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

# **AUGUST 1, 2012**

WEDNESDAY 9:30 A.M. COMMISSION CHAMBERS

- I. CALL TO ORDER
- II. INTRODUCTORY COMMENTS

Commissioner Manuel Farach asked that electronic devices be turned off, and that comment cards were available and should be given to the vice chair.

III. ROLL CALL

# MEMBERS:

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

# STAFF:

Robert Beitler, General Counsel, Office of the Inspector General (OIG) Leonard Berger, Assistant County Attorney Joe Doucette, Chief of Administration, OIG Sheryl G. Steckler, Esq., Palm Beach County Inspector General

# ADMINISTRATIVE STAFF:

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

- IV. APPROVAL OF INSPECTOR GENERAL COMMITTEE MEETING MINUTES
- IV.a. Semi-Annual Meeting February 9, 2012

MOTION to approve the February 9, 2012, minutes. Motion by Robin Fiore, seconded by Carey Haughwout, and carried 6-0.

# V. SIX-MONTH REPORT

# V.a. Presentation by Inspector General Steckler

Inspector General Sheryl Steckler commented that the six-month review covered January 2012 through June 2012. In providing a slide presentation, she said that:

- In addition to the Office of Inspector General's (OIG) vision, each OIG section had its own.
- The OIG had received 1,111 phone calls, with a 1.16 minute average time per call. In the near future, staff would be focusing on why the separate hotline had received so few calls, and they would be marketing the hotline's use.
- Seventy-six percent of written correspondence received by the OIG became actual complaints.
  - Many complaints contained multi-allegations, resulting in 311 allegations from 192 complaints.
  - Thirteen correspondences were self-reported by governmental entities. The OIG's ordinance required government entities to report certain elements, such as types of criminal activity.
  - Each correspondence averaged approximately 3.5 hours for review.
  - Approximately half of the 192 correspondences were handled by the OIG without an investigation or a review. Of those that were opened, 15 led to seven investigations, three management reviews, and five were assigned to the contract unit for oversight perspectives.

- Most of the allegations involved employee misconduct; however, contract improprieties were reaching nearly the same levels. Staff would again review the allegation pattern before the OIG's annual report was published.
- A risk assessment module was added to determine whether staff should begin an investigation. Public health and safety, and potential criminal violations were some important factors to consider.
  - Eight investigative reports were issued: four administrative investigations and four management reviews. Five potential investigations were either referred to the State Attorney's Office (SAO), and/or OIG staff worked with law enforcement.
  - Approximately \$1 million in costs were either identified or questioned, and the OIG began to see some recovered costs. Set controls were necessary in recouping funds for the government.
- Eighty-two percent of the Corrective Action Plans (CAP) were implemented, with 18 percent pending, which indicated that the government was taking corrective action seriously, and that necessary recommendations were being implemented. No CAPs had been denied yet.

Commissioner Fiore commented that in past Inspector General Committee (Committee) meetings, the members had struggled with appropriate types of benchmarks and what could be used as review elements. She added that implementing all CAPs reflected a strong relationship-building element and also a way of showing success in a non-monetary way.

# General Steckler continued:

 The OIG began to see patterns develop. Some governmental entities had contract policies on their books that were not being followed. Staff began to ask whether those entities had business-friendly environments.

- If contract policies created business-friendly environments that were not being followed, a question would arise whether the governmental entities were open, competitive, and wanted to find the best contract prices.
- The OIG's contract staff had created an oversight vision statement to reflect how oversight activities should be conducted.
- The OIG's contract staff reviewed 15 elements in the government entities' risk assessment module to evaluate whether a report would be conducted and a contract would be followed.
  - Eight reports had been issued: four oversight notifications and four oversight observations.
  - Notifications involved a response from management. Observations involved material changes that were nonexistent, and responses were unnecessary. Staff had noticed issues that could cause future problems.
  - o In the six-month period, staff had questioned approximately \$913,000 in costs, and 36 prevention sessions were conducted.
- Three of the four non-implemented contract oversight recommendations regarded the Palm Beach County Health Care District (HCD). Staff would continue working with the HCD to help them understand any findings that were made.
- Staff was closely monitoring a municipality and had disagreed with its claim that claimed it did not violate its own policy by not competitively procuring solid waste, vegetative waste and recycling collection services.
- The OIG's audit vision statement focused on strengthening controls to eliminate susceptible areas of fraud, waste, and abuse, and to find opportunities for cost savings.
  - The audit's assessment module reviewed budget, expenditures, and level of automation. Audit also reviewed the nature and scope of transactions, which was considered a large risk factor.

