annual Budget.

The Mayor shall establish in the annual budget a separate activity for the Inspector General's Office similar to the budget presentation of a department of the City of Jacksonville. A minimum funding base is hereby established at \$400,000 annually.

(Ord. 2014-519-E, § 5)

Sec. 602.308. - Coordination with City Council Auditor's Office.

The Inspector General and the City Council Auditor shall mutually cooperate, subject to their respective standards on confidentiality, and where practicable, to avoid duplication of efforts in audit functions. The Inspector General and the Council Auditor shall obtain respective approval prior to an offer of employment of their respective employees.

(Ord. 2014-519-E, § 5)

Sec. 602.309. - Penalty Provisions.

It shall be unlawful and up to a \$500 fine for:

- (1) Any person to retaliate, punish, threaten, harass, or penalize any person for assisting, communicating or cooperating with the Inspector General; or
- (2) Any person to knowingly interfere, obstruct, impede or attempt to interfere, obstruct, or impede any investigation conducted by the Inspector General.

(Ord. 2014-519-E, § 5)

PART 4. - CONFLICTS OF INTEREST

SUBPART A. - CONFLICTING RELATIONSHIPS

Sec. 602.401. - Misuse of position, information, etc.

- (a) It is a violation of this Chapter for an officer or employee of the City or an independent agency to intentionally use his or her official position to secure, by coercion or threat, a special privilege or exemption for himself, herself or others, or to secure confidential information for any purpose other than official responsibilities.
- (b) It is a violation of this Chapter for an officer or employee of the City or an independent agency to intentionally or knowingly disclose any confidential information gained by reason of said officer or employee's position concerning the property, operations, policies, or affairs of the City or an independent agency, or use such confidential information for pecuniary gain.
- (c) It is a violation of this Chapter for an officer or employee of the City or an independent agency, to directly or indirectly lend or borrow over \$100, to or from a higher ranking or subordinate employee in the chain of command. It is also unlawful for an officer or employee of the City or an independent agency, to directly or indirectly lend or borrow over \$500 to or from anyone else in the officer or employee's department. This subsection shall not be applicable to lending between family members.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3; Ord. 2014-457-E, § 1)

Note— Former § 602.310.

Sec. 602.402. - Activities of officers and employees in matters affecting City.

- (a) It shall be a violation of this Chapter for an officer or employee of the City or an independent agency, otherwise than in the proper discharge of his or her official duties:
 - (1) To act as agent or attorney for prosecuting any claim against the City or an independent agency, or to receive any gratuity or any share of or interest in any claim against the City or an independent agency, in consideration of assistance in the prosecution of the claim;
 - (2) To act as agent or attorney for anyone before any unit of government in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the City or an independent agency is a party or has a direct and substantial interest;
 - (3) To act as agent or attorney for anyone before any unit of government in connection with a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge or other particular matter with respect to which he or she, or a unit of government of which he or she is a member, has acted upon in an official capacity either before or concurrently with his or her acting as agent or attorney.
 - (4) To testify as an expert witness in any proceeding before any body or court over the objection of the City or an independent agency.
- (b) Nothing in this Section shall prevent an officer or employee of the City or an independent agency, if not inconsistent with the faithful performance of his or her duties, from acting without compensation as agent or attorney for a person who is the subject of disciplinary or other personnel administrative proceedings in connection with those proceedings.
- (c) Nothing in this Section shall prevent an officer or employee of the City or an independent agency from acting, with or without compensation, as agent or attorney for his or her parents, spouse, child or any person for whom, or for any estate for which, he or she is serving as personal representative except in those matters in which he or she has participated personally and substantially as an officer or employee of the City or an independent agency, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which are the subject of his or her official responsibility; provided, that the official responsible for appointment to his or her position approves.
- (d) Other than the restrictions in paragraph (a)(4) above, nothing in this Section shall prevent an officer or employee of the City or an independent agency from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.
- (e) It shall be a violation of this Chapter for any person, who is a partner of an officer or employee of the City or an independent agency, knowingly to act as agent or attorney for anyone other than the City or an independent agency in connection with any administrative or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter involving a specific party or parties in which the City or an independent agency is a party or has a direct and substantial interest and in which the officer or employee of the City or an independent agency participates or has participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his or her official responsibility.
- (f) The provisions in subsection (a)(1), (2), (3), and (4) do not apply to advisory body officials.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3; Ord. 2014-457-E, § 1)

Note— Former § 602.401.

Sec. 602.403. - Moonlighting provisions.

- (a) No employee of the City shall have any other employment if that employment could reasonably be expected to impair independence in judgment or performance of City duties;
- (b) No employee of the City shall have any interest, financial or otherwise, direct or indirect, or engage in any business or activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest.
- (c) All full-time compensated officers or employees of the City shall disclose any private, non-City employment upon obtaining said employment or upon becoming an officer or employee, whichever occurs first.
- (d) All full-time compensated City officers or employees shall file the disclosure required in subsection (c) above with the City Ethics Office, copy to the City's Human Resources Chief and the officer or employee's department head, on a form approved by the Ethics Office.
- (e) All full-time compensated officers or employees of the City shall file an updated disclosure form whenever any of the information required by the form changes.
- (f) All appointed employees, except for those employees appointed by City Council, while full-time employees of the City, must obtain prior approval from the Mayor, or an individual designated by the Mayor, before accepting non-City employment or engaging in any work for an employer other than the City. All employees appointed by City Council, while full-time employees of the Council, must obtain prior approval from the Council President, or an individual designated by the Council President, before accepting non-City employment or engaging in any work for an employer other than the City. All employees appointed by a Constitutional Officer, while full-time employees of the Constitutional Officer, must obtain prior approval from the Constitutional Officer, or an individual designated by the Constitutional Officer, before accepting non-City employment or engaging in any work for an employer other than the City. A registry of appointed persons working non-City employment shall be maintained by the Constitutional Officers, the Mayor, and the Council Secretary or their designees; and shall be published on the City website, showing the employee, the outside employment, and the number of hours spent per year on such employment.
- (g) It shall be a violation of this Chapter for any officer or employee of the City to violate any of the provisions of this Section.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2014-457-E, § 1)

Sec. 602.404. - Soliciting future employment or compensation.

- (a) No employee of the City shall accept or solicit any other employment, if the employment could reasonably be expected to impair independence in judgment or performance of City duties;
- (b) No employee of the City shall solicit or accept compensation for any other employment, which compensation is to be paid while still an employee of the City, if the compensation could reasonably be expected to impair independence in judgment or performance of City duties.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Sec. 602.405 - Responsibility of contracts with former employer prohibited.

For a period of two years from ceasing employment with a former employer, no employee of the City shall negotiate, supervise or manage a contract with the employee's former employer.

(Ord. 2007-329-E, § 3)

Editor's note— Ord. 2007-329-E, § 3, amended the Code by repealing former § 602.405, and adding a new § 602.405. Former § 602.405 pertained to disclosure of noncity employment, and derived from Ord. 97-890-E, § 1.

Sec. 602.406. - Public official bid and contract disclosure.

- (a) A public official of the City or an independent agency, who knows that he or she has a financial interest in a bid to be submitted to their own agency or contract with their own agency, shall make disclosure in writing to the Procurement Division or using agency, whichever is receiving or has received the bid contract, (i) at the time that the bid or contract is submitted or subsequently no later than the close of the second, full, regular work day after the bid or contract is submitted (not including the day that the bid is submitted or any Saturday, Sunday or City holiday), or (ii) prior to or at the time that the public official acquires a financial interest in the bid or contract and such disclosure shall include but not be limited to the following: the bid number, the name of the public official and his or her public office or position, the name and address of the business entity in which the public official has a financial interest, and the position or relationship of the public official with that business entity.
- (b) It shall be a violation of this Chapter for a public official of the City or an independent agency, to fail or refuse to make the disclosure required in subsection (a) of this Section.
- (c) For purposes of this Section, bid means any telephone or written bid, written proposal, written quote or written offering of any kind or description whatsoever submitted for the purpose of being awarded or entering into a contract, purchase agreement, sales transaction, or other contractual agreement with the City under the provisions of the Procurement Code, Section 126.110, Ordinance Code, or with an independent agency of the City under its procurement code.
- (d) For purposes of this Section, contract means any contract, agreement, purchase order or other document used to evidence the existence of a purchase or sales transaction under the provisions of the Procurement Code, Chapter 126, Ordinance Code, or with an independent agency under its procurement code, or any subsequent change order or amendment to any such contract document.
- (e) For purposes of this Section public official means any one or more individuals who have been elected to any state or local office and which office has a geographical jurisdiction or description covering all of, more than but including all or a portion of, or less than but including a portion of, Duval County, Florida, any one or more individuals who have been appointed to the governing body of any independent agency of the City, or an appointed employee of the City.
- (f) For purposes of this Section, financial interest means any ownership interest of a public official in any proposer, bidder, contractor, or first tier subcontractor (that is, a person or business entity under contract to provide or providing capital improvement services, professional design services, professional services, labor, materials, supplies or equipment directly to the proposer, bidder, or contractor) whereby the public official knows that he or she has received or will receive any financial gain resulting from or in connection with the soliciting, procuring, awarding, or making of a bid or contract; provided, however, financial interest shall not include any interest in any increase in value of, or dividends paid on, any stock which is publicly traded on any public stock exchange.
- (g) The City, independent agency, or using agency, as the case may be, acting by and through its awarding authority may: (i) nullify and terminate the purchase and sales transaction and any contract arising from or in connection with any bid or contract involving failure or refusal to disclose a financial interest of a public official as described in this Section; (ii) declare the same null and void.
- (h) In addition to all other penalties described herein, any person or company that violates this Part shall be subject to withholding of payments under the contract, termination of the contract for breach, contract penalties, decertification and/or being debarred from or deemed nonresponsive to future City solicitations and contracts for up to three years (for less egregious violations, as determined by

the Chief, a period of probation may be proposed, any violations during which period will result in debarment of no less than three years). For purposes of this Chapter, the words and phrases defined in this Section shall have the following meanings:

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 3; Ord. 2011-232-E, § 3; Ord. 2014-457-E, § 1)

Note— Former § 602.453.

Sec. 602.407. - Obstruction of proceedings by City officers or employees.

It is a violation of this Chapter for an officer or employee of the City to:

- (a) Corruptly, or by threat of force, or by any intimidating letter or communication, to endeavor to influence, intimidate or impede any witness in any proceeding pending before any City agency or in connection with any inquiry or investigation being had by a City agency. However, this subsection is not intended to prevent the normal information gathering and witness interviewing process associated with the preparation for any filing, hearing, or trial.
- (b) With intent to avoid, evade, prevent or obstruct compliance in whole or in part with any investigative demand duly and properly made under any law or rule made pursuant to law, wilfully to remove from any place, conceal, destroy, mutilate, alter or by other means falsify any documentary material which is the subject of the demand.
- (c) Corruptly, or by threat of force, or by any intimidating letter or communication, to influence, obstruct or impede or to endeavor to influence, obstruct or impede the due and proper administration of the law in any proceeding before any City agency or in connection with any inquiry or investigation being had by any City agency.
- (d) Intentionally to disrupt, obstruct or impede or to endeavor to disrupt, obstruct or impede the conduct of any public meeting of any City agency.
- (e) Intentionally to do any act or attempt to do any act which any reasonable person would know would disrupt, obstruct or impede the conduct of any public meeting before any City agency.
- (f) To refuse to comply with the directives, requests or orders of any presiding officer of any public meeting of any City agency.
- (g) Intentionally do or act or attempt to do any act which any reasonable person would know would prevent any person from appearing or speaking before any City agency at any public meeting.
- (h) Intentionally refusing, after warning, to obey the rules of decorum before any City agency at any public meeting.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3; Ord. 2014-457-E, § 1)

Note— Former § 602.507.

