



Ocala

City Council

Minutes

110 SE Watula Avenue
Ocala, FL 34471

www.ocalafl.org

Tuesday, January 25, 2022

12:00 PM

Work Session: Attorney Services & Early Voting

1. Call to Order

2. Roll Call

Present: Mayor Reuben Kent Guinn
Pro Tem James P. Hilty Sr
Council Member Kristen M. Dreyer
Council Member Barry Mansfield
Council Member Jay A. Musleh
Council President Ire J. Bethea Sr.

Municipal Officers/Others Present: The meeting was also attended by City Manager Sandra Wilson, City Attorney Robert Batsel Jr., Assistant City Manager Bill Kauffman, Assistant City Manager Ken Whitehead, City Clerk Angel Jacobs, Internal Auditor Randall Bridgeman, Assistant Finance Director Peter Brill, Budget Director Tammi Haslam, Contracting Officer Tiffany Kimball, Director of Public Works Darren Park, Strategic & Legislative Affairs Administrator Jeannine Robbins, Director of Finance Emory Roberts, Director of HR/Risk Management Chris Watt, Community Engagement Coordinator Ramona Williams, Senior Contract Specialist Daphne Robinson, IT Representative and other interested parties.

3. Public Notice

Public Notice for the January 25, 2022 City Council Work Session Meeting was posted on January 18, 2022

4. Public Comments

5. Topics for Discussion

5a. Early Voting

City Clerk Angel Jacobs reported the City received a request from Mr. Ricardo Negron regarding bringing back early voting. The previous Council President, Justin Grabelle, suggested the new City Council Members discuss the request. She noted a code change is required to allow early voting in the City of Ocala.

Ricardo Negron, 731 Dalia Drive, Orlando, FL 32807, stated he is the Campaign Manager for All Voting is Local. He thanked Council for hosting the workshop to discuss expanding voter access ability for City residents. He noted there is no early voting options for the municipal election, due to the adoption of a City ordinance in

2005. The City stated concern over high costs was the main reason early voting was denied. During the November 2020 election, 30% of voters opted for early voting in Marion County and 50% of the votes were received from residents in Ocala.

Many smaller neighboring municipalities are offering early voting options for the municipal elections. The goal is to allow early voting options for municipal elections in the City of Ocala.

Election Supervisor Mr. Wilcox stated they are able to offer early voting options for municipal elections. During the General Election, in November 2020, they offered one early voting site within the City limits.

Council President Bethea asked how many early voting sites are available in the County. Mr. Wilcox responded nine early voting sites were available in November 2020.

Council President Bethea asked if the cost to operate a single voting site amounts to \$7,500. Mr. Wilcox explained the costs are based on State and Federal requirements. He noted municipalities do not have to follow the eight-days/eight-hours requirement.

Council Member Musleh commented offering early voting for a limited number of days will affect City costs. He asked what the cost will be to operate for 8-hours per day. Mr. Wilcox responded early voting should be held at his main early voting site that was established in 2008. Hosting early voting at a known location will eliminate expenses associated with transportation, logistics and security. He anticipates the cost will amount to \$2,000 per day.

Council Member Musleh asked if the early voting rules are the same as election day voting rules. Mr. Wilcox responded yes; the rules are the same. He provided an overview of the election rules. He noted early voting and voting by mail is considered convenience voting.

Council Member Musleh asked if early voters are considered absentee ballot voters or day of election voters. Mr. Wilcox anticipates many of the voters will be from the election day voters pool. During the November 2020 election, early voting was increasing, as Election Day voting was dropping in popularity.

Rock Gibboney, 597 NE 45th Terrace, Ocala, FL, spoke in opposition of allowing early voting options. He believes elections are the responsibility of the public. He noted absentee ballot voters are considered early voters. Furthermore, there are many voting options available for the public to utilize. The City should not expense money on things for the convenience of the public.

Adriana Rivera, 3187 NE Ashbury View Drive, Apaca, FL 32703, stated 62% of registered voters in Florida, and 30% of Marion County voters, opted to use early voting options during the November 2020, General Election. The pandemic has changed the

lifestyle of individuals and many people now work remote from the comfort of their home. The City of Ocala is known as a commuter destination and offering early voting options would greatly benefit those who commute long distances. She requested Council support early voting options for the public.

Cathy Wyckoff, 723 NW 30th Avenue, spoke in support of offering early voting options. She asked if Council would offer SunTran as a transportation option to individuals who need assistance commuting to the early voting site.

Council President Bethea asked if people who don't have transportation can mail their vote. Council Member Musleh responded many people prefer going to the voting poll locations, because they don't trust the postal services.

Council Member Musleh stated he supports offering early voting options for the public. He anticipates there will not be high voting participation in the beginning. He agrees with Mr. Gibboney regarding the convenience factor of offering early voting options. To note, the voting process is the same as Election Day voting.