- The two audit reports involved purchase cards, fuel cards, and credit cards, and questioned approximately \$60,000 in costs.
- Of the two audit reports, one came from a whistle-blower, and the other was an inquiry.
- Twenty-one percent of audit findings were implemented. The finding of the recommendation regarding fuel cards between the Village of Wellington and the Palm Beach County Sheriff's Office had not been implemented since staff had agreed with the entities' solution to the issue.
- Many audit recommendations were internal-control related. Staff had informed municipal entities that they were not following written policy, but it was up to a municipality's council and others to hold management accountable and vice versa.
- Examples regarded the purchasing and fuel cards, and the need for six take-home cars.
- Sixty-eight percent of the 133 issued recommendations/corrective actions, were already implemented, with 22 percent pending, and 10 percent not implemented.
  - One of the non-implemented recommendation/corrective actions had involved the HCD's disagreement that a possible policy violation had occurred regarding how an HCD service was procured.
  - Some of the other non-implemented recommendation/corrective actions had involved the Office of Small Business Administration, and the Town of Loxahatchee Groves.

Commissioner Fiore said that the entities had not disagreed with their own written policies; only with following them. She expressed concern about the OIG's findings not being followed due to language that was written "too nicely."

General Steckler remarked that staff would be reminding the HCD's management and others of prior findings and previously recommended changes.

Commissioner Fiore suggested that staff use another word to describe that government entities were not following the OIG's recommendations.

# General Steckler continued:

- The OIG's Website had received approximately 60,000 views, and the top main pages were the home page, reports page, investigations page, and the "About Us" page.
  - Approximately 79 percent of the direct Website traffic came from the County's OIG Web link. Significant activity also came from the City of Lake Worth, and the Town of Palm Beach that linked from their home page to the OIG's Website.
- The OIG's dashboard has illustrated approximately \$4.4 million in questioned costs and activities since its inception.
  - Much of the questioned costs involved inadequate documentation.
  - The identified costs represented approximately \$826,000.
- The correspondences-received chart did not yet illustrate any particular pattern as to the overall correspondences' origin.
  - Most of the received correspondences were from the cities of West Palm Beach, Riviera Beach, Delray Beach, and Palm Beach Gardens, and the Village of Wellington.
  - The OIG requested written complaints rather than by phone for accuracy.
  - The OIG accreditation required that complainants be contacted.
  - By County department, the OIG had received more correspondence from Planning, Zoning & Building, and Water Utilities.
- The OIG's Website now listed referral links and resources, such as the municipalities, State agencies, and the Commission on Ethics (COE).

- Regarding outreach, the OIG was now formally included in the County's Excellence in Supervision and Preparing to Lead classes.
  - A video detailing what to expect when contacted by the OIG was prepared and included on the OIG's Website.
  - Whistle-blower posters were created and distributed to the municipalities. Staff was forming a reporting policy with the municipalities.
  - A citizens initiative was created to train on agenda content, the Sunshine law, requests for procurement, and invitations to bid. Approximately 22 volunteers had signed up for the initiative, and three training classes had occurred.
  - The OIG received accreditation on February 23, 2012, and the assessment report was posted on the Website.
  - The brochure, Shining a Light on Government, was included on the Website, and was handed out to participants during speeches.
  - The OIG poster, which introduced the hotline phone number, could be scanned with smartphones to access the Website.
  - Ninety-two trainings and presentations were performed in the last six months. Over 1,000 people had attended, and positive feedback was received.
  - Staff was attempting to identify some "champions," such as stakeholders from the legal, educational, and marketing communities, who would give their time to articulate the OIG's benefits and support ethics reform.
  - Outreach efforts would be focused on business organizations, municipal chambers, and homeowners' associations.
  - o To facilitate the OIG's role in the educational system, staff may work on public policy or public administration.

