

**OFFICIAL MEETING MINUTES
OF THE
PALM BEACH COUNTY INSPECTOR GENERAL COMMITTEE
PALM BEACH COUNTY, FLORIDA**

**WORKSHOP
NOVEMBER 1, 2012**

**THURSDAY
9:42 A.M.**

**COMMISSION
CHAMBERS**

I. CALL TO ORDER

(CLERK'S NOTE: Item III. was presented at this time.)

III. ROLL CALL

MEMBERS:

Manuel Farach, Esq., Chair
Robin N. Fiore, Ph.D., Vice Chair
Peter Antonacci, Esq., State Attorney – Absent
Patricia L. Archer
Daniel T. Galo, Esq.
Ronald E. Harbison, CPA
Carey Haughwout, Esq., Public Defender

STAFF:

Joe Doucette, Chief of Administration, OIG
Brad Merriman, Assistant County Administrator
Sheryl G. Steckler, Esq., Palm Beach County Inspector General

ADMINISTRATIVE STAFF:

Julie Burns, Deputy Clerk, Clerk & Comptroller's Office

(CLERK'S NOTE: The numeric order of the agenda was restored.)

II. INTRODUCTORY COMMENTS

Commissioner Manuel Farach said that a quorum was present. He added that comment cards were available during public comment, and that electronic devices should be turned off or muted.

Commissioner Robin Fiore commented that the workshop's purpose was to determine inspector general (IG) renewal criteria.

(CLERK'S NOTE: Commissioner Fiore expressed concern about discussing a personnel evaluation with an agenda item regarding the celebratory or laudatory rollout of an Office of the Inspector General's (OIG) matter; and, a board consensus was reached that Item VI. would be presented after adjournment.)

Commissioner Farach stated that General Sheryl Steckler's contract renewal would occur in 2014. He added that the IG position was either quasi-public or quasi-private since General Steckler and her office were independent, although in some ways, a part of County government. The OIG would be discussed in a transparent process with public input, he stated.

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IV. APPROVAL OF INSPECTOR GENERAL COMMITTEE MEETING MINUTES – Not Discussed

V. INSPECTOR GENERAL CONTRACT DELIVERABLES FOR DECEMBER 2013 CONTRACT RENEWAL

General Steckler during a slide presentation, stated that:

- The IG contract would expire June 28, 2014.
 - No later than December 28, 2013, the IGC would decide whether a contract renewal would be offered.

V. – CONTINUED

- If renewed, the IG would decide whether to accept the renewal.
- Deliverables were included in the IG's contract, and anything that was required in the contract was also required in the IG ordinance.
- Before the IG's contract renewal occurred, IGC meetings in February 2013 and August 2013 would be scheduled for the OIG's six-month status report.

David Baker, Esq., said that:

- For six years, he had been involved in establishing an ethics initiative.
- He was proud that members of the public had stepped forward to serve on the IGC without remuneration.
- Three guiding points were established for the ethics initiative: independence, transparency, and a strong code of ethics (code).
- Senior County and ethics initiative leaders had implemented the IG ordinances. The Board of County Commissioners (BCC) had adopted the ordinances creating the OIG and the Commission on Ethics (COE), and had approved a code that was stronger than the State's code.
- Independence was central to the meaning of the ethics initiative, and it was discussed more often than the other guiding points.
- The IGC was established to ensure that the IG was carrying out his or her responsibilities and duties under the IG ordinance, to advise the community regarding the IG's hiring process and performance review, and to determine whether the IG's position would be offered for another term or another IG would be sought.

Commissioner Farach said that most best practices probably were not incorporated into the IG ordinance since the ethics initiative leaders wanted to set forth the IG's duties and responsibilities without engaging an oversight committee; or they did not want to reach a decision early in the IG process whether criteria, such as the Association of Inspectors General publication-green book, was appropriate for oversight.

V. – CONTINUED

Mr. Baker said that:

- Part of the OIG's mission was to follow mutually agreed rules and regulations of publications similar to the green book, and the IG's performance should be consistent with that book.
- The IG was subject to criticism by entities or individuals that were audited and inspected. The IGC's difficult job was to differentiate between fair criticism and criticism that involved the IG in performing his or her duties and responsibilities.