Secs. 602.408—602.410. - Reserved.

Editor's note— Ord. 2007-329-E, § 3, amended the Code by repealing former § 602.408 in its entirety. Former § 602.408 pertained to approval required for noncity employment performed by appointed employees, and derived from Ord. 97-890-E, § 1. Former §§ 602.409 and 602.410 have been renumbered as §§ 602.1210 and 602.1211, respectively, by Ord. 2011-232-E, § 3.

Sec. 602.411. - Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.

- (a) It shall be a violation of this Chapter for any person, who was an officer or employee of the City or an independent agency, after his or her employment has ceased, knowingly to act as agent or attorney for anyone other than the City or an independent agency in connection with any administrative or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter involving a specific party or parties in which the City or an independent agency is a party or has a direct and substantial interest and in which he or she participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise while employed by the City or an independent agency.
- (b) It shall be a violation of this Chapter for any person, who was an officer or employee of the City or an independent agency, after his or her employment has ceased, to appear personally before any unit of government as agent or attorney for anyone other than the City or an independent agency in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter involving a specific party or parties in which the City or an independent agency is a party or has a direct and substantial interest and which was under his or her official responsibility as an officer or employee of the City or an independent agency at any time within a period of one year prior to the termination of his or her responsibility.
- (c) Nothing in subsection (a) or (b) shall prevent a former officer or employee of the City or an independent agency with professional, scientific or technological qualifications, from acting as agent or attorney or from appearing personally in connection with a particular matter in a professional, scientific or technological field if the head of the unit of government concerned with the matter shall certify in writing that the public interest would be served by the action or appearance by the former officer or employee.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 2; Ord. 2014-457-E, § 1)

Note— Former § 602.402.

Sec. 602.412. - Prohibited future employment.

It shall be a violation of this Chapter for any person, who was an officer or employee of the City or an independent agency, after his or her employment has ceased, to be employed by or enter into any contract for personal services, with a person or company who contracted with, or had a contractual relationship with the City or the independent agency, while the contract is active or being completed, or within two years of the cessation, completion, or termination of the person's or company's contractual relationship with the City or the independent agency, where (1) the contract with the City or the independent agency had a value that exceeded \$250,000, and (2) the officer or employee had a substantial and decision-making role in securing or negotiating the contract or contractual relationship, or in the approval of financial submissions or draws in accordance with the terms of the contract; except that this prohibition shall not apply to an employee whose role is merely as a review signatory, or to contracts entered into prior to January 1, 2008, or to contracts that have been competitively procured. With respect to this subsection a contract is competitively procured if it has been obtained through a sealed low bid award. A "substantial and decision-making role" shall include duties and/or responsibilities that are collectively associated with: (i) approving solicitation or payment documents; (ii) evaluating formal bids and proposals; and (iii) approving and/or issuing award recommendations for final mayoral, City Council, or independent agency approval. The contract of any person or business entity who hires or contracts for services with any officer or employee prohibited from entering into said relationship shall be voidable at the pleasure of the City or independent agency. This prohibition shall not apply to any former officer or employee after two years from cessation from City or independent agency employment. An officer or

employee subject to the prohibition of this Section who believes his or her role in the applicable contract does not create an ethical dilemma, may appeal to a committee of the City Council Rules Chair, the Chairperson of the Ethics Commission, and the Chief of Procurement for relief from this Section. Said appeal shall be considered and ruled upon within ten business days of a written request.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2014-457-E, § 1)

Note— Former § 602.404(c).

SUBPART B. - RESERVED^[2]

Footnotes:

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Editor's note—Ord. 2011-232-E, § 5, repealed former Subpart B, §§ 602.450, 602.452 and 602.455. Former Subpart B pertained to reporting requirements, and derived from Ord. 97-890-E, § 1; and Ord. 2007-329-E, § 3.

Secs. 602.450—602.455. - Reserved.

PART 5. - WHISTLEBLOWER PROTECTION

Sec. 602.501. - Legislative Findings and Purpose.

The City Council finds that it is in the best interests of the consolidated government of the City of Jacksonville, its constitutional officers and independent agencies to ensure that employees who have knowledge of unlawful activity, misfeasance or malfeasance by the City or its independent contractors report such knowledge to the appropriate authorities for investigation and corrective action. In order to encourage employees to report such information without fear of reprisal, it shall be the policy of the consolidated government of the City of Jacksonville to prohibit adverse action against an employee who has been properly designated as a whistleblower for disclosing such information to an appropriate official or agency.

Recognizing that the State of Florida has adopted its own Whistleblower's Act, F.S. §§ 112.3187, et seq. (1993) and that the State Act provides for the adoption of local procedures for administrative enforcement, the City Council intends that this Part be interpreted consistently with the State Act, as it may from time to time be amended.

(Ord. 2013-287-E, § 1)

Sec. 602.502. - Definitions.

As used in this Part:

- (1) *City* shall include all departments and agencies of the consolidated government of the City of Jacksonville, its constitutional officers and independent agencies and districts.

- (2) *Complainant* shall mean a person who submits a written complaint to a Whistleblower Official containing allegations consistent with the requirements of Section 602.504. A complainant is not a whistleblower until designated an official whistleblower pursuant to Section 602.505(1), Ordinance Code.
- (3) *Employee* shall mean a person who performs services for, and under the control and direction of, or who contracts with, the City for wages or other remuneration.
- (4) *Independent Agencies* shall include, Jacksonville Aviation Authority, JEA, Jacksonville Housing Authority, Jacksonville Port Authority and Jacksonville Transportation Authority.
- (5) *Local Government Authority*, as referenced in F.S. § 112.3187(8)(b), as amended from time to time, shall be designated for this Part to be the Executive Officer of the City or the Independent Authority as applicable to the employee.
- (6) *Whistleblower Official* shall mean the Inspector General's Office. For the purposes of this part, and pursuant to F.S. § 112.3187(6), the Inspector General's Office shall be the designated appropriate local official.
- (7) All other words or terms used in this Part shall have the same meaning as such words and terms have under the State Whistleblower's Act, F.S. § 112.3187, as may be amended from time to time.

(Ord. 2013-287-E, § 1; Ord. 2015-234-E, § 1)

Sec. 602.503. - Actions Prohibited.

- (1) The City shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this Part.
- (2) The City shall not take any adverse action that affects the rights or interests of an employee designated as a whistleblower in retaliation for the employee's disclosure of information under this Part.
- (3) The provisions of this Part shall not be applicable when an employee discloses information known by the employee to be false.

(Ord. 2013-287-E, § 1)

Sec. 602.504. - Nature of Information Disclosed.

The information disclosed under this Part must be in writing and allege one of the following:

- (1) Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the City or an independent contractor which creates and presents a substantial and specific danger to the public's health, safety or welfare; or
- (2) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty committed by an employee or agent of the City or an independent contractor, pursuant to F.S. § 112.3188.

(Ord. 2013-287-E, § 1)

Sec. 602.505. - To Whom Information Disclosed and Process to Designate Status of Whistleblower.

- (1) The information disclosed in writing under this Part must be disclosed to a Whistleblower Official. An employee who discloses such information and is officially designated as a whistleblower, pursuant to

F.S. § 112.3187, Florida Statutes, shall be entitled to the full protection of this Part and to the remedies and awards it provides.

- (2) Upon receipt of the written complaint, the Whistleblower Official shall determine whether the employee is a whistleblower pursuant to F.S. § 112.3189, as may be amended from time to time.
- (3) Pursuant to F.S. § 112.3188, as may be amended from time to time, the name and identity of the designated whistleblower shall remain confidential, unless the whistleblower waives this confidentiality; the Inspector General's Office shall establish procedures to safeguard the identities of these designated whistleblowers.
- (4) The Whistleblower Official shall also establish an investigative plan considering the factors found in F.S. § 112.3189, as may be amended from time to time. The information may be forwarded to the State Attorney's Office, the appropriate human resources personnel, the Ethics Commission (if any ethics code violation may have occurred), or any other appropriate agency. Prior to forwarding the information, the name and identity of the whistleblower shall be redacted.
- (5) When the investigation is complete, the report shall be forwarded to the complainant who has been officially designated as a whistleblower for any comments. The report is then a public record, but the identity of the whistleblower shall always remain confidential, per F.S. § 112.3188.
- (6) If the Whistleblower Official does not designate a complainant as a whistleblower, all documents shall be returned to the complainant with a statement as to why the complainant was not so designated and with an explanation that the complainant is not designated as a whistleblower and cannot rely on the provision of law in this Part.

(Ord. 2013-287-E, § 1; Ord. 2015-234-E, § 1)

Sec. 602.506. - Employees and Persons Protected.

- (1) This Part protects employees and persons designated official whistleblower pursuant to Section 602.505(1), Ordinance Code, who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by the City, or by any state agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; who refuse to participate in any adverse action prohibited by this Part; or who are otherwise protected by the State Whistleblower's Act. The provisions of this Part may not be used by employees while they are under the care, custody, or control of the state or county correctional system, or after their release from the care, custody or control of the state or county correctional system, with respect to circumstances that occurred during any period of incarceration.
- (2) No remedy or other protection under this Part applies to any person who has committed or intentionally participated in committing a violation or suspected violation for which protection under this Part is being sought.
- (3) It shall be an affirmative defense to any complaint brought pursuant to this Part that the adverse personnel action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this Part.

(Ord. 2013-287-E, § 1)

Sec. 602.507. - Remedies.

- (1) If a disclosure under this section results in alleged retaliation by an employer, as defined by § 602.503, Ordinance Code, the whistleblower may file a written complaint within 60 days after the retaliatory action prohibited by this section is alleged to have occurred. The complaint shall be filed with the Whistleblower Official who shall then acknowledge its receipt within five days.

- (2) The Whistleblower Official shall forward the complaint to the Civil Service Board to determine whether any retaliatory action has taken place. The Civil Service Board shall make finding of facts, conclusion of law and recommendations.
- (3) The Civil Service Board shall forward its finding of facts, conclusion of law and recommendations to the appropriate Local Government Authority as defined in Section 602.502(5), Ordinance Code, for a final decision by the Local Government Authority.
- (4) Within 180 days after the entry of a final decision by the Local Government Authority, the employee may bring a civil action in any court of competent jurisdiction.

(Ord. 2013-287-E, § 1)

Sec. 602.508. - Relief.

In any case brought under this Part the relief must consider all remedies pursuant to F.S. § 112.3187(9).

(Ord. 2013-287-E, § 1)

Sec. 602.509. - Reporting Employee's Award Program.

For the purposes of this section, and in addition to the definition contained in Section 602.502(3), "employee" shall also mean a person who performs work for, and under the control and direction of, any business, corporation or other entity under contract with the City for the provision of any good or service.

Provided that an application is filed within six months from the date of the final report of the Whistleblower Official, an employee who has been designated an official whistleblower and who reported information pursuant to this Part which results in the City's recovery of public funds in excess of net \$50,000 shall be eligible to receive an award up to ten percent of the net amount recovered not to exceed \$100,000.00. The precise amount of any such award shall be set by the City Council in accordance with the following procedure: The President of the City Council shall form a committee of three persons, including at least two Council Members, who shall conduct a hearing for the purpose of recommending to the Council whether an award should be granted and the amount of any such award. The committee's recommendation shall include consideration of:

- (1) The significance of the information revealed to the City;
- (2) The likelihood that the City would have learned of the information if the employee had not reported it; and
- (3) If the information was reported by more than one employee, whether and how the award should be apportioned.

