

City of Gainesville

City Hall
200 East University Avenue
Gainesville, Florida 32601



Minutes - Final

Thursday, October 3, 2013

1:00 PM

City Hall Auditorium

City Commission

Mayor Ed Braddy (At Large)
Commissioner Lauren Poe (At Large)
Commissioner Thomas Hawkins (At Large)
Commissioner Yvonne Hinson-Rawls (District 1)
Commissioner Todd Chase (District 2)
Commissioner Susan Bottcher (District 3)
Mayor-Commissioner Pro Tem Randy Wells (District 4)

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.

CALL TO ORDER

Present 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

AGENDA STATEMENT**ROLL CALL****INVOCATION**

Prophet Earl Young

CONSENT AGENDA**CITY MANAGER, CONSENT AGENDA ITEMS**[130300.](#)**Bid Award - SW 16th Avenue Roadway Modification (B)**

This item is a request for the City Commission to authorize the bid award to V.E. Whitehurst & Sons, Inc., for the SW 16th Avenue Roadway Modification Project for the minor roadway widening, milling and resurfacing, roadway signing and marking, streetscape, and signalization between Archer Road and SW 13th Street, in the amount of \$2,110,500.

RECOMMENDATION

The City Commission: 1) award the bid award to V.E. Whitehurst & Sons, Inc., for the SW 16th Avenue Roadway Modification construction; 2) authorize the City Manager to execute the contract and any necessary documents, subject to approval by the City Attorney as to form and legality; and 3) issue a purchase order in an amount not to exceed \$2,110,500.

This Matter was Approved as Recommended

[130308.](#)**FY 2010 Homeland Security Grant Program Transfer of Property to the City of Gainesville (B)**

This is a request for City Commission approval to accept three satellite phones from Alachua County for use by the City for disaster responses.

RECOMMENDATION

The City Commission authorize the City Manager to: 1) accept the equipment from Alachua County for the three satellite phones purchased as part of the FY 2010 Homeland Security Grant Program; and 2) execute any other necessary documents, pending review by the City Attorney as to form

and legality.

This Matter was Approved as Recommended

130320.

Funding for Gainesville Police Department Police Beat Television Show (B)

Request funding for the Gainesville Police Department's Police Beat Television Show from Federal Forfeiture funds for FY2014

RECOMMENDATION

The City Commission: 1) approve the expenditure, the extension to the contract and issuance of a purchase order to Studio 601, Inc., Gainesville, Florida in the amount of \$49,500 for the continuation of funding for the Police Beat Television show.

Alternative: The City Commission: deny funding for the program.

This Matter was Approved as Recommended

130353.

Sister Cities Pavilion (NB)

Refer the issue of a Sister Cities Pavilion to the Recreation, Cultural Affairs and Public Works Committee.

RECOMMENDATION

The City Commission refer the issue of a Sister Cities Pavilion to the Recreation, Cultural Affairs and Public Works Committee.

This Matter was Approved as Recommended

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS

130352.

Security Guard Services (NB)

Staff recommends extending the term of the contract with Admiral Security Services, Inc. for security guard services at various GRU facilities.

RECOMMENDATION

The City Commission: 1) authorize the General Manager, or his designee, to negotiate and execute a five-year amendment to extend the term of the contract with Admiral Security Services, Inc. for security guard services at various GRU facilities, subject to approval by the City Attorney as to form and legality; 2) approve the issuance of purchase orders for these services to Admiral Security Services, Inc. in amounts not to exceed budgeted amounts for each year of the contract, subject to the final appropriation of funds for these services for each fiscal year.

This Matter was Approved as Recommended

CITY ATTORNEY, CONSENT AGENDA ITEMS**CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS****130351. City Commission Minutes (B)****RECOMMENDATION**

The City Commission approve the minutes of August 1, and September 5, 2013.

This Matter was Approved as Recommended

130330. Appointments to City Commission Advisory Boards and Committees (NB)**RECOMMENDATION**

The City Commission appoint:

Kenneth Johnson to the City Plan Board for a term to expire 11/1/2014.

Meagan Standard to the Development Review Board for a term to expire 11/1/2014.

Lillie Latimore to the Gainesville Energy Advisory Committee for a term to expire 9/30/16.

Zachary Andrews to the Regional Transit System Advisory Board for a term to expire 6/1/14.

Christina Ford and Tyler Redden to the Student Community Relations Advisory Board for a term to expire 2/26/15.