 Staffing levels were fairly equal across the board. Workload was more difficult to assess, but a chart could be made that equivocated people to their projects.

State Attorney Peter Antonacci asked that General Steckler respond to the articles about salaries in the context of the budget.

#### General Steckler stated that:

- The OIG followed County policy regarding salaries.
  - The County had worked with the OIG to establish staff positions.
  - The director, who was hired above 10 percent, was actually at a pay grade lower than the other director.
  - Recruiting someone in the audit field who knew "redbook" and "yellowbook" was extraordinarily difficult.

# State Attorney Peter Antonacci commented that:

- The salary issue would be considered a "hot" item in the future for General Steckler.
- It was important to remain on top of the issue to eliminate criticism.
   Making no exceptions would be a better rule.

#### General Steckler continued:

- The OIG's budget was approved for slightly over \$3 million.
  - It was estimated that \$2.1 million would be spent by the end of the fiscal year due to the pending lawsuit. Hiring stopped because of the lawsuit, and staffing remained at 65 percent.
  - The OIG had requested a lower budget for next year.
  - Three public entities with additional jurisdiction had a \$765,000 budget.

- The budget was .25 percent of all contract activity. Any amount below that could be reduced by her, and she reduced it to .18 percent.
- The OIG was a fiscal agent, and was very careful how it spent the government's money.
- The budget was not open but had a cap in place.
- A request for going above .25 percent needed to go through the Review Committee, which consisted of two municipal members, a municipal attorney, two County members, the County attorney, and herself. The Board of County Commissioners' (BCC) approval would then be sought.
- Minimum funding was based on contract activity.

Commissioner Fiore suggested that the information currently being discussed be included on the OIG's Website, and General Steckler agreed.

Responding to Commissioner Ronald Harbison, General Steckler said that:

- Numerous pending investigations were due to the current lawsuit and limited staffing.
- Contract oversight staff was overwhelmed, which explained why risk model prioritization was established.

Continuing the slide presentation, General Steckler stated that:

- On November 14, 2011, 15 municipalities filed a lawsuit against the County.
- The Clerk & Comptroller (Clerk) immediately filed a motion to intervene and halted all billing on the 38 municipalities.
- The parties participated in a Florida statute, chapter 164 hearing and mediation to reach a resolution. Mediation failed on May 18, 2012.

- The OIG had filed a motion to enjoin on the lawsuit.
  - A July 6, 2012, hearing was canceled, and the judge had recused herself.
  - A court date was set with another judge for September 14, 2012, to hear the pleading to intervene in the lawsuit.
- The Clerk had held monies to September 2012 and would continue holding monies to December 2012.
  - Since January 2012, she had stopped the billing process.
  - By OIG ordinance, the Clerk was required to bill, collect, and deposit the municipalities' monies quarterly.

Joe Doucette, OIG Chief of Administration, added that approximately \$500,000 was being held.

#### General Steckler said that:

- Staff could resume all investigations once her office assumed full-capacity hiring.
- The judge would decide who paid, the municipalities or the County.
  - She had decided not to spend most of the money. The OIG was \$400,000 short last year, and based on current staffing, it would be \$400,000 short this year.
  - The OIG's staff was being harmed by an inability to do its job.

Mr. Doucette commented that the County was making its quarterly payments, and the Clerk had allowed the County to spend those collected dollars. General Steckler added that the HCD, and the Children's Services Council, and the Solid Waste Authority were also doing the same.

Commissioner Harbison said that the municipalities may be surprised by the large amounts owed for billing, damages, and other items if they had not made budget contingencies.

#### General Steckler continued:

- The OIG's vision statement was created when the County and the municipalities came under the OIG's jurisdiction. Changes would occur each year, and the OIG's strategic plan would now include the Children's Services Council's contract.
- Carrying out the OIG's vision statement started with:
  - action, by remaining engaged and getting involved, which included the volunteers;
  - behavior and having the willingness to change; and,
  - o courage, since people were scared to report a complaint.

# V.b. Discussion

Mr. Antonacci suggested that the OIG's Website contain a link to the Clerk's Website so that individuals could track the lawsuit. He said that he was interested in knowing why a municipality would resist the OIG's intervention in the lawsuit.