The committee's written recommendation shall be submitted to the full City Council whose decision as to whether an award should be granted and the amount thereof shall be final.

(Ord. 2013-287-E, § 1)

Sec. 602.510. - Existing Rights.

This Part shall not be construed to diminish the rights, privileges or remedies of any employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies provided by F.S. § 447.401 shall also apply to complaints under this Part.

(Ord. 2013-287-E, § 1)

Sec. 602.511. - Rules and Procedures.

The Inspector General's Office is authorized to promulgate such rules and procedures and written forms necessary to effectuate the intent of this part.

(Ord. 2013-287-E, § 1; Ord. 2015-234-E, § 1)

PART 6. - OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT

SUBPART A. - CREATION AND ORGANIZATION

Sec. 602.611. - Office of Ethics, Compliance and Oversight; Creation.

- (a) There is hereby created, pursuant to Section 1.203 of the Charter of the City of Jacksonville, the Office of Ethics, Compliance and Oversight, the purpose of which is to coordinate and handle Citywide ethics training, compliance, and oversight issues. In furtherance of the above, the Office shall ensure the investigation of all situations involving fraud, waste, corruption and conflicts of interest by City Officials and employees, and to staff the Jacksonville Ethics Commission. The organization and administration of the office shall be independent to assure that no external interference or influence adversely affects the independence and objectivity of the office.
- (b) The Office of Ethics, Compliance and Oversight is an independent office which is:
 - (1) Independently budgeted and accounted for; and
 - (2) Whose executive director is appointed by the Jacksonville Ethics Commission subject to Council confirmation; and
 - (3) Whose budget is recommended to the Mayor by the Director of the Office of Ethics, Compliance and Oversight and approved by Council.

(Ord. 2011-197-E, § 1; Ord. 2012-85-E, § 5)

Sec. 602.612. - Organization.

(a) *Staffing.*

- (1) *General staffing.* The Office of Ethics, Compliance and Oversight shall be staffed, at the discretion of the Ethics Commission, and subject to available funding, with a director and such other executive positions approved by Council, each of whom must be knowledgeable and experienced in management, leadership, auditing, oversight, investigation, training, contract administration, and clerical functions deemed necessary to the proper functioning of the office.
- (2) *Director.*
 - (i) *Appointment.* The director of the Office of Ethics, Compliance and Oversight shall be a registered Duval County voter at the time of hire, or shall relocate to Duval County within six (6) months of hire, and shall be appointed for a term of three (3) years by the Jacksonville Ethics Commission, and the appointment shall be confirmed by Council. The Director shall be exempt from civil service.
 - (ii) *Separation.* The director may be separated from employment by the Jacksonville Ethics Commission before the completion of his or her term for cause, which shall include misfeasance, malfeasance, or conduct unbecoming or detrimental to the performance of his or her position or the integrity of the Office of Ethics, Compliance and Oversight.

Separation shall only be effected at a public meeting, and only after the employee has been provided a minimum of 60 business days written notice of the basis for cause and has been provided an opportunity to be informally heard at the public meeting. The 60-day written notice shall be reduced to 15 days written notice in the event of the director's arrest for a felony.

- (iii) *Vacancy.* In the event of a director vacancy, the position shall be filled temporarily by a non-confirmed appointment by the Ethics Commission for a period not to exceed 180 days, and then as provided for in subsection (i) above.
 - (3) *Volunteers.* The Director may utilize the services of such volunteer personnel who have agreed to perform services without compensation, in accordance with the volunteer policies of the Division of Human Resources. Such volunteer personnel shall act with such authority as granted by the Ethics Commission.
- (b) *Administrative support.*
- (1) *Additional staffing.* The Director of the Office of Ethics, Compliance and Oversight shall have the power to appoint, employ, and remove such other personnel as is deemed necessary for the efficient and effective administration of the activities of the office, subject to the budget approval of City Council. All such appointees shall serve at the pleasure of the Director and shall be exempt from civil service.
 - (2) *Supplemental support.* To the extent that additional support is necessary beyond that which is funded by Council, administrative support shall be provided by the Office of General Counsel, and investigative support shall be provided both by the Council Auditor's Office and the Office of General Counsel, all at the request of the Ethics Commission.
 - (3) *Legal Support.* Pursuant to the Charter, the Office of General Counsel shall provide legal services to the Office of Ethics, Compliance and Oversight. Recognizing that legal conflicts may present themselves from time to time, special counsel may be retained in accordance with Section 108.505 Ordinance Code.
- (c) *Qualifications.* The Executive Director shall have a bachelor's degree or higher from an accredited college or university, with a preference for an advanced degree in applied ethics, law, or public administration; at least ten years experience in related activities such as administration of an ethics office or activity, ethics related legal work, criminal justice administration; and administrative experience.

(Ord. 2011-197-E, § 1)

SUBPART B. - DUTIES

Sec. 602.621. - Duties.

The Office of Ethics, Compliance and Oversight, through its executive officials, shall have authority to:

- (a) Encourage compliance with the spirit and letter of ethics laws, and provide advice and training to departments and agencies;
- (b) Develop policies, programs and strategies to deal with all ethics-related matters;
- (c) Develop training and education programs with assistance of the General Counsel and City training personnel;
- (d) Organize a Citywide Ethics Coordination Council with one representative each from the executive branch, the legislative branch, each constitutional officer and each independent

- agency, with the purpose of avoiding duplication of ethics resources, sharing best practices and training, evaluating risk areas and devising plans to eliminate any City fraud, waste or corruption;
- (e) Review periodically this Code and other applicable laws and regulations and recommend appropriate changes to this Code;
 - (f) Administer a confidential "Hotline" for the discovery of government waste, fraud, and ethics violations;
 - (g) Respond to requests for assistance from all public officers and employees subject to this Ethics Code;
 - (h) Act as the executive officer of the Jacksonville Ethics Commission, responsible for its administration and operation;
 - (i) Work with the human resources and procurement offices and other appropriate divisions to integrate ethics into procurement, hiring, retention and promotion policies of the executive branch of the City and to share these practices with the Ethics Coordination Council;
 - (j) Lead, direct, and be responsible for the development of the Citywide ethics plan and report to be created by the Ethics Coordination Council;
 - (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 relevant to its authorized investigations and to receive full access to the records of all elected and appointed City Officials and employees, and departments, divisions, agencies and contractors and other persons and entities doing business with the City and/or receiving City funds, that is not otherwise deemed confidential by law, regarding any such contracts or transactions with the City. All elected and appointed City and county officials and employees, and contractors and other parties doing business with the City and/or receiving City funds shall fully cooperate with the Office of Ethics, Compliance and Oversight.
 - (m) Where possible violations of any state, federal or local law are suspected, to notify the appropriate civil, criminal or administrative agencies, and assist those agencies as appropriate. In the case of a possible violation of a human resource rule, regulation or policy governing a City employee, the official shall also notify the City administrator and the head of the department for which the employee works, unless to do so would otherwise jeopardize an ongoing investigation.
 - (n) Personnel within the office shall not interfere with any ongoing criminal investigation or prosecution of the state attorney or the U.S. Attorney for the Middle District of Florida. When the state attorney or the U.S. Attorney for the Middle District of Florida has explicitly notified the office in writing that the investigation is interfering with an ongoing criminal investigation or prosecution, then all investigative activities shall be suspended.
 - (o) Respond to requests for assistance from all public officers subject to this Ethics Code.

(Ord. 2011-197-E, § 1)

Sec. 602.622 - Department/Independent Agency Ethics Officers.

- (a) The Mayor, the Council President, each constitutional officer, and each executive director of the independent agencies of the City shall designate one of their employees as an "Ethics Officer." Each Ethics Officer's duties are in addition to his or her principal operational role unless there is an approved budget for a separate position dealing exclusively with ethics and oversight functions. Specific responsibilities assigned to these Ethics Officers include, but are not limited to the following:

- (1) Conduct periodic meetings with senior management, boards and employee groups to assess risk areas and to provide advice on ethics issues and to work to instill an ethical culture in their agency;
 - (2) Assist their department head or senior management in the development of an overall internal ethics plan;
 - (3) Participate in a Citywide Ethics Coordination Council, which shall identify risks, recommend programs to implement national best practices to combat fraud, waste and corruption, and provide department and agency reports to be included in the Citywide ethics.
 - (4) Assist in the receipt of ethics, fraud, waste, and corruption complaints from employees and the general public, and to assure that such complaints and information are directed to an appropriate authority, in a manner that best protects the complaining parties. When an Ethics Officer is in doubt about the relief available within a chain of command, or the consequences of reporting within the chain of command, the Ethics Officer shall have a duty to report complaints to the Director of the Office of Ethics, Compliance and Oversight.
- (b) In addition to those Ethics Officers set forth in subsection (a) above, there may be appointed within the executive branch additional department ethics officers (DEOs) to assist the Ethics Officer in the duties required by this section at the department or division level. These duties shall be in addition to the principal operational role of the department ethics officer.

(Ord. 2011-197-E, § 1)

Sec. 602.623. - Confidentiality/Whistleblowing.

- (a) It is the policy of the City that employees, ethics officers, administrators, complainants, whistleblowers and innocent parties shall be protected to the maximum extent of the law.
- (b) All records of complaints and investigations shall remain confidential to the extent authorized by F.S. 112.3188 (2) and any other state law so applicable.
- (c) In furtherance of the City policy set forth herein, the director and such authorized personnel in the Office of Ethics, Compliance and Oversight are deemed "safe havens" and whistleblower report-to authorities for the receipt of information and complaints related to ethics, waste, fraud, and corruption. A complainant or ethics officer shall not be penalized or retaliated against in any way for disclosing information to the Office of Ethics, Compliance and Oversight. The director shall take all such action as is appropriate under the circumstances to address the allegations disclosed to them.

(Ord. 2011-197-E, § 1)

Sec. 602.624. - Reporting of violations by Council Auditor.

The Council Auditor, in addition to the reporting requirements of Section 102.103, Ordinance Code, shall, when he or she has reasonable grounds to believe that a violation of the City's Ethics Code has occurred, report the facts relating to the probable violation in writing to the General Counsel and the City's Director of Ethics, Compliance, and Oversight.

(Ord. 2012-85-E, § 5)

SUBPART C. - INDEPENDENT AUTHORITIES

Sec. 602.631. - Investigations related to officers and employees of independent agencies.

In accordance with section 1.202 of the Charter, officers and employees of independent agencies are subject to the jurisdiction of the Ethics Code. The Office of Ethics, Compliance and Oversight shall defer handling any investigations when the applicable independent agency has an established ethics program with investigatory functions and is appropriately undertaking the investigation. Nothing contained herein shall limit an independent agency from seeking cooperation and assistance from the Office of Ethics, Compliance and Oversight and such assistance being provided.

(Ord. 2011-197-E, § 1)

PART 7. - GIFTS AND HONORARIA

Sec. 602.701. - Prohibited receipt of gifts.

- (a) No officer or employee of the City or of an independent agency, or any other person on his or her behalf, shall knowingly accept, directly or indirectly, any one gift with a value greater than \$100 or an accumulation of gifts in any one calendar year that exceeds \$250 from any person or business entity that the recipient knows is:
- (1) A lobbyist who lobbies the recipient's agency or executive department;
 - (2) Any principal or employer of a lobbyist who lobbies the recipient's agency or executive department;
 - (3) A person or business entity which is doing business with, or has made written application within the previous six months, to do business with an agency of which he or she is an officer or employee;
 - (4) A person or business entity which is subject to the permit approval of an agency of which he or she is an officer or employee.