This Matter was Approved as Recommended

EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS**COMMITTEE REPORTS, CONSENT AGENDA ITEMS****PUBLIC SAFETY COMMITTEE, CONSENT****120991. Teenage Events in Bars (B)**

This item proposes that legislation be drafted to prevent minors from being in areas in which large numbers of intoxicated adults are located subjecting them to potential harm and victimization by adult patrons.

RECOMMENDATION

The City Commission authorize the City Attorney's Office to draft and the Clerk of the Commission to advertise an ordinance which would prohibit events for teenagers under 18 years old at establishments that are licensed to serve alcohol and whose primary business is the sale of alcohol regardless of whether alcoholic beverages are being sold at the time, and/or within close proximity to these establishments, which target minors, and places them in

close proximity to adults who will prey upon the children.

This Matter was Approved as Recommended

AUDIT, FINANCE AND LEGISLATIVE COMMITTEE, CONSENT

120044.

Early Voting Site on the University of Florida (UF) Campus (B)

RECOMMENDATION

The Audit, Finance and Legislative Committee recommends the City Commission: 1) direct the City Attorney to draft and the Clerk to advertise revisions to City ordinances to allow for additional early voting sites for municipal elections in accordance with state laws; 2) direct the City Attorney to request an advisory opinion from the State Division of Elections regarding whether the Reitz Union would meet the requirements of recently enacted State laws allowing expanded early voting sites, and 3) direct the Clerk of the Commission to work on securing locations and addressing logistical issues regarding utilizing the Millhopper Branch Library and a yet to be determined location on the UF Campus, as additional early voting sites for the Spring 2014 municipal elections.

This Matter was Approved as Recommended

Approval of the Consent Agenda

A motion was made by Commissioner Hawkins, seconded by Commissioner Poe, to Adopt the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

EQUAL OPPORTUNITY COMMITTEE, CONSENT

COMMUNITY REDEVELOPMENT AGENCY, CONSENT ITEMS

END OF CONSENT AGENDA

ADOPTION OF THE REGULAR AGENDA

A motion was made by Commissioner Poe, seconded by Mayor-Commissioner Pro Tem Wells, that this Matter be Adopted. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

CHARTER OFFICER UPDATES

CLERK OF THE COMMISSION[130334.](#)**City Commission Referral List (B)**

Motion: Accept the referral recommendations

RECOMMENDATION

The City Commission review the attached referral list and take appropriate action.

A motion was made by Commissioner Chase, seconded by Commissioner Poe, that this Matter be Approved as Recommended. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

CITY MANAGER[130288.](#)**Fleet Management Performance Metrics (B)**

The item involves an update to the City Commission on the performance of Fleet Management with regards to repair and maintenance services to both General Government and Gainesville Regional Utilities.

Milton Reid made a presentation.

Mac McEachern spoke to the matter.

RECOMMENDATION

The City Commission receive a presentation from staff on Fleet Management Performance Metrics.

Heard

[110784.](#)**Transition Study for Alachua County Fire Station 19 (B)**

This item requests that the City Commission receive a report from the City Manager and Fire Chief on a transition plan for providing fire and rescue services in the area currently served by Alachua County Fire Station 19.

Gene Prince and Bill Northcutt made presentations.

Motion: Approve 1: Approve 2, changing wording to developing a plan and keeping staff in a station or parking lot and 3. approve Clerk scheduling a joint meeting with the County Commission.

RECOMMENDATION

The City Commission: 1) receive a report from the City Manager and the Fire Chief for providing services in the area served by Alachua County Fire Station 19; 2) direct the City Manager to initiate a transition plan that would staff a City squad unit to provide services in that area; and 3) determine if the City Commission desires to discuss the transfer of

services for Station 19 and potential City acquisition of Station 19 with the County Commission.

Alternative Recommendation A: The City Commission receive a report from the City Manager and the Fire Chief for providing services in the area served by Station 19 and direct the City Manager to maintain the current service plan.

Alternative Recommendation B: The City Commission receive a report from the City Manager and the Fire Chief for providing services in the area served by Station 19 and direct the City Manager to develop alternative recommendations for the City Commission.

A motion was made by Mayor-Commissioner Pro Tem Wells, seconded by Commissioner Poe, that this Matter be Approved, as shown above. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

[130370.](#)

Update on the Purchase of Surplus Department of Corrections Property by the City of Gainesville (B)

The purpose of this item is to provide an update to the City Commission on the status of the negotiation between the City and the State for the purchase of surplus Department of Correction (DOC) property and to adopt a Resolution and approve negotiations and purchase of Phase Two of the acquisition.

Debbie Martinez, Theresa Lowell, Ernesto Martinez, Donald Shepherd, Mac McEachern and Pat Fitzpatrick spoke the matter.

Motion: 1. Request City Manager obtain access to the GCI site for no less than bi-weekly meetings starting at the earliest possible date.

2. Direct the City Manager to contract for project coordinator for homeless services and development of GCI site for a minimum of six months using already designated funds.

3. Direct the City Manager to establish a GCI City Working Group that shall meet no less than bi-weekly to monitor the city's contribution to the successful establishment of GCI and related matters.

4. Direct the City Manager to facilitate a series of community meetings for the support and development of GCI (to include the One Stop Homeless Empowerment Center), starting Friday and following the Southwest Area Group (SWAG) model; with the goal of establishing a Community Oversight Board for the GCI site, planned GCI RFP, and related matters.

5. As part of the Community Oversight Board, establish community input Facilities Committee and Services Committee, and other such committees as deemed necessary to: a. provide feedback both the City and contractors on the site b. develop recommendations for low or no-cost short-term activities and a prioritized and cost estimated medium and long term activities; and c. pursue outside private and public funding and support

6. Invite such supportive organizations and community initiatives to meet at the site (including but not limited to Implementation Committee, Coalition for Hungry and Homeless, GCI City Working Group and any others as deemed appropriate

7. City Manager to report on current finances available, funds pledged and sources

of funding.

RECOMMENDATION

The City Commission: 1) adopt a Resolution; and 2) authorize the City Manager or his designee to negotiate and execute a purchase agreement for Phase Two of the correction facility property located off Northeast 39th Avenue and adjacent to Phase One of the proposed purchase previously approved by the Commission.

A motion was made by Mayor-Commissioner Pro Tem Wells, seconded by Commissioner Bottcher, that this Matter be Approved, as shown above - See Motion(s). The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

GENERAL MANAGER FOR UTILITIES

130310.

GREC Proposal Discussion Item (B)

John Stanton, John Painter and Jeff Copp made presentations. Mac McEachern, Nathan Skop, Joe Beaty, Wilbur Holloway, Mark Venske, Donald Shepherd and Ray Washington spoke to the matter.

RECOMMENDATION

Hear a presentation and discussion.

Heard

130181.

Advanced Metering Infrastructure and Distribution Automation Project (B)

Staff recommends approval of the final ranking of firms and authorization to negotiate in order of ranking a contract with those firms for infrastructure and software applications necessary to implement the project.

David Williams made a presentation. Nathan Skop, Mac McEachern and Donald Shepherd spoke to the matter

RECOMMENDATION

The City Commission: 1) approve the final ranking of firms to deploy a small scale Advanced Metering Infrastructure (AMI) and Distribution Automation (DA) project; 2) authorize the General Manager, or his designee, to initiate contract negotiations with the firms in order of ranking; and 3) authorize the General Manager, or his designee, upon successful negotiations, to execute a five-year Master Agreement, subject to the approval of the City Attorney as to form and legality, in an amount not to exceed budgeted amounts for this project, and subject to final appropriation of funds for each year of the contract.

A motion was made by Commissioner Hawkins, seconded by Mayor-Commissioner Pro Tem Wells, that this Matter be Approved as Recommended. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

CITY ATTORNEY

130354. **SETTLEMENT AGREEMENT FOR MOGAS INVESTMENTS, INC., NALBANDIAN PROPERTIES, LLC, ROPEN NALBANDIAN v. CITY OF GAINESVILLE, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, CASE NOS.: 2010-CA-6285 and 2010-CA-4963 (NB)**

Michael Bajalia made a presentation.

Mac McEachern, Nathan Skop, Jo Beaty, Wilbur Holloway, Mark Venske, Donald Shepherd and Ray Washington spoke to the matter.

First Motion: Moved by Comm LP with Comm TH seconding to reject the offers.

Motion failed 3-4 with Comm TH, Comm LP and Comm SB voting yes.

Second Motion: Have City Attorney negotiate with other party and bring back for City Commission approval an agreement which includes:

- 1. \$250,000 over five years*
- 2. Securitize the agreement*
- 3. Have agreement dated no sooner than November 17th/18th (to coincide with Florida Cabinet meeting)*
- 4. Keep GAIN property on table as back up*
- 5. File for continuance with Judge*

RECOMMENDATION

The City Commission consider the two alternative proposals for settlement offered by Nalbandian.

A motion was made by Commissioner Hinson-Rawls, seconded by Commissioner Chase, that this Matter be Approved, as shown above - See Motion(s). The motion carried by the following vote:

Aye: 4 - Mayor Braddy, Commissioner Chase, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

Nay: 3 - Commissioner Bottcher, Commissioner Poe, and Commissioner Hawkins

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR

COMMITTEE REPORTS (PULLED FROM CONSENT)

GAINESVILLE/ALACHUA COUNTY CULTURAL AFFAIRS BOARD

130056. **Gainesville-Alachua County Cultural Affairs Board Work Plan and Annual Report update for FY 2013-14 (B)**

This item requests that the City Commission hear a presentation of the Gainesville-Alachua County Cultural Affairs Board regarding their

Annual Report and Work Plan update for 2013-2014.

Fred Sowder made a presentation.

RECOMMENDATION

The City Commission hear a brief presentation by Gainesville-Alachua County Cultural Affairs Board Chair Carol Velasques Richardson, regarding the FY 13/14 Annual Report and Work Plan update.

Heard

AUDIT, FINANCE AND LEGISLATIVE COMMITTEE**ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)****OUTSIDE AGENCIES**

[130356.](#)

Dr. Mark Barrow - Update on Matheson Center (NB)

*Comm TH moved with Comm RW seconding to waive rules to hear item earlier.
Motion passes 5-0 with Comm SB and Comm YHR absent.*

RECOMMENDATION

The City Commission hear an update from Dr. Mark Barrow regarding the Matheson Center.

Heard

MEMBERS OF THE CITY COMMISSION

[130350.](#)

Mayor Ed Braddy - Butterfly Project (NB)

*Comm RW moved with Comm TC seconding to waive rules to hear item earlier.
Motion carries 7-0.
Peter Johnson and Gabriel Hillel spoke to the matter.*

RECOMMENDATION

The City Commission discuss the Butterfly Project and take action deemed appropriate.

Heard

[130355.](#)

Commissioner Yvonne Hinson-Rawls - Job Fair Update (B)**RECOMMENDATION**

The City Commission hear an update on the job fair.

Heard

[130363.](#)

Mayor-Commissioner Pro Tem Randy Wells - Gainesville Community Innovation (GCI): Home of the One Stop Homeless Empowerment Center (NB)**RECOMMENDATION**

The City Commission approve the motion made by Mayor-Commissioner Pro Tem Randy Wells.

Heard

COMMISSION COMMENTS (if time available)

RECESS-5:07PM

RECONVENE-6:04PM

PLEDGE OF ALLEGIANCE (5:30pm)

PROCLAMATIONS/SPECIAL RECOGNITIONS

130346. Fire Prevention Week - October 6-12, 2013 (B)

RECOMMENDATION

Gainesville Fire Rescue Risk Reduction Specialist Krista Gonzalez, Assistant Fire Chief JoAnne Rice and Fire Chief Gene Prince to accept the proclamation.

Heard

130347. Arts and Humanities Month - October 2013 (B)

RECOMMENDATION

Gainesville/Alachua County Cultural Affairs Board Vice-Chair Fred Sowder to accept the proclamation.

Heard

130348. United Nations Day - October 10, 2013 (B)

RECOMMENDATION

Peace Operations Training Institute UN Programmer Coordinator Brian Mitchell and Dr. Taraneh Darabi to accept the proclamation.

Heard

130349. White Cane Safety Awareness Month - October 2013 (B)

RECOMMENDATION

Alachua County Council of the Blind President Spencer Morton to accept the proclamation.

Heard

CITIZEN COMMENT (6:00pm)

*Jim Konish-Immunity
Emiliano's-Comm Poe/Comm Wells strike food trucks from agenda. Motion carried 7-0.
John Davies-Issues
Harold Saive-GREC
Mac McEachern-GREC noise*

Juanita Miles-Hamilton-NAACP meeting
Debbie Martinez-GREC
Jo Beaty-Meters
Donald Shepherd-Trailer Park
Mark Venske-City Issues
Mario Perez-AC in room
Duane Gildea-Thank-you
Paula Stahmer-Biomass
Ernesto Martinez-GREC noise
Nathan Skop-GRU Prices
Tony Jackson-EO Complaint