Robert Beitler, OIG general counsel, said that:

- The Clerk, the municipalities that were suing, and the County had all filed pleadings opposing the OIG's participation in the lawsuit.
- The entities claimed that the IG lacked the capacity to sue or be sued, and that the OIG did not meet the general standards to intervene.
- The entities also disputed what issues should be addressed if the OIG received permission to intervene.

Mr. Antonacci commented that although legal standards may be wanting, General Steckler could at least participate as an amicus, and that he wanted to be included in that process. He added that a spotlight should be placed on unworthy arguments as well.

Responding to questions, General Steckler said that:

- The OIG's standards required that staff receive a certain number of continued education hours every two years.
- All the management investigators, auditors, and two of Joe's staff in the contract oversight who were certified fraud examiners were accepted into the Association of Inspectors General Institute (AIGI) for certification as IG auditors or investigators.
- Individual OIG staff phone numbers were not listed on the Website since staff would be constantly answering the phones. A complete intake process was in place to monitor and track everything.

Commissioner Daniel Galo commented that:

- Although the OIG's investigations made factual conclusions, then applied them to what staff believed were the rules, regulations, and the law, the other side obviously also had some factual conclusions and/or interpretations.
- Objectivity should be shown, and everyone should refrain from exhibiting any bias.
- When entities disagreed with the OIG, some credibility should be given to their disagreement.
- The words, pending resolution, or, pending disposition, were better terms than the words, pending conviction, since it assumed that a conviction existed.

#### General Steckler said that:

- When staff issued audits, investigations, and contract notifications, the government was given an opportunity to respond, and staff ensured that the OIG had those responses.
- When a disconnect occurred, the government entity was contacted.
- The government entities' responses were attached to their perspective reports, and the entire packages were placed on the Website.
- When she talked about putting controls in place, she meant that policy should be in place.
  - An example was where the Town of Lake Park (Lake Park) had not obtained certain appraisals.
  - Since no appraisal requirement existed and Lake Park had spent \$2.4 million, the OIG was unable to recover any funds since staff would never know what the correct appraisal figure should have been.
  - They now required appraisals based on a certain amount of purchased property.
  - If appraisals were not done once policies were in place, a policy violation would exist indicating that they did not follow through.

At Commissioner Farach's request, General Steckler introduced her staff as follows: Robert Beitler, general counsel; Don Balberchak, Director of Investigations; Flora Butler, Accreditation Manager and head of investigations; Angie Rentz, who oversaw the investigative intake team; and Dennis Schindel, Audit Director.

General Steckler provided a department overview by stating that:

Two investigative intake staff took in all correspondences, handled complaints and walk-ins, and processed data entry.

- The investigative unit consisted of four investigators.
- The contract and oversight division had five staff.
- Including Mr. Schindel, five auditors were in the audit department.
- Several administrative staff handled the budget and personnel.

Commissioner Farach welcomed and thanked those present at today's meeting who had joined the OIG's citizens' initiative. He added that:

- Approximately \$3 billion from the County and the 38 municipalities were spent in the county.
- Approximately \$7 billion was generated from dollars relating to contracts.

(CLERK'S NOTE: Commissioner Farach inadvertently stated \$7 billion. The figure should be \$1.7 billion.)

• Those who had helped to organize the citizens' initiative, which ultimately became the ethics initiative, did an extraordinary job in planning and foresight.

General Steckler remarked that her office had a great, well established, ongoing relationship with the COE and the SAO.

Commissioner Farach commented that although the Committee members were unable to assist in the pending litigation, they could help with integration and coordination among the three entities. He added that:

- Transparency in investigations could not be attained without compromising them.
- Transparency could be increased by expanding the OIG's Website dashboard to illustrate investigative projects being processed, the resources being used or that may be needed.

#### **BOARD DIRECTION:**

Commissioner Farach requested that by the next Committee meeting, staff from the OIG, the COE, and the SAO discuss and bring back ways to increase office transparency without compromising office operations.

General Steckler commented that the County was headed in the right direction, but a shadow on its reputation was causing difficulty in moving forward. She said that everyone's acceptance of ethics reform was a continual challenge for the County.