For purposes of the \$250 annual accumulation of gifts, gifts of food and beverage not exceeding \$25 on any given day shall not be included.

- (b) No officer or employee of the City or of an independent agency, or any other person on his or her behalf, shall knowingly accept, directly or indirectly, any one gift with a value greater than \$100, or an accumulation of gifts in any one calendar year that exceeds \$250 dollars, from any person or business entity, when the gift is given as a result of the officer or employee's official position, or as a result of the business relationship developed as a result of the officer or employee's position or employment. For purposes of the \$250 annual accumulation of gifts, gifts of food and beverage not exceeding \$25 on any given day shall not be included.
- (c) The Mayor and the Council Secretary shall identify a mayoral and a council representative who will be officers or employees responsible for the receipt of and distribution of business-related gifts to the City through its executive and legislative branches. The chief executive officer of an independent agency shall identify a designee or designees who will be officers or employees responsible for the receipt of and distribution of business-related gifts to the independent agency. Registries shall be established wherein gifts will be identified by date, donor, type, purpose, and City or independent agency officer or employee carrying out the purpose; and shall be posted on a City or independent agency internet site within 90 days of receipt of the gift. (Examples of gifts covered by this subsection include, but are not limited to, tickets or travel to events where City or independent agency official or employee presence is requested, or travel and per diem to inspect products and equipment, or gifts of personal property to the City or independent agency.)
- (d) It shall be a violation of this Chapter for any officer or employee of the City or an independent agency, or any person on his or her behalf, to violate subsections (a) and (b) of this Section.

(Ord. 97-890-E, § 1; Ord. 2002-117-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 4; Ord. 2014-233-E, § 1; Ord. 2014-457-E, § 1)

Sec. 602.702. - Prohibited offering of gifts.

It is a violation of this Chapter for a lobbyist, or principal or employer of a lobbyist, or any person or entity listed in Section 602.701, to knowingly offer a gift to an officer or employee of the City or an independent agency which would cause a violation of Section 602.701 if accepted.

(Ord. 97-890-E, § 1; Ord. No. 2002-117-E, § 1; Ord. 2008-839-E, § 4; Ord. 2014-457-E, § 1)

Sec. 602.703. - Receipt or charge of commissions or gifts for official transactions.

- (a) It shall be a violation of this Chapter for an officer or employee of the City or an independent agency to charge, be the beneficiary of or receive, directly or indirectly, any fee, commission, gift, gratuity, loan or other consideration for or in connection with any transaction or business done, performed or rendered in the course of his or her official duties and responsibilities. This prohibition is not intended to prohibit inconsequential food or flower gifts delivered to the worksite at holidays, or in appreciation for courtesy and efficiency.
- (b) In addition to any penalty prescribed by law, the City or an independent agency shall be entitled to recover from the officer or employee the amount of the fee, commission, gift, gratuity, loan or other consideration. This recovery may be imposed as a fine by the court adjudicating the person guilty or in a civil action in the name of the City or an independent agency.
- (c) This Section shall not apply to officers or employees who are entitled by law to receive a fee or commission for their services.
- (d) An employee who receives a gift under circumstances which are unauthorized in accordance with this Section, shall return the gift to the sender. If the gift is of food or flowers wherein it is infeasible to return, shall place the gift in a location wherein it can be enjoyed by a larger group of employees or donated to an appropriate non-profit organization in the name of the sender, with notice thereof to the donor. An employee handling a gift in accordance with this subsection shall not be deemed as having committed a violation.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3; Ord. 2014-457-E, § 1)

Note— Former § 602.303.

Sec. 602.704. - Honoraria.

- (a) A reporting individual is prohibited from soliciting an honorarium which is related to the reporting individual's public office or duties.
- (b) A reporting individual is prohibited from knowingly accepting an honorarium from a political committee or committee of continuous existence, as defined in F.S. § 106.011, from a lobbyist or from the employer, principal, partner, or firm of such a lobbyist.
- (c) A political committee of continuous existence, as defined in F.S. § 106.011, a lobbyist or the employer, principal, partner or firm of a lobbyist is prohibited from giving an honorarium to a reporting individual.
- (d) A person who is prohibited by subsection (c) from paying an honorarium to a reporting individual but who provides a reporting individual or reporting individual and his or her spouse, with expenses related to an honorarium event, shall provide to the reporting individual, no later than 60 days after the honorarium event, a statement listing the name and address of the person providing the

expenses, a description of the expenses provided each day, and the total value of the expenses providing for the honorarium event.

- (e) A reporting individual who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (c) from paying an honorarium to a reporting individual shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the date of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for such expenses received during the previous calendar year. The reporting individual shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (d) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. Such attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed in compliance with state law. Where this Chapter requires a person to file a report and that person is not required to file a report pursuant to state law, the report shall be on a form which is substantially the same in content as that required by state law, and the form shall be submitted annually, by July 1, to the Human Resources Chief.

(Ord. 97-890-E, § 1)

Editor's note— Ordinance 2007-839-E, § 18, authorized updated department/division names pursuant to reorganization.

PART 8. - LOBBYING

Sec. 602.801. - Registration of lobbyists; registration statements.

- (a) For purposes of the registration provisions of this Part, lobbying is defined as the attempt to influence the governmental decision making of an officer or employee of the City, or of an independent agency, or the attempt to encourage the passage, defeat, or modification of any legislation, proposal or recommendation of the City or of an independent agency, or of an officer or employee of the City or of an independent agency. Lobbying shall not include the following:
 - (1) Legal or settlement discussions directed toward an attorney for the City or of an independent agency; or
 - (2) Participation in a quasi-judicial proceeding involving the City or an independent agency (except that all ex-parte communication to a decision maker or non-lawyer City or independent agency employee constitutes lobbying).
- (b) Each person who lobbies, for compensation as a lobbyist, any officer or employee of the City, or of an independent agency, shall, prior to commencement of lobbying activities on any issue, register his or her name, the person or entity for which the lobbying is taking place (principal), and the purpose and issue for which the lobbying is taking place, with the City's Council Secretary. Registration may be for an annual period or for a lesser, stated period, but no person may lobby unless he or she is first registered. A person may register as a lobbyist on his or her own volition or he or she may be required by any officer or employee to register before he or she addresses such officer or employee if he or she is not already registered with the Council Secretary. The Council Secretary shall maintain a book in which the registration statements and oaths submitted by lobbyists shall be entered, together with corrections and amendments as herein authorized and required. If a person shall cease to be a lobbyist, his or her registration statement and oath shall be removed from the book of

active lobbyists and shall be placed in a book of inactive or former lobbyists; but no person may have a registration statement and oath on file in both books.

- (c) (1) When a person registers as a lobbyist, he or she shall file a registration statement and oath in the form developed from time to time by the Office of General Counsel, in consultation with the City Ethics Officer, the Council Secretary and the Ethics Commission. The Council Secretary, in consultation with the Office of General Counsel, is authorized to reject or strike non-conforming registrations. No person may commence or continue lobbying activity related to a rejected or stricken registration statement until such time as a corrected registration statement is submitted and accepted by the Council Secretary.
- (2) A registration statement may be corrected or amended at any time by the registrant by the submission of a subsequent registration statement and oath setting forth the correcting or additional information that the registrant wishes to place on file. A statement that the subsequent registration statement corrects or amends the previous registration statement shall be inserted in the body of the statement, above the lobbyist's signature, noting the substance of the correction or amendment. A registration statement shall be corrected or amended if any material fact concerning the purpose for which or persons on whose behalf the registrant filed the registration statement changes.
- (3) A registration statement and oath that is not renewed by the end of the period for which it is filed shall expire and may not thereafter be relied upon by the lobbyist in support of lobbying activities.
- (d) The following persons shall not be required to register as lobbyists:
 - (1) A public official, City or independent agency employee or salaried employee of a public agency acting in his or her official capacity or in connection with his or her job responsibilities or as authorized or permitted to lobby pursuant to a collective bargaining agreement;
 - (2) A person who only addresses the Council or independent agency board during the "public comment" portion of its meeting agenda;
 - (3) A person who appears at the specific request or under compulsion of the Council or a Council committee; or of the board or committee of the board of an independent agency;
 - (4) Expert witnesses and other persons who give factual testimony about a particular matter or measure, but do not advocate passage or defeat of the matter or measure or any amendment thereto;
 - (5) A person, not exempt under paragraphs (1) through (4) and otherwise meeting the definition of a lobbyist who received no compensation as a lobbyist;
 - (6) A Principal or an officer or employee of a principal who performs lobbying activities as part of his or her assigned duties.
- (e) This section is limited to registration issues only, and nothing contained in this section shall be interpreted to limit the gift and honoraria solicitation and acceptance prohibitions set forth in Part 7 of this Chapter.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-470-E, § 2; Ord. 2008-839-E, § 5)

Sec. 602.802. - Restricted activities.

No information obtained from registration statements required by Section 602.801, Jacksonville Ordinance Code, or from lists compiled from such statements, shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fund-raising affair or for commercial purposes.

(Ord. 97-890-E, § 1)

Sec. 602.803. - Fee disclosure.

A lobbyist who attempts to persuade or influence a Council Member, a Council committee, or the Council as a whole; or an independent agency board member, committee, or the independent agency as a whole; on any project, contract, development, ordinance, resolution, or agenda item, shall, prior to commencing lobbying efforts, file with the City's Council Secretary a disclosure revealing whether the lobbyist has a financial interest in the contract, development or project that extends beyond its approval, and the percent of that interest.

(Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 5)

Editor's note— Ord. No. 2007-329-E, § 3, amended the Code by adding a new § 602.803, and renumbering former § 602.803 as a new § 602.804.

Sec. 602.804. - Penalties.

A person who, knowingly and willfully:

- (a) Being at the time required to register as a lobbyist and not exempt from registration, fails or refuses to do so; or
- (b) Having registered as a lobbyist, fails or refuses to properly file with the Council Secretary a corrected or amended registration statement when required by Section 602.801(c) to do so; or fails to disclose on the registration statement any information required by this Part;
- (c) Continues to act as a lobbyist after the expiration of the period for which the registration statement was filed with the Council Secretary; or
- (d) Commits, or procures or acquiesces in the commission of, any violation of this Part;

shall be guilty of a class D offense against the City.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-470-E, § 2)

Note— See editor's note, § 602.803.

PART 9. - JACKSONVILLE ETHICS COMMISSION^[3]

Footnotes:

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Editor's note—Ord. 2011-167-E, §§ 1, 2, amended the Code by repealing former Pt. 9, §§ 602.901—602.904, and adding a new Pt. 9. Former Pt. 9 pertained to similar subject matter, and derived from Ord. 97-890-E, § 1; Ord. 2001-1092-E, § 1; Ord. 2005-1462-E, § 1; and Ord. 2007-329-E, § 3.

SUBPART A. - CREATION AND ORGANIZATION

Sec. 602.911. - Jacksonville Ethics Commission; Creation.

There is hereby created, pursuant to Section 1.202 of the Charter of the City of Jacksonville, the Jacksonville Ethics Commission, the purpose of which is to provide a local forum for consideration and investigation of ethical problems and issues.

(Ord. 2011-167-E, § 2)

Sec. 602.912. - Membership, terms, appointment.