Commissioner Ronald Harbison commented that the ethics initiative leaders had created a qualified staff. He added that the IGC would be subjectively and objectively reviewing how the IG's position was carried out.

Mr. Baker opined that subjective considerations could become a "he said-she said" situation, and that decisions regarding the IG's hiring, review, and termination would be mostly objective.

Commissioner Fiore said that:

- The IGC could review its processes for handling IG complaints.
- The IG should inform the IGC how he or she responded to information that the IGC solicited from the County and municipalities regarding their IG interactions.
- An IG complaint by itself was an unfair way to review the OIG. Utilizing only contract deliverables did not point to genuine achievement.
- The IGC should decide how it would interweave the OIG's expected high standards with the minimum standards required in the IG's contract.

Responding to Public Defender Carey Haughwout, Mr. Baker said that:

- Circumstances regarding the IG's termination were established in the IG ordinance.
 - Terminating the IG would require proven or demonstrated misdeeds, incompetence, and negligence by the OIG.

V. – CONTINUED

- Determining whether to renew the IG's contract would be based on the above criteria and on criteria regarding the OIG's responsibilities.
- When reviewing other IG ordinance elements, comparing the level of OIG compliance with the criteria should be considered.
- High-performing people and offices were desired, and the IGC was not required to renew the IG's contract based on minimum, satisfactory performance levels.
- The review process was essential to the IGC's commitment to the public of an effective OIG.

Commissioner Harbison commented that his IG evaluation would be based on his forensic accountant skillset and his knowledge, experience, and involvement in the IG process since its inception.

Commissioner Fiore said that the IGC received public input with every IG report, and that she paid more attention to the public's responses than to the IG's findings. She added that although feedback was welcomed, she had concerns regarding its solicitation.

Commissioner Archer said that the IGC received enough public feedback without requiring solicitation. She expressed concern that the IG's contract did not reference the IGC's ability to offer constructive feedback to the OIG.

Assistant County Administrator Brad Merriman stated that:

- His task was to provide the IGC with a framework for developing a performance rating instrument.
- No formal rating process existed for the County's administrator, attorney, and internal auditor.
 - The County administrator reported to the BCC. The County's executive employees with nonemployment contracts reported to the County administrator.

V. – CONTINUED

- Unlike the Palm Beach County, IGs, such as Miami-Dade County's, reported to the BCC.
- Inclusion of some positive or negative public comment should be considered regardless of how it was received.
- He and staff had taken elements from the IG ordinance and contract that were quantitative in the deliverables and had included them as performance elements. Each performance element included a qualitative or quantitative comment section.
- In municipal government, contract employees who did not receive formal evaluations could be terminated at any time. The County administrator and the attorney were long-time employees with an outstanding record and working relationship.
- County merit increases had not occurred for some time. The County's three contract employees received the same across-the-board raises as general County employees.

General Steckler said that:

- Having an IG performance review in place was always beneficial since it allowed for the OIG's continued growth.
- The OIG was designed to hold government accountable, although it may not always be well received.
- Sometimes negative comments helped to implement a particular recommendation, which improved government. Improving government should be balanced with whether the County was moving forward with ethics reform.
- It was difficult to determine whether the public was becoming more trustworthy of government. The OIG was implementing measures to accomplish that, but typically it was based on deliverables, which was the annual report.
- A strategic plan was in place and was available on the OIG's Web site.

V. – CONTINUED

- Staff members had objectives as to the OIG's expectations. The objectives were adjustable and could change depending on circumstances.
- The OIG had created the Business Stakeholders' Group (BSG) to provide staff with feedback from the business and educational communities. The OIG and the BSG would be meeting at the end of November 2012.
- A citizens' initiative group was also created to train and educate the public regarding the process of councils and commissions, and to provide staff with feedback.
- The OIG had put standards and accreditation in place.
 - Peer reviews conducted every three years by those in the IG profession would state whether the standards were being met.
 - The Inspector General Drafting Committee had agreed to implement her suggestion to add the standard accreditation language to the IG ordinance.