Commissioner Harbison said that the County's ethics initiative began with its citizens, and that ethics reform should begin from the bottom up.

Commissioner Fiore stated that government entities and corporations should each have an ethics business plan and an objective in place, and they should have a budget line item for ethics.

# General Steckler said that:

- She hoped that government entities were reading the OIG reports and learning how to independently put controls in place.
- One aspect of contracts involved policy decision. Once policy decisions were made, the OIG would examine contract procurement processes and activities.

Mr. Doucette added that in all situations, staff would examine whether a government entity had a contract monitoring framework in place and how well it was working.

#### General Steckler said that:

- Her office reports were distributed first to the Committee members, then to each BCC member, to the county administrator and assistant county administrators, and to the director of county administration.
- Municipality distribution first went to the mayor, the council, the manager, and if known, the department director.

- Reports were not distributed to the press.
  - She believed that it was not the OIG's function to write editorials or issue press releases for the media.
  - All reports were available on the Website.

Mr. Antonacci suggested that General Steckler reexamine her position since cultivating public opinion was an important factor.

# V.c. Public Comment

#### V.c.1.

**DISCUSSED:** Clarification of Pending Litigation Information.

The Clerk's Chief Operating Officer of Finance, <u>Shannon Ramsey-Chessman</u>, clarified that approximately \$197,000 was being held in trust from two billings prior to the lawsuit during the first quarter of the last fiscal year. She said that the dollars came from smaller municipalities that were not involved in the litigation.

Ms. Ramsey-Chessman remarked that the Clerk's role was to protect taxpayers' dollars, and that her concern was to get court direction regarding the billing methodology. She said that the Clerk was partnering with the County to do separate grant agreements with the non-involved municipalities, and that those dollars were beginning to be collected and posted accordingly.

Ms. Ramsey-Chessman explained that all county revenue came through the Clerk's Office. She said that if the judge ruled that the collected dollars should be refunded to the municipalities and those dollars were already spent, no money would be available to refund. She concluded that the ordinance's legality to assess those dollars was being challenged since no precedent existed.

# V.c.2.

**DISCUSSED:** OIG Support, E-mail Feedback, Understanding the IG's (Inspector General) Function, and Public Involvement.

# V.c.2. - CONTINUED

<u>Paul McCullough</u> stated that he was a strong OIG advocate. He suggested that the OIG add the question, "Please tell me what are your feelings about this particular situation" at the bottom of e-mails that addressed certain OIG rulings. He added that people were having difficulty understanding the scope of the OIG's function, and that they should become involved in the OIG's process.

# V.c.3.

**DISCUSSED:** Gratitude and Support for General Steckler and Her Staff.

<u>Sandy Matkivich</u> commented that she was an invitee to one of General Steckler's initiatives, and she expressed her gratitude for General Steckler and her staff.

<u>Nancy Hogan</u> said that she was also invited to help General Steckler, and that voters had overwhelmingly wanted an inspector general.

# V.c.4.

DISCUSSED: Lawsuit Misconceptions, Embracing Ethics and the IG.

Richard Radcliffe, Executive Director, Palm Beach County League of Cities (League), commented that all 38 municipalities had embraced having an IG, and that a misconception existed regarding certain issues. He said that the lawsuit that was filed by 14 cities was not a League issue. He clarified that the 24 municipalities that had sent their fees to the Clerk were uninvolved with the Clerk's position. He added that the court case involved how the OIG would be funded, not if it would be funded. He concluded that everyone had embraced the ethics initiative and the OIG.

General Steckler clarified that adding the OIG's reports on the Website provided citizens with an opportunity to read them and to hold their government entities accountable. She added that reports also positively mentioned how well government entities had handled issues.

Commissioner Harbison commented that citizenry should stay vigilant in continuing to the ethics initiative

# VI. POLICY DEVELOPMENT: INSPECTOR GENERAL COMMITTEE'S OFFICE OF INSPECTOR GENERAL-RELATED RESPONSIBILITIES

#### VI.a. Discussion

#### Mr. Doucette stated that:

- At the October 6, 2011, Committee meeting, a commissioner had expressed concern regarding the Committee members' role relating to the OIG.
- At that meeting, County Attorney Leonard Berger outlined the Committee's roles and responsibilities relating to General Steckler and her office.
- Staff then drafted a policy based on the information presented by Mr. Berger and information taken from General Steckler's contract.
- Staff was looking for direction whether to move forward with the draft policy, or to discuss the policy issues in more detail.