Council President Pro Tem Hilty asked Mr. Wilcox if there is a ballot drop box located at his office. Mr. Wilcox responded the drop box is located inside his office and can be accessed during business hours.

Lucy Sullivan, 811 SE 50th Terrace, Ocala, FL, stated voting is a sacred opportunity for citizens. She requested the elected officials protect the public's voting rights by performing an audit, to ensure the elections system is honest and fair. She expressed concern regarding the election machines and voter rolls. She anticipates offering early voting options for conveyance will increase fraudulent activity. She questioned how Council plans on mitigating voter fraud. Furthermore, she suggested the votes not be counted until Election Day.

Mr. Wilcox asked City Clerk Jacobs how often audits are performed after elections. Ms. Jacobs responded audits are always performed.

Mr. Wilcox commented they perform manual hand-counted audit recounts after each election since at least 2008. The audits have shown the ballots match the machines ballot count. He further noted he has removed over 7,000 people who have passed away since November 2020, and the rolls are updated daily. In general, a deceased person is removed within 6-10 business days of their death. He acknowledged there are names on the roll who may be deceased, but they do not cast ballots. The Supervisor of Elections Office is currently investigating ballot fraud for individuals who intended to perpetrate fraud by signing ballots for deceased individuals, which were rejected, and they will be prosecuted by the State Attorney's Office.

The ballot rolls are continuously updated and maintained. He encouraged the public to report ballot fraud.

Ms. Sullivan apologized for offending Mr. Wilcox. She noted the organization named Defend Florida is investigating the Florida elections and have discovered election fraud. She suggested Council perform forensic audits to combat fraud.

Mr. Wilcox encouraged the public to report fraudulent activity. He noted fraud rumors negatively affect democracy. He requested Ms. Sullivan stop making false fraud allegations.

Council Member Dreyer stated she favors early voting options.

Council Member Mansfield stated he does not favor early voting options. He believes in the traditional way of voting during Election Day.

Council President Pro Tem Hilty concurs with Council Member Mansfield. He believes the public will take advantage of the voting opportunities currently available.

Council Member Musleh stated he favors a small early voting period of 3-4-days. He noted many of the neighboring states and counties offer early voting options to the public.

Council President Bethea commented offering early voting options creates more opportunities for the public to vote. He asked City Attorney Batsel if a vote is needed. City Attorney Batsel responded Council cannot take formal action in a workshop. He noted a code revision ordinance will be presented at a future City Council meeting.

Council Member Musleh asked if the ordinance is required to go before a Council meeting or public voters. City Attorney Batsel responded the ordinance is not a Charter change. The ordinance (Section 26-7 Early Voting) will require a minor change to remove the prohibition and will be presented to Council. The ordinance change requires a first/second reading and public hearing.

5b. Attorney Services

City Manager Sandra Wilson gave a presentation covering City Attorney services. The City Attorney's Office must act as the Chief Legal Advisor to Council, City Manager's Office, City Departments and Agencies. The office is responsible for performing the following: review/approval of all City contracts, representation of the City in all legal proceedings and other duties as prescribed by Charter or Ordinance. She provided an overview of the City Attorney historical perspective. The City identified the following challenges: timeliness (turnaround and efficiency), accessibility, cost and conflicts of interest.

Council should consider the following for Municipal Law Departments: client focused, functionality (functional, productive and cost-efficient department structure) and

effective outside counsel management. If the City was to proceed with an in-house structure, the City would be the only client for the City Attorney, and they will have a vast knowledge of City operations. To note, the cost will be fixed, and the City will be able to establish metric/standards to ensure legal service expectations are being met. Furthermore, outside firms represent many clients and they are unfamiliar with the inner workings of the City. The costs associated with outside firms are significantly higher and they tend to be less motivated to identify creative solutions to City problems.

If the City chooses an in-house structure, they will have the ability to assign counsel to departments based on needs. The City can establish a system where all legal requests are filtered through one place and those assignments that do not require an attorney can be delegated to staff. The City will have the opportunity to establish protocols for requests received by the Legal Department and monitor workload reports on a monthly basis. If the City decides to proceed with an outside firm, the firm controls what attorneys and staff are assigned to legal matters. Under the current structure, the City Attorney and Assistant City Attorney allows anyone in the City to contact them directly with legal requests, thereby decreasing the City's ability to control costs.

Furthermore, the City is unable to control the workflow with an outside firm. An in-house structure provides the greatest opportunity to manage outside counsel. The City can structure an in-house Legal Department that can handle certain matters on behalf of the City internally and outsource only circumstances where it is most practicable. The City can require firms that are awarded outsourced legal work to abide by strict outside counsel guidelines for billing and case management. Under the outsourced model, the City does not have effective control over direction and cost of matters handled by the City Attorney's Office, because there are no outside counsel guidelines in place. Many departments have complained that they are not regularly kept abreast of developments in litigated matters nor are they provided with pleadings without being asked.