- (a) *Number; terms.* The Commission shall be composed of nine members each of whom shall be registered voters of Duval County for six months prior to the introduction of their nomination for confirmation, and who shall be appointed to serve for fixed January 1 to December 31 three-year terms. The terms of the members shall be so staggered that the terms of no more than three members shall expire in any one year. No person shall serve more than two consecutive full terms. If, because of a delay in appointment, a member serves less than two years during the term, then in that event, the term shall not have been considered a full term for purposes of reappointment. A member made ineligible by reason of service of two consecutive full terms may be appointed for another term following a waiting period of three years.
- (b) *Qualifications.* Except as provided for in subsection (d) below, each member shall have one or more of the following qualifications: an attorney; a certified public accountant with forensic audit experience; a former elected official; a former judge; a higher education faculty member or former faculty member with experience in ethics; a former law enforcement official with experience in investigating public corruption; a corporate official with a background in human resources or ethics; a former board member of a City of Jacksonville independent authority; a former government executive with ethics experience.
- (c) *Limitations.*
 - (1) No member shall be an elected or appointed official, or an employee of the City of Jacksonville or any of its independent agencies, or of any governmental agency subject to the authority of the Commission. No member shall be an active judge, an assistant state attorney or assistant public defender, or an officer of a political party.
 - (2) Ethics Commission members shall not use their position in any manner that decreases public trust or gives the appearance of impropriety. The Ethics Commission shall establish internal operating rules or bylaws to effectuate this provision.
 - (3) Any Commission member who files to be a candidate for public office shall immediately resign from the Commission and their position shall be deemed vacant upon filing.
 - (4) No individual while a member of the Commission shall allow his or her name and title as a commission member to be used by a campaign in support of or against any candidate for public office. Nothing herein shall preclude a member from signing a petition in support of or against any referendum, ballot question or candidate. This rule does not prohibit any campaign contributions by a member, or a member supporting any candidate in his or her own name.
- (d) *Selection.* Each of the following persons or entities shall make an appointment of one of six Commission members whose qualifications are set forth above, to wit: the Mayor, the President of the Council, the Sheriff, the Chief Judge for the Fourth Judicial Circuit, the State Attorney for the Fourth Judicial Circuit, and the Public Defender for the Fourth Judicial Circuit. Three Commission members whose only qualifications are that they have been registered voters in Duval County for six months prior to the introduction of their nomination for confirmation, shall be appointed by the Ethics Commission. All appointments should be made within 30 days of a vacancy occurring. All appointees shall be confirmed by Council but shall serve until Council confirmation or denial.

(Ord. 2011-167-E, § 2)

SUBPART B. - POWERS AND DUTIES

Sec. 602.921. - Duties and powers.

The Jacksonville Ethics Commission (Commission) shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The Commission shall be empowered to review, interpret, render advisory opinions and enforce Chapter 602, *Ordinance Code*; and, in accordance with Section 1.202 of the Charter, to exercise the following powers and duties:

- (a) The Commission is authorized to receive, and to investigate and issue findings with regard to any sworn written complaint alleging a violation of this Chapter or by a complaint initiated by a minimum vote of six members of the Commission alleging a violation of this Chapter. All complaints and records shall be confidential as allowed by Section 112.324, Florida Statutes, or any other applicable state law. In support of this power, the Commission is authorized to establish an ethics "hotline" to receive tips and information, each of which shall be treated with confidentiality as authorized by Florida law. The General Counsel, with the assistance of all appropriate and available offices of the City, shall assist the Ethics Commission in the investigation of complaints. The Ethics Commission may refer matters brought to its attention to the State Attorneys' Office or the Florida Commission on Ethics if it determines jurisdiction is vested in, and action is more appropriate if taken by said agencies.
- (b) Provide assistance and input into the management and coordination of the training and education of local officers and employees in state and local ethics, including the City's Ethics Education Program as set forth in Section 602.1001, as well as all public records and sunshine law training throughout the government.
- (c) The Commission may, upon employee or citizen complaint, or upon its own initiative, seek information and gather facts for the purpose of reviewing any circumstance or situation of which the Commission may become aware that appears to violate or may potentially violate an acceptable standard of ethics conduct for City officers and employees as delineated in Section 1.202(d) of the Charter. Based upon such review the Commission may make such recommendations to the Mayor and the Council as it deems appropriate;
- (d) Have jurisdiction to levy those civil fines or penalties authorized in this Chapter 602 for violations of the City's ethics code;
- (e) Act as the hiring committee, subject to Council confirmation, for the executive director of the Ethics Oversight and Compliance office.

(Ord. 2011-167-E, § 2)

SUBPART C. - PROCEDURES AND DUE PROCESS

Sec. 602.931. - Process for the imposition of sanctions and penalties.

In accordance with Section 602.921(d), and the Charter, the Commission shall perform the following duties in association with the enforcement of Chapter 602 and the imposition of sanctions and penalties including the imposition of public censures and civil penalties.

- (a) The Commission shall establish and post rules and procedures to provide for the investigation of citizen, hotline, employee and self-initiated complaints of violations of Chapter 602.
- (b) The Commission shall establish and post rules and procedures to provide for due process in the charging and prosecution of violations of Chapter 602.

- (c) Meetings of the Commission exempted from the provisions of section 286.011 Florida Statutes, shall be recorded and such recording shall become public upon the conclusion of the investigatory matter, by either a finding of no probable cause to proceed or a final determination by the Commission.

(Ord. 2011-167-E, § 2)

Sec. 602.932. - Documents and testimony.

The Commission is authorized to exercise and utilize all procedures and processes available to City agencies, which are authorized by ordinance, the Charter, or Chapter 119, Florida Statutes, to secure the production of documents and testimonial evidence relevant to the investigation and prosecution of complaints and charges authorized by this Chapter; except that, the issuance of a subpoena to compel the production of documents or testimony shall be authorized by a circuit or county judge of the Fourth Judicial Circuit upon a facial demonstration of the relevancy of the documentation or testimony to the enforcement of a provision of Chapter 602, Ordinance Code, the City of Jacksonville's Ethics Code.

(Ord. 2011-167-E, § 2)

Sec. 602.933. - Cooperation of other City agencies.

The services of other departments, boards and agencies of the City shall be made available to the Commission at its request, subject to their ability and capacity to provide them. Other City agencies shall cooperate with the Commission in the exercise of the Commission's responsibilities.

(Ord. 2011-167-E, § 2)

Sec. 602.934. - Dismissal of complaints.

Notwithstanding any other provisions of this Part, the Commission may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the Commission dismisses a complaint as provided in this subsection, the Commission shall issue a public report stating with particularity its reasons for the dismissal. The Commission, at the request of the state attorney or any other law enforcement agency, shall stay an ongoing proceeding. The Commission shall not interfere with any ongoing criminal investigation of the state attorney or the U.S. Attorney for the Middle District of Florida.

(Ord. 2011-167-E, § 2)

Sec. 602.935. - Frivolous or groundless complaints.

In any case in which the Commission determines that the complaining party filed a frivolous or groundless complaint as defined in Florida Statutes, § 57.105, or a complaint filed with malicious intent or with knowledge that the complaint contains one or more false allegations, or filed with reckless disregard for whether the complaint contains material false allegations, the Commission may, upon proper notice and hearing, order the complaining party to pay any costs and attorneys' fees incurred by the Commission and/or the alleged violator. Such order may be enforced by the Circuit Court, as are other board orders of the City.

(Ord. 2011-167-E, § 2)

Sec. 602.936. - Effect on other laws.

The provisions of Chapter 602 shall be deemed supplemental to any other applicable county ordinance or state or federal law and are not intended to replace or repeal any provision of state or federal law, or of this Code.

(Ord. 2011-167-E, § 2)

Sec. 602.937. - Prospective jurisdiction.

The Commission shall be empowered to consider alleged violations within its jurisdiction committed on or after the effective date of this Subpart.

(Ord. 2011-167-E, § 2)

Sec. 602.938. - Personnel or other regulatory proceedings.

Where an officer or employee subject to the jurisdiction of this Chapter is alleged to have violated an ordinance within the jurisdiction of the Commission, and, based upon the same set of facts, is subject to an ongoing disciplinary, regulatory administrative, or criminal action initiated by the officer or employee's agency or employer, or by any other governmental entity with jurisdiction over the officer or employee, the Commission shall stay consideration of a complaint under this Part applicable to said officer or employee until the conclusion of the administrative, civil, or criminal proceeding. Nothing herein shall abridge employees' constitutional right to collective bargaining.

(Ord. 2011-167-E, § 2)

Sec. 602.939. - Statute of limitations.

No action may be taken on a complaint filed more than two (2) years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. Where the allegations are the subject of a personnel, criminal or administrative proceeding or where the complainant is required to exhaust his or her administrative remedies prior to filing a complaint, the statute of limitations shall be tolled until the termination of said proceeding or the exhaustion of administrative remedies.

(Ord. 2011-167-E, § 2)

Sec. 602.940. - Advisory opinions.

Any person within the jurisdiction of the Commission, when in doubt about the applicability or interpretation of any provision within the Commission's jurisdiction to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission with a request for an advisory opinion to establish the standard of public duty, if any. A person requesting an advisory opinion may withdraw the request at any time up to ten days before the Commission convenes a public meeting to consider the request. An advisory opinion shall be rendered by the Commission on a timely basis, and each such opinion shall be numbered, dated and published.

(Ord. 2011-167-E, § 2)

Sec. 602.941. - Review.

Any final order of the Commission imposing civil penalties, censure, or costs or attorneys' fees may be reviewed by the Circuit Court, in such manner as is authorized for review of quasi judicial board decisions.

(Ord. 2011-167-E, § 2)

PART 10. - ETHICS EDUCATION

Sec. 602.1001. - Ethics education program.

Officers and employees of the City, as public servants, are considered stewards of the public's trust and should aspire to the highest level of integrity and character. Officers and employees shall be informed of their ethical responsibilities at the start of their work with the City and shall receive updates and training materials on ethics issues throughout the span of their public service, as designated by the City Ethics Office and Ethics Officer(s).

- (a) Every officer and employee of the City must be responsible for understanding and complying with the provisions of this Chapter.
- (b) Every elected official shall attend an Ethics in Government Program within a time period set by the Ethics Director, with the concurrence of the General Counsel, but said time period shall not be less than 45 days following certification of election. Upon fulfillment of this requirement, each elected official will be issued a digital certificate of completion by the Jacksonville Ethics Office. Constitutional Officers complying with the State requirements and who submit proof of same and affirm that they have also read and understood the requirements of Chapter 602 Jacksonville Ethics Code, Ordinance Code, shall be issued a digital certificate of completion by the Jacksonville Ethics Office.
- (c) Every employee (regular and appointed) of the City shall complete an Employee Ethics Training Program within the first six months of his/her employment with the City. Current employees shall complete training as designated in a schedule developed by the City Ethics Office. Upon fulfillment of this requirement, each employee will be issued a certificate of completion by the City Ethics Office.
- (d) The City Ethics Office shall provide ethics education materials to appointed officials, and encourage appointed officials to attend an Ethics in Government Program.
- (e) The Ethics in Government Program and Employee Ethics Training Program shall be created and delivered by the City Ethics Office with assistance from the City's Ethics Officer(s) and the General Counsel's Office.
- (f) The programs shall include topics as determined necessary to explain the provisions of this chapter, the Florida Statutes concerning ethics and general ethics issues. Topics shall be determined based upon state law requirements and other issues as identified by the Ethics Director, Office of General Counsel and the Ethics Commission. This training shall not duplicate the training requirements of F.S. § 112.3142.

(Ord. 97-890-E, § 1; Ord. 2007-770-E, § 1; Ord. 2007-329-E, § 3; Ord. 2016-6-E, § 1)

Sec. 602.1002. - Reserved.

Editor's note— Ord. 2014-456-E, § 1, amended the Code by repealing former 602.1002 in its entirety. Former § 60.1002 pertained to annual ethics training for City Council Members, and derived from Ord. 2014-3-E, § 1.

PART 11. - CIVIL PENALTIES

Sec. 602.1101. - Public Reprimand or Civil Penalty.

A finding by the Ethics Commission of a violation of any part of this Chapter shall subject the person or entity to a public reprimand, a civil penalty of up to \$500, or both. All civil penalties collected shall be deposited into the City of Jacksonville General Fund.

(Ord. 2014-457-E, § 1)

Sec. 602.1102. - Rescission or Voidance of Benefit.

Upon a finding by the Ethics Commission that a violation of this Chapter resulted in a contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit conferred by the Jacksonville City Council as applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit may be rescinded or declared void by the Jacksonville City Council at the request of the Ethics Commission.

(Ord. 2014-457-E, § 1)

PART 12. - GENERAL PROVISIONS

Sec. 602.1201. - Voiding transactions in violation of Chapter; recovery by City.

The Mayor may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, certificate, ruling, decision, opinion or other benefit that has been awarded, granted, paid, furnished or published, in relation to which there has been any violation of this Chapter. The City shall be entitled to recover, in addition to any penalty prescribed by law or in a contract, the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1202. - The Constitution of the State of Florida.

All officers and employees of the City and independent agencies shall comply with all applicable provisions of the Constitution of the State of Florida, including, but not limited to the following:

- (a) Article I, Section 24 (Access to public records and meetings), Florida Constitution;
- (b) Article II, Section 8 (Ethics in government), Florida Constitution.

(Ord. 97-890-E, § 1)

Sec. 602.1203. - State statutes.

In addition to the provisions of this Code, all of officers and employees of the City and independent agencies are expected to comply with the applicable provisions of state laws, including, but not limited to the following:

- (a) Chapter 99 (Candidates, campaign expenses, and contesting elections);
- (b) Section 100.361 (Municipal recall);
- (c) Section 102.031 (Maintenance of good order at polls; authorities; persons allowed in polling rooms; unlawful solicitation of voters);
- (d) Section 104.071 (Remuneration by candidate for services, support, etc.; penalty);
- (e) Section 104.271 (False or malicious charges against, or false statements about, opposing candidates; penalty);
- (f) Section 104.31 (Political activities of state, County, and municipal officers and employees);
- (g) Chapter 106 (Campaign financing);
- (h) Section 111.075 (Elected officials; prohibition concerning certain committees);
- (i) Section 112.042 (Discrimination in County and municipal employment; relief);
- (j) Section 112.043 (Age discrimination);
- (k) Section 112.044 (Public employers, employment agencies, labor organizations, discrimination based on age prohibited; exceptions; remedy);
- (l) Chapter 112, Part III (Code of ethics for public officers and employees);
- (m) Chapter 119 (Public records);
- (n) Section 163.367 (Public officials, commissioners, and employees subject to code of ethics);
- (o) Section 286.011 (Public meetings and records; public inspection; criminal and civil penalties);
- (p) Section 286.0115 (Access to local officials);
- (q) Section 286.012 (Voting requirements at meeting of government bodies);
- (r) Chapter 838 (Bribery; misuse of public office);
- (s) Chapter 839 (Offenses by public officers and employees).

(Ord. 97-890-E, § 1)

Sec. 602.1204. - Liability for breach of public trust.

- (a) Article II, Section 8(c) of the Constitution of the State of Florida applies to all officers and employees of the City and independent agencies. Section 8(c) states the following:

Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

- (b) Any officer or employee of the City or an independent agency who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the City or an independent agency for all financial benefits obtained by such actions.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note— Former § 602.505.

Sec. 602.1205. - Additional ordinances.

All officers and employee of the City and independent agencies are expected to comply with the applicable provisions of additional ordinances listed in other Chapters of the Ordinance Code, including, but not limited to the following:

- (a) Section 86.107 (Cooperation with the Jacksonville Equal Opportunity Commission);
- (b) Chapter 102 (Auditing regulations);
- (c) Section 106.331 (Indebtedness in excess of appropriates prohibited);
- (d) Section 106.332 (Transfer of expense funds or expense credits prohibited);
- (e) Section 106.334 (Personal liability for authorizing expenditures in excess of the amount appropriated);
- (f) Section 106.336 (Penalties for violation of Sections 106.331 and 106.332);
- (g) Section 106.431 (Maximum indebtedness required in all City contracts);
- (h) Section 106.433 (Personal liability for indebtedness in violation);
- (i) Section 106.434 (Penalties for violation);
- (j) Section 106.713 (Fraudulent claims re travel expense reimbursement);
- (k) Section 122.811 (Sales of tangible personal property; prohibition of sales to certain persons);
- (l) Sections 124.201—207 (Records retention and disposition);
- (m) Section 126.104 (Integrity of public contracting and purchasing process);
- (n) Section 126.110 (Unauthorized purchases and contracts);
- (o) Section 134.108 (Refusal to obey order during investigation);
- (p) Section 320.302 (Building and Zoning Inspection Division employees; conflicts);
- (q) Chapter 400 (Equal opportunity);
- (r) Chapter 402 (Equal employment opportunity);
- (s) Section 656.144 (Improper influence).

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1206. - Personnel rules and regulations.

All employees of the City shall comply with the applicable provisions of Sections 11.01—11.04, Civil Service and Personnel Rules and Regulations, to the extent that they do not conflict with the provisions of this code of ethics.

(Ord. 97-890-E, § 1)

Sec. 602.1207. - Public records.

Subject to confidentiality provisions otherwise provided for in this chapter or state law, any record or document required to be filed pursuant to this chapter shall be a public record.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1208. - Government in sunshine.

- (a) All meetings of the Council and of its committees and subcommittees and meetings of the boards and commission of the City are declared to be public meetings open to the public at all times, unless otherwise exempted by Florida law, including section 112.324. No ordinance, resolution, rule, regulation or formal action shall be passed or considered binding except when made at a public meeting.
- (b) The public meetings required by this Section shall be held in premises owned or leased by federal, state, or local governments, or in premises which otherwise provide full and reasonable access to the public.
- (c) A person who is a member of a governmental body named in this Section who willfully violates the provisions of this Section by attending a meeting not held in accordance with its provisions shall be reprimanded or pay civil penalty as set forth in Part 11 of this Chapter.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2010-172-E, § 2; Ord. 2014-457-E, § 1)

Sec. 602.1209. - Severability.

It is not the intent of this Code to conflict with any applicable state law. If any Section, sentence, clause, phrase or word of this Chapter is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portion of this Chapter; and it shall be construed to have been the legislative intent to pass this Chapter without such unconstitutional, invalid or inoperative part therein; and the remainder of this Chapter, after exclusion of such part of parts, shall be deemed and held to be valid as if such part or parts had not been included therein.

(Ord. 97-890-E, § 1)

Sec. 602.1210. - Cooperation by appointed employees in official investigations.

All appointed employees, as a condition of employment, shall agree to cooperate truthfully, honestly, and completely with official government investigations including but not limited to, investigations by the Ethics Commission, Ethics Officer, State Attorney's Office, or United States Attorneys' Office, concerning his or her official duties or matters related to City government or business.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note— Former § 602.409.

Sec. 602.1211. - Testimony and questioning of public officials and employees relating to public affairs.

- (a) No officer or employee of the City or an independent agency, who is called as a witness by or before any City, State or Federal administrative or judicial tribunal, shall refuse to answer before the tribunal any proper question concerning the performance of his or her official duties or to produce books, records and other papers and documents of his or her office or concerning his or her official duties properly required to be produced by or before the tribunal; provided, that the officer or employee shall retain his or her privileges and immunities against self-incrimination provided under the Constitution and laws of the state and the United States.
- (b) No employee of the City or an independent agency shall refuse to answer any question when directed to by a supervisor related to the employee's performance or fitness to serve; provided, that the employee shall retain those privileges and immunities provided under the Constitution and laws of the state and the United States, relating to the use of said information in a criminal prosecution.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Note— Former § 602.410.

Sec. 602.1212. - Disclosure of criminal records required.

A person, when applying for or when appointed to a City position, with or without compensation, shall be required to disclose to the appointing or hiring authority any criminal conviction and record thereof, with the exception of crimes that are classified or, if not committed in Florida, would be classified if committed in Florida, as misdemeanors of the second degree. Disclosures shall be made in writing and failure to disclose shall result in automatic removal or dismissal from the position, subject to the rules and regulations of the civil service system where applicable. If, at any time after the person is appointed to a City position, there is an allegation that the disclosure required by this Section is false or incomplete, the matter shall be submitted to the appointing or hiring authority for determination. If, after proper notice and hearing the cognizant authority determines that the disclosure is correct, no action shall be taken; but if, after proper notice and hearing, the cognizant authority determines that the disclosure is incorrect, the person submitting the same shall be deemed to have failed to make any disclosure.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note— Former § 602.411.

Sec. 602.1213. - Penalty provisions.

Unless otherwise set forth in this Chapter, any violation of this Chapter, which is declared to be unlawful, shall be a class C offense.

(Ord. 2011-232-E, § 4)

EXCERPTS FROM CHARTER OF BROWARD COUNTY, FLORIDA

ARTICLE XI. - GENERAL PROVISIONS

Sec. 11.01. - Conflict of County ordinances with Municipal ordinances.

Any County ordinance in conflict with a Municipal ordinance shall not be effective within the Municipality to the extent that a conflict exists regardless of whether such Municipal ordinance was adopted or enacted before or after the County ordinance. A County ordinance shall prevail over Municipal ordinances whenever the County acts with respect to the following:

- A. Sets minimum standards protecting the environment through the prohibition or regulation of air or water pollution, or the destruction of resources in the County belonging to the general public.
- B. Land use planning.
- C. Regulates the conduct of elected officials, appointed officials, and public employees through an enacted Code of Ethics.

In the event a County ordinance and a Municipal ordinance shall cover the same subject matter without conflict, both the Municipal ordinance and the County ordinance shall be effective.

Sec. 11.08. - Broward County Ethics Commission.

- A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

- B. Membership. The Broward County Ethics Commission shall be comprised of eleven (11) voting members. Each County Commissioner shall appoint one (1) member from their respective districts, and two (2) countywide members shall be appointed by the Broward League of Cities.
- C. Quorum. A quorum, necessary to conduct Broward County Ethics Commission business, shall consist of a majority of the Broward County Ethics Commission members.
- D. Term and Vacancies. Broward County Ethics Commission members shall serve until a Code of Ethics is adopted by either the Broward County Commission or the electors of Broward County. If a member fails to attend any three (3) consecutive meetings of the Broward County Ethics Commission, that member shall be considered to have vacated his or her seat, and the vacancy shall be filled by appointment pursuant to Subsection B.
- E. Meetings. The Broward County Ethics Commission shall hold its first meeting as soon as practicable after the appointment of its inaugural Board but no later than March 1, 2009. The Commission shall meet as needed and shall hold no less than eight (8) meetings.
- F. Chair and Vice-Chair. At the first meeting of the Broward County Ethics Commission, the members shall appoint a Chair and Vice-Chair. The Chair and Vice-Chair shall serve for the duration of the Broward County Ethics Commission's existence.

- G. Sunset. The Broward County Ethics Commission shall cease to exist upon adoption of the Proposed Ethics Code by the Broward County Commission or upon the consideration of the Proposed Ethics Code by the electors of Broward County, regardless of the outcome.

Sec. 11.10. - Constitutional officers subject to Code of Ethics.

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

ARTICLE XII. - BROWARD COUNTY OFFICE OF INSPECTOR GENERAL

Sec. 12.01. - Broward County Office of Inspector General.

A. Created and Established.

- (1) The Broward County Office of Inspector General (the "Office") is created to investigate misconduct and gross mismanagement.
- (2) For purposes of this Charter provision, misconduct is defined as any violation of the state or federal constitution, any state or federal statute or code, any county or municipal ordinance or code; or conduct involving fraud, corruption, or abuse.
- (3) For purposes of this Charter provision, gross mismanagement is defined as the material waste or significant mismanagement of public resources.
- (4) The Office shall be headed by an Inspector General. The organization and administration of the Office shall be independent to assure that no interference or influence external to the Office affects the objectivity of the Office.
- (5) Consistent with its approved budget, the Inspector General shall have the power to employ personnel as deemed necessary for the efficient and effective administration of the Office.

B. Functions, Authority, and Powers.

- (1) The authority of the Inspector General shall extend only over the following:
 - (a) All elected and appointed officials ("Officials") and employees ("Employees") of the Charter Government of Broward County ("County") and of all municipalities, including any city, town, or village duly incorporated under the laws of the state within Broward County ("Municipalities"); and
 - (b) All entities and persons (other than employees of the County or any Municipality) that provide goods or services to the County or any Municipality under contract for compensation ("Providers"), but solely with respect to the provision of such goods or services.
- (2) The Inspector General shall commence an investigation if good cause exists that any Official, Employee, or Provider has engaged in misconduct or gross mismanagement.
- (3) The Inspector General may find good cause on his or her own initiative or based on a signed, verified complaint (as described below) stating allegations that, if true, would constitute misconduct or gross mismanagement.
- (4) In addition to meeting the requirements of paragraph (3) above, a complaint may only serve as a basis for a good cause finding if it is signed by an identified person who verifies the contents of the complaint by including the following statement: "Under penalties of perjury, I declare that I have read the foregoing complaint and that based on my personal knowledge the facts stated in it are true." The Inspector General shall develop a complaint form consistent with the requirements of this paragraph.

- (5) Any complaint received by the Office that is made against a candidate for elected office, and received within sixty (60) days of the date of the election, shall be held in abeyance until the election is determined, or, if the complaint is made within sixty (60) days of a primary election, until the general election is determined if the individual against whom the complaint was filed remains a candidate in the general election.
- (6) In connection with an investigation, the Inspector General shall have the power to subpoena witnesses, administer oaths, and require (through subpoena or otherwise) the production of documents and records.
- (7) As part of any investigation, the Inspector General may audit any program, contract, or the operations of any division, department, or office of the County and Municipalities. The Inspector General may also audit the operations or performance of any Provider relating to the Provider's contract for compensation with the County or any Municipality.
- (8) The auditing referenced in paragraph (7) above shall be performed with the cooperation of the County Auditor. When conducting audits, the Inspector General shall have free and unrestricted access to Employees, Officials, records, and reports, and to the records and employees of Providers with respect to any Provider's contract for compensation with the County or any Municipality. The Inspector General may require Officials, Employees, and Providers to provide oral and written reports and to produce documents, files, and other records.
- (9) All Officials, Employees, and Providers shall fully cooperate with investigations conducted by the Inspector General.
- (10) As part of an investigation, the Inspector General shall interview all persons implicated by a complaint, and all persons implicated during the Inspector General's investigation.
- (11) As part of an investigation, the Inspector General (or his or her designee) may attend all duly-noticed local government meetings relating to the procurement of goods or services, and may pose questions and raise concerns consistent with the functions, authority, and powers of the Inspector General.
- (12) To the full extent provided under applicable law, including under Subsection 112.3188(2), Florida Statutes, as amended, the Inspector General's records related to active investigations shall be confidential and exempt from disclosure.
- (13) In any case in which the Inspector General determines that a person has filed a complaint with a malicious intent to injure an Official's, Employee's, or Provider's reputation with baseless, spurious, or false accusations, or with a reckless disregard for the truth of the allegations, the complainant shall be liable for all costs incurred by the Inspector General in the investigation of the complaint. Upon such a determination, the Inspector General shall issue a demand letter for reimbursement of such costs, which shall be sent to the complainant by certified mail and presumed received three (3) days after mailing. If the complainant objects in writing to the demand for reimbursement of costs within thirty (30) days of receipt of the demand, the matter shall be referred by the Inspector General to a Hearing Officer (as provided below) for adjudication, including a determination of whether the criteria for the imposition of such costs have been met. If there is no timely objection, the Inspector General's determination shall be deemed to be final, conclusive, and binding. Once final, the determination for reimbursement of costs may be enforced by the Inspector General by filing an appropriate action in a court of competent jurisdiction.
- (14) An Official or Employee who prevails in full in any administrative hearing in connection with a complaint filed with the Office of Inspector General shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred in the defense against such complaint to the full extent the Official or Employee would be entitled to reimbursement in connection with a complaint filed under the Florida Code of Ethics for Public Officers and Employees.

C. Referral and Prosecution of Misconduct.

- (1) After completing his or her investigation and determining that there is probable cause to believe misconduct has occurred, the Inspector General shall notify the appropriate civil, criminal, or administrative agencies charged with enforcement related to the alleged misconduct. If no civil, criminal, or administrative agency has jurisdiction over the alleged misconduct, the matter shall be referred to a Hearing Officer (as provided below) for quasi-judicial enforcement proceedings.
 - (a) The Inspector General shall refer findings of alleged criminal offenses to the Office of the State Attorney and/or the Office of the United States Attorney.
 - (b) The Inspector General shall refer findings of alleged civil offenses involving a violation of Chapter 112, Part III, Florida Statutes, to the Florida Commission on Ethics.
 - (c) The Inspector General shall refer findings of alleged violations of The Florida Election Code, Chapters 97 through 106, Florida Statutes, to the Florida Elections Commission (except as to alleged violations that may be criminal in nature, which shall be referred to the Office of the State Attorney).
 - (d) The Inspector General shall refer other alleged offenses to the appropriate civil, criminal, or administrative agency that would have jurisdiction over the matter.
- (2) Any civil infraction not covered by paragraphs (a) through (d) above shall be stated in a complaint brought in the name of the Inspector General. The Inspector General may retain legal counsel not employed by the County to represent the Inspector General in prosecuting a complaint. The Inspector General shall serve the complaint on the Official, Employee, or Provider accused of misconduct in any manner deemed proper service under the Florida Rules of Civil Procedure. Concurrently with such service, the Inspector General shall refer the complaint to a Hearing Officer randomly chosen from the panel of Hearing Officers selected by the Selection-Oversight Committee (as described below). The accused person or entity shall file a response to the complaint within thirty (30) days after service.
- (3) Except to any extent inconsistent with any provision of this section, the Florida Rules of Civil Procedure and Florida Evidence Code, as amended, shall apply to all matters referred to a Hearing Officer under paragraph (2) above.
- (4) In addition to all other authority granted in this Section, the Hearing Officer shall have the authority to:
 - (a) Issue scheduling orders, case-management orders, and briefing schedules;
 - (b) Issue notices of hearings;
 - (c) Hold hearings on any procedural or substantive matters related to the complaint;
 - (d) Administer oaths and affirmations;
 - (e) Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the production of documents and other items which may be used as evidence;
 - (f) Rule upon motions presented and offers of proof and receive relevant evidence;
 - (g) Issue appropriate orders to effectuate discovery;
 - (h) Regulate the course of the hearing;
 - (i) Dispose of procedural requests or similar matters; and
 - (j) Enter any order, consistent with his or her authority, to carry out the purposes of this Charter provision.
- (5) Within thirty (30) days after completion of the hearing process, the Hearing Officer shall issue a final order determining whether the Inspector General has proved the allegations of the complaint by a preponderance of the evidence. The final order shall contain detailed findings of fact and conclusions of law. If the Hearing Officer determines that misconduct has occurred, the

final order shall specify the sanction(s) imposed, if any. The Hearing Officer may impose any of the following sanctions:

(a) Fines.

1. An Official, Employee, or Provider determined to have committed misconduct shall be assessed a monetary fine of between two hundred and fifty dollars (\$250.00) and five thousand dollars (\$5,000.00) per violation.
2. In determining the amount of the fine, the Hearing Officer shall consider:
 - a) The gravity of the violation;
 - b) Whether it was intentional; and
 - c) Whether it is a repeat offense.
3. The Hearing Officer may determine that no fine shall be imposed upon making an affirmative, express finding that the violation was unintentional and de minimis.
4. In addition to a fine, the Hearing Officer may order the Official, Employee, or Provider to pay restitution or to disgorge any sums wrongfully received (directly or indirectly) by that person or entity (or any related person or entity).

(b) Public Reprimand/Censure. An Official or Employee who is found to have violated any provision of this Code may be subject to public reprimand or censure.

(6) All orders issued by the Hearing Officer, when final, are subject to judicial review as provided by applicable law.

D. Reports and Recommendations.

(1) The Inspector General shall issue reports, including recommendations, in the following circumstances:

- (a) At the conclusion of an investigation involving allegations of gross mismanagement; and
- (b) At the conclusion of an investigation involving allegations of misconduct, if the Inspector General determines that a report will assist the County or any Municipality in preventing similar future misconduct. However, no report shall be issued if the Inspector General, in conjunction with the State Attorney or United States Attorney, determines that the issuance of such report may jeopardize a pending criminal investigation.

(2) The Inspector General shall issue all reports as follows:

- (a) Upon conclusion of an investigation described in paragraph (1) above, the Inspector General shall issue a preliminary report containing findings and recommendations to the County or Municipality and to the Officials, Employees, or Providers implicated in the report. The recipients of the preliminary report shall have thirty (30) days to respond to the preliminary report's findings and recommendations. The time to respond to a preliminary report may be extended by the Inspector General.
- (b) Within thirty (30) days after the response deadline, the Inspector General shall issue a final report containing findings and recommendations to the County or Municipality and to the Officials, Employees, and Providers implicated in the report. All responses to the Inspector General's preliminary report shall be considered in preparing the final report, and shall be appended to the final report.

(3) The Inspector General may follow up on any recommendations he or she makes to determine whether such recommendations have been implemented.

(4) The Inspector General shall establish policies and procedures to monitor the costs of investigations undertaken.

E. Minimum Qualifications, Selection, and Term of Office.

- (1) Minimum qualifications. The Inspector General shall be a person who:
 - (a) Has at least ten (10) years of experience in any one or a combination of the following fields:
 - (i) as a federal, state, or local law enforcement officer or official;
 - (ii) as a federal or state court judge;
 - (iii) as a federal, state, or local government attorney with expertise in investigating fraud, mismanagement, and corruption;
 - (iv) as an inspector general, certified public accountant, or internal auditor;
 - (v) as a person with progressive supervisory experience in an investigative public agency similar to an inspector general's office;
 - (vi) as a person who has managed and completed complex investigations involving allegations of fraud, theft, deception, or conspiracy; or
 - (vii) as a person who has demonstrated an ability to work with local, state, and federal law enforcement agencies and the judiciary.
 - (b) Has, at a minimum, a four-year degree from an accredited institution of higher learning.
 - (c) Has experience in the management of a private or public entity.
 - (d) Has not been employed by the County or any Municipality during the two (2) year period immediately prior to selection.
 - (e) Has not been found guilty of or entered a plea of nolo contendere to any felony, or any misdemeanor involving a breach of public trust.
- (2) Selection.
 - (a) Responsibility for selecting the Inspector General shall be vested solely with the Inspector General Selection-Oversight Committee ("Selection-Oversight Committee").
 - (b) The Selection-Oversight Committee shall be comprised of the following five (5) individuals, none of whom shall be an elected official:
 - (i) One person appointed by the Broward League of Cities;
 - (ii) One person appointed by the State Attorney for the Seventeenth Judicial Circuit ex officio, or by his or her designee if the State Attorney is unable or unwilling to appoint;
 - (iii) One person appointed by the Public Defender for the Seventeenth Judicial Circuit ex officio, or by his or her designee if the Public Defender is unable or unwilling to appoint;
 - (iv) The United States Attorney for the Southern District of Florida, or his or her designee if the United States Attorney is unwilling or unable to serve; and
 - (v) One person selected by affirmative vote of at least three (3) members of the Selection- Oversight Committee referenced above.
 - (c) The appointments to the Selection-Oversight Committee under (b)(i), (ii), and (iii) above, and the United States Attorney's agreement to serve or his or her designation under (b)(iv), shall be made within sixty (60) days of the effective date of this Charter provision.
 - (d) The selection under (b)(v) shall be made within fifteen (15) days thereafter.
 - (e) If, for any reason, a timely appointment, agreement to serve, or designation under (b)(i), (ii), (iii), or (iv) does not occur, the members of the Selection-Oversight Committee shall fill the vacant position by affirmative vote of at least three (3) members.