[130487.](#)

Human Rights Board Rules and Procedures

RECOMMENDATION

Refer to Committee

A motion was made by Mayor-Commissioner Pro Tem Wells, seconded by Commissioner Hinson-Rawls, that this Matter be Referred to the Equal Opportunity Committee, due back on 4/3/2014. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

PUBLIC HEARINGS

RESOLUTIONS- ROLL CALL REQUIRED

[130294.](#)

Resolution for a Joint Participation Agreement - State Block Grant Funds for Regional Transit System (RTS) Capital and Operating Assistance for FY 2013-2014 (B)

This item is a request to adopt a Resolution authorizing the City Manager to execute a Joint Participation Agreement (JPA) between the City of Gainesville and the Florida Department of Transportation (FDOT) to accept the allocation for Gainesville of \$1,747,550 from FY 2013-2014 State Block Grant Funds.

RECOMMENDATION

The City Commission adopt the Resolution.

A motion was made by Commissioner Poe, seconded by Commissioner Hawkins, that this Matter be Adopted (Resolution). The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

[130299.](#)

Resolution to Enter into a Maintenance Agreement with the State of Florida Department of Transportation for NW 8th Avenue Medians (B)

This item is a Resolution for approval and authorization to enter into a Maintenance Agreement with the State of Florida Department of Transportation (FDOT), allowing the City of Gainesville to provide maintenance for the proposed median improvements on NW 8th Avenue at NW 2nd Street and NW 4th Street.

Nathan Skop and Donald Shepherd spoke to the matter.

RECOMMENDATION

The City Commission adopt the Resolution.

A motion was made by Commissioner Poe, seconded by Commissioner Bottcher, that this Matter be Adopted (Resolution). The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

130333.

Qualified Target Industry (QTI) Refund Resolution - Azalea Health Innovations, Inc. (B)

This item seeks City Commission approval for a QTI contribution for the prospective location of a software engineering/development hub within the City of Gainesville for Azalea Health Innovations, Inc., a healthcare management software and services company.

Mark Venske spoke to the matter and Eric Bredfeldt made a presentation.

RECOMMENDATION

The City Commission: 1) adopt the Resolution; 2) authorize the Mayor to execute and the Clerk to attest to the QTI Resolution regarding Azalea Health Innovations, Inc.; and, 3) direct the City Manager to forward the executed QTI Resolution to Enterprise Florida.

Alternative

The City Commission deny the Qualified Target Industry refund request from Azalea Health Innovations, Inc.

A motion was made by Commissioner Poe, seconded by Mayor-Commissioner Pro Tem Wells, that this Matter be Adopted (Resolution) and Approved the Recommendation. The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

ORDINANCES, 2ND READING- ROLL CALL REQUIRED

PLAN BOARD PETITIONS

[130319.](#)

Special Event Permit for Food truck sales within the CCD (Central City District) zoning district (B)

Petition PB-13-73 TCH. City of Gainesville. Amend the Land Development Code to extend the time frame for the operation of food truck sales within the CCD (Central City District) zoning designation.

ESTIMATED STAFF PRESENTATION 20 MINUTES

RECOMMENDATION

City Plan Board to City Commission -Approve Petition PB-13-73 TCH as modified to: 1) Allow two permits per month per location; 2) Allow the operating hours for food truck vendors from 5:00 p.m. until 12:00 midnight, with a setup time of 4:00p.m.; and 3) Allow "Food Truck Vending" on vacant or unimproved property.

Alternative Recommendation - Approve Petition PB-13-73TCH without the Plan Board recommended modification.

Staff to City Plan Board - Approve Petition PB-13-73 TCH .

A motion was made by Commissioner Poe, seconded by Mayor-Commissioner Pro Tem Wells, that this Matter be Striken from Agenda (Petition). The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Commissioner Bottcher, Commissioner Poe, Commissioner Chase, Commissioner Hawkins, Mayor-Commissioner Pro Tem Wells, and Commissioner Hinson-Rawls

DEVELOPMENT REVIEW BOARD PETITIONS

SCHEDULED EVENING AGENDA ITEMS

UNFINISHED BUSINESS

COMMISSION COMMENT

Comm LP moved and Comm RW seconded to waive rules to continue meeting to 11:15PM. Motion carried 7-0.

CITIZEN COMMENT (If time available)

ADJOURNMENT-11:45PM

Kurt Lannon, Clerk of the Commission