Ms. Wilson provided an overview of fees paid to the City Attorney's Office from 2018 to 2021. Currently, the City pays 95% of the paralegal costs (including benefits).

Council Member Musleh asked if the fees include labor attorneys or outside counsel. Ms. Wilson responded no; the fees presented are the City Attorney's Office costs.

Ms. Wilson discussed the survey results for in-house counsel. If the City was to pursue an in-house legal team, the projected legal budget would amount to \$949,957 and the projected FY22 total operating budget would amount to 891,324,121.

Council Member Musleh commented the operating budget is not a relevant column. He questioned what an appropriate operating budget number will amount too.

Ms. Wilson commented the goal is to achieve productivity and efficiency for the organization, which will show cost savings in the future. Council Member Musleh responded the City will not be able quantify productivity and efficiency.

Council President Pro Tem Hilty commented the City expressed concern regarding the increasing amounts of conflict of interests. If the City was to proceed with the in-house structure, it will eliminate any conflicts of interest, which would greatly benefit the City.

Ms. Wilson concurred with Council President Pro Tem Hilty.

Council Member Mansfield commented he does not favor a firm that would be representing a third party and the City at the same time. He suggested establishing an in-house counsel to be solely dedicated to the City. The City of Ocala is growing rapidly, and in-house counsel will be able to provide greater support.

City Attorney Batsel stated he understand the City's expressed concerns. He will provide notice to the City based on the option they choose. He suggested the City reassess the risk plan and insurance, which might result in cost savings for the City. He noted the presentation presented to Council showed only positive comments for in-house and negative comments for outsourced. He discussed how the costs are determined by City priority and maintaining cost savings. To note, the City Attorney's Office has never had any ethics issues arise.

Council Member Musleh concurred with City Attorney Batsel regarding the negativity of the presentation towards an outsourced structure. He noted an outside firm provides institutional knowledge and any conflicts of interest have been remedied. He questioned the survey information, which showed data that does not correlate.

City Attorney Batsel suggested the City evaluate the additional premium costs for in-house counsel. He noted the survey data for agencies with low budgets, might have an outside counsel managing the defense claims. Currently, the City Attorneys have a \$75,000 self-insured retention, which the City controls. He discussed how a low insurance deductible can result in the insurance company taking control of the premium.

Council Member Musleh requested the Director of HR/Risk Management Chris Watt be included in the discussion.

Ms. Wilson commented the City negotiated with the insurance company regarding the City Attorney as the attorney of choice, regardless of the self-insured retention. She questioned why an in-house attorney will not be able to handle litigation.

Director of HR/Risk Management Chris Watt stated he has been shopping around for better insurance rates. Unfortunately, due to the number of claims, the premiums will remain the same. He provided an overview of the payment process with the law firm and insurance company. He noted the City will pay a lot more because the City chooses to use their own counsel.

Council Member Mansfield asked who makes the settlement decisions and how are the

City Attorney's paid. Mr. Watt responded the City or Council; the settlement is dependent on the value amount. The City Attorneys are paid by the insurance company and the remainder is paid by the City.

Council President Bethea stated he is undecided at this time.

City Attorney Batsel commented every local private firm will have conflicts of interest regarding former clients, which will need to be handled on a case-by-case basis.

Council Member Mansfield commented an in-house firm resolves any conflicts of interest.

City Attorney Batsel commented Guy Mentor is a fabulous in-house County Attorney. He suggested Council meet with Mr. Mentor for feedback on the in-house process.

Ms. Wilson asked Council when they would like this item added to the Council agenda for a vote. She provided an overview of the selection process for an in-house attorney and legal staff.

Council Member Musleh requested the item be discussed during the first meeting in March. He would like time to perform research and meet with the City to discuss the matter in further detail.

Council President Pro Tem Hilty concurs with Council Member Musleh.

City Attorney Batsel commented the Contracting & Procurement Department does a great amount of work before the case is reviewed by the City Attorney's Office. He questioned if the surveyed agencies have an adequate Contract & Procurement Department.

Rock Gibboney, 597 NE 45th Terrace, Ocala, FL, stated the presentation shed a negatively light on private law firms. He anticipates an in-house operation will cost the City more money in the long-term, due to expansion and growth. He noted Assistant City Attorney Gilligan will be solely representing the City, which will eliminate the conflicts of interest. He suggested the Council and City meet with Mr. Mentor to explore the pros and cons of establishing an in-house counsel.

Cathy Wyckoff, 723 NW 30th Avenue, stated she supports establishing an in-house counsel to support the City. She discussed how the City has been expensing numerous amounts of money towards lawsuits resulting from the homeless population issues. She requested Council schedule a workshop to discuss the homeless population issues in the City.

City Attorney Batsel commented he will help the City make a smooth transition and create short-term solutions.

Council President Bethea thanked City Attorney Batsel and his law firm for their support.

6. Adjournment

Ire Bethea Sr.
Council President

Angel B. Jacobs
City Clerk