V.a. Public Comments

V.a.1.

DISCUSSED: Inspector General (IG) Complaints and Compliments.

Sandy Matkivich said it appeared that IG complaints were coming from elected officials who did not want IG oversight. She added that General Steckler was performing an excellent job considering the resources available and her limited time since she became the IG.

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V.a. – CONTINUED

V.a.2.

DISCUSSED: IG Funding and Independence, and Municipal Vendor Billing.

Commissioner Jess R. Santamaria stated that funding the OIG with vendor's fees rather than with taxpayer's dollars would have ensured the IG's independence. He said that he had expressed his concern regarding the BCC's decision to fund the OIG using the County's general fund. He added that the BCC subsequently voted to charge the vendors beginning October 1, 2012, but it had not yet taken effect.

Mr. Merriman said that:

- The \$500,000 figure to modify the vendor billing software came from the Clerk & Comptroller's Office. Her office collected and paid all County bills so the amount was never questioned.
- The 38 municipalities might have been unable to provide a vendor list, but the County still intended to implement the .25 percent vendor fee.
- Issues existed regarding the \$500,000 vendor billing software expense; however, the overriding complication was a lawsuit filed by the municipalities to challenge the funding structure.
 - Staff was legally advised to postpone implementing the funding structure until the lawsuit was concluded.
 - Once the legal issues were satisfactorily resolved, the County could move to implement the vendor fee.

V.a.3.

DISCUSSED: The IG's Funding and Oversight, and the Commission on Ethics (COE).

Debbie Finnie said that she supported funding the IG, and that oversight was needed. She added that she had lost some confidence in the COE regarding its opinion involving West Palm Beach Commissioner Kimberly Mitchell and Comcast Cable, and that the COE could possibly use some critiquing.

V.a. – CONTINUED

Iris Scheibl said that groups under the IG's oversight initially stated that they supported the OIG, then took every opportunity to criticize it.

V.a.4.

DISCUSSED: General Steckler's Evaluation, and the COE.

Paul McCullough said that General Steckler's ability to perform her duties and responsibilities while being underfunded and understaffed could affect her appraisal evaluation regarding the OIG's effectiveness. He added that some COE members had refused to recuse themselves when relationships existed among those accused of alleged ethics violations. He suggested that two or three alternates be appointed when recusal was necessary.

Commissioner Farach clarified that the IGC was separate and independent from the COE, and that today's workshop involved appropriate criteria for evaluating the OIG.

Mr. McCullough said that the IG should be evaluated using the IGC's intuition whether goals and objectives were being accomplished and not by utilizing yes-and-no questions.

V.a.5.

DISCUSSED: Audits and the IG's Contract.

Nancy Hogan said that performing audits for financial or efficiency purposes was a necessary oversight function and an important check-and-balance process. She added that continuing the IG's contract was an important opportunity for good government to thrive.

Commissioner Harbison opined that the IG's role did not overlap with the internal audit function or with the County's or municipal auditor's function.

Ms. Hogan stated that continued fairness was more difficult on a local municipality level since longtime officials personally knew people from the community; therefore, an independent audit body was needed. She added that for efficiency purposes, some internal auditor functions could be appropriately shifted to General Steckler's staff.

V.a. – CONTINUED

V.a.6.

DISCUSSED: The IG Evaluation Process.

League of Cities Executive Director Richard Radcliffe commented that today's comments were a good starting point for the IG's evaluation, although he favored the yes-and-no answer evaluation process. He said that Palm Beach County was the most ethically progressive county in the United States, and that the IGC should create a benchmark for IG evaluations.

VI. NEW WEBSITE ROLLOUT – Not Discussed

VI.a. Public Comments

VII. PUBLIC COMMENTS – None

VIII. IG COMMITTEE COMMENTS

VIII.a.

DISCUSSED: Association of Inspectors General Publication-green book; the IG's Accreditation, Evaluation and Criteria; and Public Comment.