- (f) Any appointee or designee may be removed and replaced at any time by the appointing or designating authority.
 - (g) Except as referenced in (e) above, any vacancy on the Selection-Oversight Committee shall be filled by the appointing or designating authority within thirty (30) days.
 - (h) The members of the Selection-Oversight Committee shall elect a chairperson who shall preside over the actions of the Committee. The Selection-Oversight Committee shall establish its own rules of procedure.
 - (i) The Human Resources Division of Broward County shall provide staffing to the Selection-Oversight Committee for the purpose of filling the position of Inspector General.
 - (j) Within thirty (30) days after the effective date of this Charter provision, the Human Resources Division of Broward County shall solicit qualified candidates for the position of Inspector General. Within one hundred and twenty (120) days after the effective date of this Charter provision, the Selection-Oversight Committee shall select an Inspector General.
 - (k) In addition to its other responsibilities, the Selection-Oversight Committee shall select qualified Hearing Officers to preside over hearings in connection with those matters referred to Hearing Officers as provided above.
 - (l) In selecting the Inspector General and qualified Hearing Officers, the Selection-Oversight Committee shall take into consideration the rich diversity of the County's residents.
- (3) Term. The Inspector General shall be appointed for a term of four (4) years, commencing from the time the Inspector General and the County enter into a contract. The Selection-Oversight Committee shall convene at least six (6) months prior to the end of the four-year contract term to determine whether to renew the contract of the Inspector General or to solicit new candidates.
 - (4) Contract. Once the Selection-Oversight Committee selects an Inspector General, the Committee shall notify the Broward County Administrator and County Attorney. The Director of the Broward County Human Resources Division, with the assistance of the Office of the County Attorney, shall promptly negotiate a contract of employment with the Inspector General substantially consistent with the terms included in contracts of other contractual employees of Broward County.
 - (5) Removal. The Inspector General may be removed based on specified charges of the following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct. Removal shall be considered at a duly-noticed public hearing of the Selection-Oversight Committee. The Inspector General shall be provided sufficient advance notice of the reasons for the possible removal, and shall be given an opportunity to be heard on the charges.
 - (6) Vacancy. In the event of a vacancy in the position of Inspector General, the Chairperson of the Selection-Oversight Committee shall appoint an interim Inspector General until such time as a successor Inspector General is selected and assumes office. The Interim Inspector General shall meet all qualifications provided herein for the Inspector General.

F. Annual Report.

- (1) The Inspector General shall annually publish a written report to the County and the Municipalities detailing the activities of the Office of Inspector General. The annual report of the Inspector General shall, promptly after it is completed, be posted on a website established by the Inspector General, and shall be presented to the Selection-Oversight Committee.
- (2) The Selection-Oversight Committee shall convene within sixty (60) days of its receipt of the annual report to consider the report and the performance of the Inspector General. Other meetings of the Committee may be set upon the request of any member of the Committee or at the request of the Inspector General.

G. Financial Support and Budgeting.

- (1) The Inspector General's budget is subject to approval of the County Commission.
- (2) Within sixty (60) days of selection, the Inspector General shall submit a proposed budget to the County Commission covering the remainder of the County's fiscal year in which the Inspector General is selected. In each subsequent County fiscal year, the Inspector General shall submit a proposed budget to the County Commission in accordance with the County's regular budget process.
- (3) Each proposed budget shall include a reasonable estimate of operating and capital expenditures of the Office of Inspector General, funds to enable Hearing Officers to be retained, and funds to enable the Inspector General to retain outside counsel to represent the Inspector General in connection with complaints referred to a Hearing Officer.
- (4) The County Commission shall provide sufficient funds for the Inspector General to carry out his or her duties in an efficient manner.
- (5) In order to fund the Office of Inspector General, the County may impose a fee of one quarter of one percent (0.25%) on the total value of each County contract entered into after the effective date of this Charter amendment.
- (6) In the event funds raised from such contract fees in any County fiscal year are insufficient to fund the Office of Inspector General, the County Commission may supplement such funding from the County's general revenue fund.

H. Conflict. Any County or Municipal ordinance or resolution that creates or has created an Office of Inspector General, or an officer, employees, or agents that function substantially the same as the Office of Inspector General as provided herein, shall be deemed inconsistent with and preempted by this Charter provision.

ARTICLE 1. - GOVERNMENT AND ETHICS^[1]

Footnotes:

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Editor's note—Ord. 2010-616-E, § 1, amended the Charter by retitling Art. 1.

CHAPTER 1. - CONSOLIDATED GOVERNMENT^[2]

Footnotes:

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Editor's note—Ord. 2010-616-E, § 1, amended the Charter by adding a new subtitle to Art. 1, and renumbering former §§ 1.01 and 1.02 as §§ 1.101 and 1.102.

Section 1.101. - Consolidated government.

- (a) The county government of Duval County, the municipal government of the City of Jacksonville, the Duval County Air Improvement Authority, the east Duval County Mosquito Control District, the northeast Duval County Mosquito Control District, and all boards, bodies, and officers thereof were and are consolidated into a single body politic and corporate pursuant to the power granted by former s. 9 of Article VIII of the Constitution of 1885, as amended, of the State of Florida, which section was continued by and remains in full force and effect under s. of Article VIII of the Constitution of the State of Florida. The name of the consolidated government is City of Jacksonville (herein called "city" or "consolidated government"). The consolidated government succeeds to and possesses all the properties (of whatever nature), rights, capacities, privileges, powers, franchises, immunities, liabilities, obligations, and duties of the former governments and former special districts named in the first sentence of this subsection, without including or affecting the existence, properties, rights, capacities, privileges, powers, franchises, immunities, liabilities, obligations, and duties of the Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin. The consolidated government shall have perpetual existence and shall have only such officers, departments, and other agencies as are provided in this charter or as may be established by the council.
- (b) The consolidated government has and shall have jurisdiction as a chartered county government and extend territorially throughout Duval County, and has and shall have jurisdiction as a municipality throughout Duval County except in the Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin.

(Laws of Fla., Ch. 78-536, § 1; Laws of Fla., Ch. 92-341, § 1; Ord. 2010-616-E, § 1)

Section 1.102. - Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and Town of Baldwin.

- (a) The territories of the Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin were and are also consolidated into the territory of the consolidated government. The Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin shall

each continue to exist and have and retain the same local governmental structure, boards, bodies, officers, laws, municipal charters, and special acts which existed in those areas on September 30, 1968, unless changed in accordance with law. The persons who were officers and members of boards and bodies of the Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin on September 30, 1968, continued after that date to occupy the same position and were entitled to the same compensation therefor, unless changed in accordance with law. All such boards, bodies, and officers continue since October 1, 1968, to be elected at the times, in the manner, and for the terms which were provided under their respective municipal charters and continue to have the same powers and duties which they had under those charters, unless changed in accordance with law. All municipal charters and special and general laws which applied to the Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin on September 30, 1968, continue to apply to the respective governments, boards, bodies, and officers unless changed in accordance with law. These Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin each continue to be entitled to own, acquire, encumber, and transfer property in its own name, by the duly authorized action of its boards, bodies, and officers. The Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin are continued as municipalities having all governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and shall be treated, considered, and dealt with as municipalities under the Constitution and laws of the State of Florida and shall be entitled to exercise the same functions, powers, and duties granted to municipalities under the general laws and Constitution of the State of Florida.

- (b) The Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach and the Town of Baldwin shall not be subject to the provisions of section 5.11, article 14, article 16, article 17, or article 19. The council may provide for management or fiscal audits by the council auditor of the second, third, fourth, and fifth urban services districts or their boards, bodies, or officers.

(Laws of Fla., Ch. 78-536, § 1; Laws of Fla., Ch. 92-341, § 1; Ord. 2010-616-E, § 1)

Cross reference— Duval County boundaries, Part B, Art. 1.

CHAPTER 2. - ETHICS

Section 1.201. - Declaration of Ethics Policy.

The proper operation of responsible government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the best interests of the people, the community and the government; that public office not be used for personal gain, and that the public have confidence in the integrity of its government.

(Ord. 2010-616-E, § 1)

Section 1.202. - Ethics code, ethics commission, inspector general.

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority.

The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office;

and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

(Ord. 2010-616-E, § 1; Ord. 2014-747-E, § 1)

Section 1.203 - Ethics Oversight and Compliance office and Office of Inspector General.

- (a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.
- (b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.
- (c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.
- (d) The Ethics Oversight and Compliance Office and the Office of Inspector General shall, to the extent practicable and advisable, share resources, promote efficiencies and avoid duplications.

(Ord. 2010-616-E, § 1; Ord. 2014-519-E, § 4; Ord. 2014-747-E, § 1)

Section 1.204 - Administrative Support.

- (a) Appropriate support, as determined by City Council, shall be provided to the ethics commission and to the citywide Ethics Oversight and Compliance office and to the Inspector General to carry out each of their duties and responsibilities.
- (b) Subsection (a) support shall include a mechanism to obtain documents and testimony in connection with violations of the City's ethics code.
- (c) The City and the independent agencies may enter into agreements for purposes of providing funding and administrative support for ethics and inspector general activities.

- (d) Subject to available funding, the Inspector General may, appoint, employ or retain independent legal counsel to assist with the functions of the office.

(Ord. 2010-616-E, § 1; Ord. 2014-747-E, § 1)

Section 1.205. - Ethics Education and Application of Ethics Laws.

Within 90 days after taking office, every elected official within the consolidated government shall complete such ethics training as may be required by the ethics code. This requirement shall apply to all elected officials within the consolidated government, including, without limitation, the Mayor, all City Council Members, all Duval County School Board Members, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Tax Collector, and the Clerk of the Circuit and County Court. Additionally, all such elected officials shall be included in the definition of the term "officer" regarding any ethics code definition referring to officers as any person elected to any City office and all such elected officials shall comply with all laws applicable to officers in the city's ethics code.

(Ord. 2010-616-E, § 1)

Section 1.206. - Professional Standards.

Subject to practicality and available funding, the Office of Inspector General should apply for and pursue professional accreditations for the investigative functions of the office offered by the Florida Commission for Law Enforcement Accreditation.

(Ord. 2014-747-E, § 1)

Section 1.207. - Inspector General Independent Selection.

The City Council shall amend, enact, reenact, or recodify appropriate legislation to ensure that the hiring and removal of the inspector general shall be vested with an independent inspector general selection committee.

(Ord. 2014-747-E, § 1)