#### Commissioner Farach said that:

- The discussion referenced by Mr. Doucette was not clearly set forth in the October 6, 2011, minutes.
- Before moving forward with the draft policy, the entire issue should be discussed as a whole with the Committee members, and an oversight committee consensus should be reached on how to proceed from this point forward.

Public Defender Carey Haughwout said that her recollection of the October 6, 2011, discussion involved whether the Committee had any role in reviewing and evaluating the IG, and if so, whether performance standards existed.

#### General Steckler stated that:

The Committee had probably not seen the IG's contract. The contract, and not the ordinance, contained language referencing that at the end of each year with the annual report, it was tied to that, accreditation, and other things.

• The Committee's roles, the IG's hiring and removal, and the IG's contract section relating to those issues that the Committee dealt with annually could be put into one document.

#### Commissioner Fiore said that:

- The problem centered around the IG's independence.
- The Committee was considered a resource with some responsibilities. One responsibility was deciding whether to renew the IG's contract at the end of the year.
  - Performance standards to make that determination were nonexistent.
  - General Steckler could educate the Committee by providing information such as how other IGs were evaluated and how their contract renewals were handled.
- The Committee's role should be to review General Steckler and not her staff. As one of her performance standards, however, the Committee could evaluate how she handled staff reviews and evaluations.

General Steckler clarified that staff performance standards and measures were already in place.

Commissioner Fiore commented that since General Steckler was a County employee, the County's Human Resources Department would have input regarding her staff's performance evaluations, which the Committee needed.

Ms. Haughwout said that she agreed with the Committee's previous conversations.

Commissioner Fiore stated that she would be uncomfortable if anyone in the OIG was involved in General Steckler's performance evaluation. She said that the Committee should decide who would staff that evaluation, and she suggested that it be the County.

Ms. Haughwout said that the County's involvement should be a support process rather than a decision-making process.

General Steckler said that she had discussed the County's assistance with Assistant County Administrator Brad Merriman, and he had informed her that County staff would offer its help. She added that if responsibilities increased while delving into the issue, she would once again talk with Mr. Merriman.

Commissioner Farach remarked that he had expressed to Mr. Doucette his desire that all discussions be public, transparent, and properly noticed.

Commissioner Harbison commented that he wanted to remind the public and everyone present that the IG's certification had set a record in terms of how quickly it occurred.

MOTION to direct staff to schedule a workshop to discuss the draft policy regarding the Inspector General Committee's role and responsibilities relating to the Office of Inspector General. Motion by Robin Fiore, and seconded by Peter Antonacci.

Ms. Haughwout said that the Committee should move forward with a workshop and provide staff with advanced specific direction regarding the Committee's expectations of standards not yet adopted.

General Steckler clarified that her four-year contract would expire at the end of June 2014, and that the Committee would decide whether to renew her contract by December 2013.

Commissioner Farach said that the workshop should be scheduled with Mr. Merriman within the next 45 to 60 days.

General Steckler said that she wanted more time to perform research and to contact the City of Miami's IG. Commissioner Fiore suggested that she should not limit her research to Florida.

Commissioner Farach said that the Committee could set a workshop timeframe of 90 days, and if the date needed to be rescheduled, he and Mr. Doucette would speak with Mr. Merriman. When the workshop date was set, it would be publicly noticed, he concluded.

# UPON CALL FOR A VOTE, the motion carried 6-0.

Responding to Commissioner Fiore, Commissioner Farach said that Commissioner Fiore could send IG evaluation materials to Mr. Doucette and Mr. Merriman.

VI.b.

Public Comment - None

VI.

**NEW BUSINESS** 

VI.a.

Discussion - None

VI.b.

Public Comment - None

VII.

**ADJOURNMENT** 

MOTION to adjourn the meeting. Motion by Robin Fiore, seconded by Ronald Harbison, and carried 6-0.

At 11:38 a.m., the chair declared the meeting adjourned

APPROVED:

Chair/Vice Chair