Commissioner Farach said that:

- He favored the green book's standards since General Steckler and other IGs were familiar with them.
- He commended General Steckler and her office for receiving accreditation in a short time.
- Additional criteria, other than what was contained in the IG contract and ordinance, along with the tasks, functions, and processes adhered to by other IGs, were good starting points for IG evaluations.
- Comments from the public, including individuals under the OIG's review, should be incorporated into the review process.

VIII. – CONTINUED

VIII.b.

DISCUSSED: The IG's Evaluation Criteria and Accreditation Report, and Public Feedback.

Commissioner Fiore stated that:

- The IGC should focus on criteria for reviewing an IG and not an IG's office.
- She supported assessing the contract deliverables, which presumably were fleshed out by the strategic plan.
- The accreditation report should be reviewed in detail since it essentially contained an external expert opinion on the OIG's activities, which related to the IG's evaluation.
- For public feedback, a Web site could indicate the IG's review dates.
- The IGC's motivation should be intrinsic.
- The IGC should find evidence that an effective mechanism was in place to move changes forward, and that the IGC's actions promoted good ethical practice.
- It was the IGC's desire to ultimately see the OIG and the COE dissolved.

Commissioner Archer stated that she agreed with Commissioner Fiore except her last statement that ultimately the OIG and the COE would be dissolved.

VIII.c.

DISCUSSED: The IG's Deliverables and Evaluation Criteria, and Public Trust.

Commissioner Daniel Galo said that:

- The IG's contract deliverables were a good basis for evaluating the IG, and that the IG ordinance, section 2-423(2), mentioned objectively evaluating the IG's work.

VIII.c. – CONTINUED

- Other evaluation criteria could include the audits, the green book, the IG's accreditation, and the responses to reviews of the County's and the municipalities' practices.
- Public trust was as much an appearance as it was a reality.

General Steckler explained that the green book set out varied standards that an OIG and an IG should take when conducting investigations.

VIII.d.

DISCUSSED: The IGC's Purpose, and the IG's Deliverables, Feedback, and Funding Issues.

Ms. Haughwout said that:

- The IGC's task was to determine whether to renew General Steckler's contract.
- Deliverables were either evidence or lack of General Steckler's leadership, and they were only one aspect of the evaluation process.
- The IGC should structure a format or specific questions regarding feedback.
- General Steckler should inform the IGC when funding restrictions or issues impacted her office.

VIII.e.

DISCUSSED: General Steckler and the OIG's Competency, and Public Comment and Trust.

Commissioner Harbison said that:

- No one would dispute General Steckler or her staff's competency, or her commitment to her chosen profession.

VIII.e. – CONTINUED

- Public comment would provide an opportunity to respond or inquire about the motivation or content of arguments or complaints made by others.
- Public trust mattered most.

Commissioner Farach said that as long as the Sunshine Law was not violated, the IGC would help to formulate a framework of the IGC's expectations regarding the IG's evaluation.

Commissioner Fiore said that the IGC should discuss the method or process of acquiring public comment. General Steckler suggested that a survey could be developed.

Mr. Merriman suggested that if desired, Commissioner Farach could be the point person to work with General Steckler and those involved in developing a performance rating instrument. He added that his work group and another IGC member could work through some of the issues and bring back a work product at the next IGC meeting.

Commissioner Farach said that the IGC was composed of seven members with diverse viewpoints and backgrounds, and that Mr. Merriman could contact whichever member was appropriate for a particular task.

Mr. Merriman said that if the IGC needed additional staff support, he or the County's Human Resources department could be contacted.

Commissioner Fiore stated that the IGC members could work with General Steckler, but they did not want to utilize her staff for the project.

Commissioner Farach said that he hoped the IGC members had given General Steckler and the work group a concept of where they were headed in determining the appropriate criteria for IG evaluations.

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IX. ADJOURNMENT

MOTION to adjourn. Motion by Patricia Archer, seconded by Robin Fiore, and carried 6-0. Peter Antonacci absent.

At 11:40 a.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair