



**City of Gainesville
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City of Gainesville Policy Program Preliminary Research & Analysis

TOPIC: Commission Ethics Guidelines (Supplemental)
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DATE: September 26, 2019
REQUESTED BY: Commissioner Ward

EXECUTIVE SUMMARY

The primary research report on Commission Ethics and Guidelines covers the bulk of the preliminary research and findings as well as relevant background information. This document shall serve as support to provide additional resources as applicable for the main report.¹

PRELIMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS

Potential Stakeholders that were interviewed for this supplemental report

- Mark Bannon, Executive Director for the Palm Beach County Commission on Ethics
- Kirby Oberdorfer, Deputy Director of Office of Ethics, Compliance and Oversight in Jacksonville, FL

ADDITIONAL RESOURCES

Jacksonville, FL

The Jacksonville Ethics Commission was contacted and Kirby Oberdorfer, former Jacksonville Ethics Commission member, was available to be interviewed. Ms. Oberdorfer was able to offer some insight on the progress of the board over the years and point out any major lessons learned. The

¹ https://gruadmin-my.sharepoint.com/:b:/g/person/hoffmanlj_cityofgainesville_org/EewJZ0GRoHZEupUadWuN94sBU8iFrJbcShIDwkW8wZmrjw?e=M3ZmnA

City of Gainesville Policy Program Preliminary Research & Analysis Commission Ethics Guidelines (Supplemental)

Jacksonville Ethics Commission was created in 1992 by the City Council and is an independent board of the City. When it was initially set up, the board would refer to the city mayor and council for issues that would arise such as ethical violations. However, the board was always structured to be independent and finally was made an independent commission in a charter amendment that passed early 2011. For reference, the State of Florida Commission on Ethics is also an independent board.

The City of Jacksonville has an Office of Ethics, Compliance, and Oversight which is tasked with a multitude of responsibilities such as organizing ethics training for elected officials.

Timewise, the Jacksonville Ethics Commission does not spend all of its time on one or two main ethics violations, but rather hears violations of varying topics and issues. The provisions of ethics codes vary and thus the violations that arise also vary in nature. Then, the Commission works to recommend legislative changes to the city such as the complexity of provisions, amendments to the ethics code, and so forth.

In terms of the relationship with the State Commission on Ethics, Jacksonville's Commission on Ethics has the ability to refer local action to the State if they deem that the violation falls more within the jurisdiction of the State. Additionally, from time to time the local Commission will seek guidance from the state and state law as applicable.

Palm Beach County, FL

The Palm Beach County Commission on Ethics² is composed of 5 volunteer members that are appointed by stakeholders of the county. However, there are county employees which make up the staff component of the Commission on Ethics. The roles are Executive Director, Staff Counsel, Chief Investigator, Investigator, and Intake and Compliance Manager. Being that the Commission members are essentially volunteers, the staff are the people responsible for taking in ethics violation complaints. They then work to determine if the facts are true, and then decide whether the violation falls under the jurisdiction of the Code of Ethics. If the violation falls under the Code of Ethics, then the staff will perform an investigation. After performing an investigation, there is a probable cause hearing held by the Commission on Ethics to determine if there is probable cause to enforce penalties for the violation.

According to their Executive Director, Mark Bannon, a great deal of time spent by the Commission goes to giving advisory opinions. A large number of people ask questions like "Can I do ___ and how?" in order to avoid committing an ethical violation in the first place. In terms of their structure, the commission is independent from the County and thus is able to provide unbiased investigations and produce thorough and clear decisions. After all, many investigations are performed on the County Commission and thus the logical structure would be to stand independent of the County.

While some people who file ethical violation complaints to the County also send them to the State Commission on Ethics, the County Commission on Ethics primarily oversees violations in their

² http://www.palmbeachcountyethics.com/pdf/Commission_on_Ethics_Ordinance-effective_9-22-15.pdf

jurisdiction. The County only sends cases to the State as applicable with varying situations such as when a violation has occurred in the county but by an official that does not fall under the jurisdiction of the Palm Beach County Code of Ethics. These officials may be state officers, respective private attorneys under the Florida Bar, and so forth. Still, there can be two ongoing investigations of the same matter by the state and county as one violation would be of state law and the other of county ordinance.

Palm Beach County also has an Office of the Inspector General, which is staffed with employees and separate from the Ethics Commission. The Inspector General carries similar duties to those of the Commission on Ethics, however the two investigate different topics. The Inspector General investigates audits, contractual issues, misuse and waste, and so forth. Specifically, they have jurisdiction to investigate topics included in the Inspector General Ordinance.³ The office of the Inspector General has no authority to sanction or hold hearings. In the event they find a violation of an ethics provision covered in the Palm Beach County Code of Ethics, they can refer the matter and make recommendations to the Palm Beach County Commission on Ethics. The staff in the Commission on Ethics office will then proceed with investigations as applicable in their procedures.

Mark Bannon and John Carey, the Inspector General for Palm Beach County, have traveled to Levy County in the past to give a presentation on the County's Commission on Ethics and offer assistance with any questions that County Commissioners may have. Mr. Bannon is interested to come and speak at GPC or other meeting as applicable to offer his background knowledge.

Road Map to Creating an Ethics System

- Determine what legislative format to use in enacting Ethics provisions
- Determine what to include these Ethics rules
 - What conduct and practices are governed
 - Ethics training
 - Administration, enforcement, and penalties
 - The creation of an Ethics Commission/Office/Authority
 - The creation of an Ethics Office
- Determine the overall structure of the Ethics oversight authority (i.e. an Ethics Officer, a Commission on Ethics, an Inspector General, etc)
- Determine the organization of the Ethics oversight authority
 - Structure (i.e., independent of City Commission and Mayor, or under a charter such as the Clerk of the Commission)
 - Membership, qualifications, terms, vacancies
 - Powers and duties
 - Organization
 - Financial support and budget
 - Procedure for complaints and hearings
 - Whether to include training, advisory roles, and other responsibilities

³ http://www.palmbeachcountyethics.com/pdf/Inspector_General.pdf

