

**CLAY COUNTY DEVELOPMENT AUTHORITY
REGULAR SCHEDULED PUBLIC MEETING
ORANGE PARK, FLORIDA
October 16, 2013**

AGENDA

**CHAIR
VICE-CHAIR
TREASURER
SECRETARY
ASST. SECRETARY**

**DEBBIE RICKS
CHIP DOBSON
REV. RANDALL
VACANT
BETTY HICKS**

- | | |
|--|-----------------------|
| 1. Welcome/Call to Order 4:00 pm | Debbie Ricks |
| 2. Roll Call | Betty Hicks |
| 3. Invocation | Pastor Randall |
| 4. Approval of September 18, 2013 Minutes | Debbie Ricks |
| 5. Oath of Office for 2013/2014 Incoming Officers | |
| 6. Action on Proposed Resolution No. 2013/2014-01 re Policy on Public Meetings pursuant to F.S. s. 286.0114 (2013) | Grady Williams |
| 7. Comments from the Public | Debbie Ricks |
| 8. Treasurer's Report September 2013 Financial Report (Handout at meeting) | Pastor Randall |
| 9. Chair's Report Transition re Administrative Office Services for 2013/2014 Discussion of Organization Infrastructure and Facilities Action on Proposed RFP for Executive Director Position or Administrative Office Services Function 2013/2014 Committee Assignments Other | Debbie Ricks |
| 10. BLD Project Update | Greg Clary |
| 11. Attorney's Report Transition from Interim Executive Director Role Other | Grady Williams |

- | | |
|---|----------------------|
| 12. Economic Development Report | Bill Garrison |
| Transition of Administrative Office Services to Successor | |
| Public Records, Open Meetings, Website & Email Updates | |
| Clay Economic Development Council Update | |
| Other | |
| | |
| 13. Old Business/New Business/Board Comments | Debbie Ricks |
| | |
| 14. Adjournment | Debbie Ricks |

Dates of Upcoming CCDA Meetings:

November 20, 2013

December 18, 2013

January 15, 2014

NOTE: Items 4 and 6 through 14, above, are subject to discussion, consideration, and action by the Board of the Clay County Development Authority.

PUBLIC COMMENTS: Pursuant to F.S. s. 286.0114 (2013) [, and Clay County Development Authority policy], speakers intending to offer public comment must complete a provided speaker's card, turn in the same to the recording secretary for the public meeting, and may address the Board when recognized by the Chair of the meeting with their public comments for a period of not more than three (3) minutes. The Chair of the meeting has the authority and discretion to make special provisions for a group or faction spokesperson. The Chair of the meeting has all requisite authority and discretion to maintain orderly conduct or proper decorum of the public meeting.

**CLAY COUNTY DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING
MINUTES**

September 18, 2013

Present: Greg Clary, Chip Dobson, William Randall, Jan Conrad, Tom Morris, Grady Williams (Counsel/Interim Executive Director)

Absent: Matt Welch, Joe Mobley, Debbie Ricks, Virginia Hall, Paz Patel

Guests: Matt Carlton, Carlton Construction, Ted McGowan, Reynolds Industrial Park, Mark Carillon, WEB904.

Staff: Bill Garrison, Betty Hicks

Call to Order: **Treasurer, Chip Dobson** called the Clay County Development Authority (“CCDA”) Board meeting to order at 4:15 PM.

Invocation: William Randall

Approval of August 21, 2013 Minutes: Greg Clary made motion to accept; William Randall seconded and motion carried.

Treasurer’s Report: Chip Dobson reviewed and discussed the August financials. A copy of the CCDA Budget for FY 2013-2014 was provided and motion was made by Jan Conrad to adopt and discuss at the next board meeting; Greg Clary seconded and motion carried. Reconciliation of the current 2012-2013 budget to actual was adopted.

BLD Update: Attorney David Cohen was introduced and upon approval of the board will be assisting Grady Williams with Big League Dreams negotiations with the County. A motion was made by Greg Clary to ratify the agreement with Attorney Cohen; Tom Morris seconded and motion carried.

Economic Development Report: Bill Garrison provided a draft copy of the services provided to CCDA by the Economic Development Council. Greg Clary recommended that discussion of the services be tabled until next month’s meeting. Bill Garrison introduced Mark Carillon with WEB904 to discuss creating e-mail addresses for the board members for the purpose of corresponding to public requests through the CCDA website. It was recommended by Grady Williams to table the discussion until next meeting; a policy is not in place on how to handle public requests or the recording (audio and/or video) of a CCDA meeting by the public.

Attorney’s Report: Grady Williams provided a Statement of Services rendered regarding Big League Dreams Project. Tom Morris made motion to accept the Statement and Jan Conrad seconded; motion carried. A letter of resignation as the Interim Executive Director (outgoing) was provided. Jan Conrad made motion to accept the letter of resignation; Greg Clary seconded and motion carried.

New Business: The signers for the CCDA fiscal year 2013-2014 checking account will be Matt Welch, Debbie Ricks, Chip Dobson and William Randall. The signers for the DEVCOM checking account will be the same as for CCDA.

The nominations for officers for the fiscal year 2013 – 2014 are: Debbie Ricks, Chair, Chip Dobson, Vice Chair, William Randall, Treasurer. The Secretary position will remain vacant until the appointment of the two new board members. In the interim, Grady recommended a Staff proposal that Betty Hicks serve as the Assistant Secretary until the Secretary vacancy is filled; the board agreed. Tom Morris made motion to accept Debbie Ricks as Chair; Jan Conrad seconded and motion carried. Tom Morris made motion to accept Chip Dobson as Vice Chair; Jan Conrad seconded and motion carried. Tom Morris made motion to accept William Randall as Treasurer; Jan Conrad seconded and motion carried.

Comment from Public: Joe Riley made public comment.

Adjourned: 5:30PM

DATES OF UPCOMING CCDA MEETINGS:

November 20, 2013

December 18, 2013

January 15, 2014

RESOLUTION NO. 2013/2014-01

RESOLUTION OF CLAY COUNTY DEVELOPMENT AUTHORITY (THE "AUTHORITY") ADOPTING A POLICY FOR PUBLIC MEETINGS PURSUANT TO F.S. s. 286.0114 (2013); PROVIDING BACKGROUND RECITALS; PROVIDING FOR THE REASONABLE OPPORTUNITY OF THE PUBLIC TO BE HEARD; PROVIDING FOR THE OPPORTUNITY TO BE HEARD ON CONTESTED AGENDA ITEMS; PROVIDING FOR THE OPPORTUNITY TO BE HEARD; PROVIDING FOR THE USE OF A SPEAKER'S CARD AND LIMITING THE DURATION OF PUBLIC COMMENTS FOR INDIVIDUAL SPEAKERS OR GROUP OR FACTION REPRESENTATIVES; PROVIDING FOR THE AUTHORITY OF THE CHAIR TO GOVERN AND ADMINISTER THE PUBLIC MEETING; PROVIDING FOR DEPARTURE FROM PUBLIC COMMENT POLICY AS PERMITTED UNDER SPECIFIC STATUTORY CRITERIA; PROVIDING FOR APPLICATION TO AUTHORITY COMMITTEE MEETINGS; AUTHORIZING THE EXECUTIVE DIRECTOR OR ADMINISTRATIVE STAFF TO TAKE OTHER AND FURTHER ACTIONS REASONABLY NECESSARY OR HELPFUL IN FURTHERANCE OF THIS POLICY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED, BY THE FORMAL ACTION OF THE AUTHORITY, THAT THE FOLLOWING ACTION IS HEREBY ADOPTED AS THE LEGAL AND BINDING ACTION AND RESOLUTION OF THE AUTHORITY, PERTAINING TO THE ABOVE SUBJECT MATTER SPECIFIED.

BACKGROUND RECITALS

WHEREAS, by the action of the Legislature and Governor of the State of Florida, a general statutory law has been created and is codified at F.S. s. 286.0114 (the "Statute"), effective as of October 1, 2013;

WHEREAS, the purpose and intent of the newly enacted Statute is to afford and ensure a defined opportunity for public comment at public meetings held in the State of Florida which are open, public meetings held pursuant to Florida's Government in the Sunshine Law; and

WHEREAS, the Authority desires to fully comply with the provisions of the Statute, and to clearly set forth a policy for the conduct of its public meetings of the Board which will fully satisfy both the requirements of the Statute and fundamental notions of due process, open government, and fairness, while at the same time affording the opportunity for the Board to conduct its public business in

accordance with reasonable and prudent practices for orderly and efficient public meeting management, while observing proper decorum during such process.

FORMAL ADOPTION OF RESOLUTION NO. 2013/2014-01

NOW, THEREFORE, THE FOLLOWING POLICY IS HEREBY ADOPTED BY THIS RESOLUTION NO. 2013/2014-01, DATED EFFECTIVE THIS 16TH DAY OF OCTOBER, 2013, AS FOLLOWS:

Section 1. All public meetings of the Authority are subject to the reasonable opportunity of the public to be heard, as expressly provided for, excluded by, and limited under Florida Statute 286.0114 (2013), as amended.

Section 2. The Authority meetings shall observe a separate opportunity for public comment on any topic, proposition or matter immediately after the invocation, roll call, approval of the minutes, and the adoption of any ceremonial resolutions, if any. It is the purpose and intent of this section to afford an ample and adequate opportunity for all members of the public wishing to address the Board to do so prior to Board action on any topic, proposition or matter as a part of the discussion and public decision making process.

Section 3. Any public comment shall require the completion and submission of a provided public comment card to the Authority's Recording Secretary for that meeting prior to or during the current Authority meeting. Each speaker presenting public comment shall be limited to comments of three (3) minutes in duration, and shall only have one opportunity to speak at the public comment period provided at the beginning of the Authority meeting, and as to each contested Agenda item during the course of that same meeting. In the event of a large number of persons wishing to be heard on a specific topic, proposition or matter, the Chair of the Authority meeting may request that a representative or designated spokesperson present for each group or faction wishing to be heard, as opposed to hearing from each individual member of each separate group or faction. In that event the Chair of the Authority meeting may expand the time limit for comments for each group or faction representative or spokesperson to more than three (3) minutes.

Section 4. The Authority Chair shall otherwise have the authority to govern and administer the conduct of the Authority meetings, as contemplated by the Statute. Therefore, the Chair of a public meeting of the Authority shall have all necessary and appropriate powers to conduct an orderly public meeting and to maintain proper decorum during such meeting. The Chair shall have latitude as is reasonable and appropriate to ensure that the public policies supported by the Statute are adequately and lawfully observed by the Authority in conduct of its public business.

Section 5. Notwithstanding anything contained in this Resolution No. 2013/2014-01 to the contrary, the Authority shall be authorized to take up and deal with an emergency situation affecting the public health, welfare, or safety, by limiting or excluding the opportunity for public comment, if compliance with the statutory requirements of the Statute under the then current circumstances would cause an unreasonable delay in the ability of the Authority to act, as provided by the Statute. To that end, the provisions and requirements above providing for public comment do not apply to any of the

circumstances or events described in F.S. s. 286.0114(3)(a), (b), (c), or (d), or as may be expanded or contracted by future legislative change to the Statute as then in effect.

Section 6. The Authority's Committee meetings shall provide the same opportunity for public comment as provided for herein for Authority meetings, and shall follow this policy for any such public committee meetings to the nearest extent possible or practical under the circumstances.

Section 7. The Executive Director or administrative staff of the Authority or his or her designee shall take such other and further actions as may be reasonably necessary or helpful to the implementation and observance of public meeting policy adopted by this Resolution No. 2013/2014-01, including, for purposes of illustration and not limitation, (a) provision of a uniform public comment card for use by speakers, and instructions on completing and handing in the public comment card in order to be recognized, (b) providing general written notices, instructions, and suggestions to the public designed to clarify and ensure understanding of the reasonable opportunity for public comment at Authority and Committee public meetings, as provided for above in this Resolution No. 2013/2014-01, and as consistent with the Statute, (c) facilitating compliance with appropriate and reasonable Americans with Disabilities Act ("ADA") accommodations for members of the public who wish to personally address the Authority or Committee, as the case may be, during public comment times afforded, who require assistance or accommodation, and (d) clearly identifying the designated time period for general public comments as a separate written agenda item in each published Agenda.

Section 8. This Resolution 2013/2014-01, and the policy set forth herein as authorized by the Statute, shall be effective immediately upon adoption.

DULY ADOPTED THIS 16TH DAY OF OCTOBER, 2013, BY THE CLAY COUNTY DEVELOPMENT AUTHORITY.

CLAY COUNTY DEVELOPMENT AUTHORITY

BY: _____

NAME: _____

TITLE: DEBBIE RICKS, CHAIR

ATTEST:

BETTY HICKS, RECORDING SECRETARY
CLAY COUNTY DEVELOPMENT AUTHORITY

(SEAL)

Florida Statutes (2013)

286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—

- (1) For purposes of this section, “board or commission” means a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision.
- (2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).
- (3) The requirements in subsection (2) do not apply to:
 - (a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;
 - (b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 - (c) A meeting that is exempt from s. 286.011; or
 - (d) A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.
- (4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:
 - (a) Provide guidelines regarding the amount of time an individual has to address the board or commission;
 - (b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;
 - (c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or

(d) Designate a specified period of time for public comment.

(5) If a board or commission adopts rules or policies in compliance with this section and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with this section.

(6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.

(7)(a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

History.—s. 1, ch. 2013-227.

Effective Date: October 1, 2013.

~~Although not directly addressing the open meetings laws, courts of other states have ruled that in the absence of a compelling governmental interest, agencies may not single out and exclude a particular news organization or reporter from press conferences. See, e.g., *Times-Picayune Publishing Corporation v. Lee*, 15 Media L. Rep. 1713 (E.D. La. 1988); *Borreca v. Fasi*, 369 F. Supp. 906 (D. Hawaii 1974); *Quad-City Community News Service, Inc. v. Jebens*, 334 F. Supp. 8 (S.D. Iowa 1971); and *Southwestern Newspapers Corporation v. Curtis*, 584 S.W.2d 362 (Tex. Ct. App. 1979).~~

(4) Cameras and tape recorders

A board or commission may adopt reasonable rules and policies which ensure the orderly conduct of a public meeting and require orderly behavior on the part of those persons attending a public meeting. A board, however, may not ban the use of nondisruptive recording devices. *Pinellas County School Board v. Suncam, Inc.*, 829 So. 2d 989 (Fla. 2d DCA 2002) (school board's ban on unobtrusive videotaping invalid). *Accord* AGO 91-28. *And see* AGO 77-122 (silent nondisruptive tape recording of district meeting permissible).

The Legislature in Ch. 934, F.S., appears to implicitly recognize the public's right to silently record public meetings. AGO 91-28. Chapter 934, F.S., the Security of Communications Act, regulates the interception of oral communications. Section 934.02(2), F.S., however, defines "[o]ral communication" to specifically exclude "any public oral communication uttered at a public meeting . . ." See also Inf. Op. to Gerstein, July 16, 1976, stating that public officials may not complain that they are secretly being recorded during public meetings in violation of s. 934.03, F.S.

b. Public participation

Court decisions interpreting the Sunshine Law in the years following passage of s. 286.011, F.S., recognized the importance of public participation in governmental proceedings. See, e.g., *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 699 (Fla. 1969) (specified boards and commissions . . . should not be allowed to deprive the public of this inalienable right to be present and to be heard at all deliberations wherein decisions affecting the public are being made); *Town of Palm Beach v. Gradison*, 296 So. 2d 473, 475 (Fla. 1974); and *Krause v. Reno*, 366 So. 2d 1244 (Fla. 3d DCA 1979) ("citizen input factor" is an important aspect of public meetings). However, these cases did not specifically rule on the extent to which the Sunshine Law requires a governmental entity to permit the public to speak at public meetings.

The Florida Supreme Court expressly addressed the question of public participation in a 1983 decision. In *Wood v. Marston*, 442 So. 2d 934, 941 (Fla. 1983), the Court held that the Sunshine Law does not give the public the right to speak at a meeting of a committee appointed by a university president to recommend candidates for a university position. *And see* *Law and Information Services v. City of Riviera Beach*, 670 So. 2d 1014, 1016 (Fla. 4th DCA 1996), citing *Marston* for the principle that the public does not have a right to speak on all issues prior to resolution of the issue by the board; and *Homestead-Miami Speedway, LLC v. City of Miami*, 828 So. 2d 411 (Fla. 3d DCA 2002) (city did not violate Sunshine Law where there was public participation and debate in some but not all of the meetings concerning a proposed contract).

More recently, the First District Court of Appeal relied on "clear and unambiguous language" in the *Marston* decision and ruled that a non-profit corporation charged by the City of Pensacola with overseeing the development of a parcel of public waterfront property must allow the public to attend the meetings but was not required to provide an opportunity for the public to speak. *Keesler v. Community Maritime Park Associates, Inc.*, 32 So. 3d 659 (Fla. 1st DCA 2010), *review denied*, 47 So. 3d 1289 (Fla. 2010). *And see* *Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010), *review denied*, 47 So. 3d 1288 (Fla. 2010) (citizens are authorized to attend open meetings but not to participate in decision-making process). *Accord* *Kennedy v. St. Johns River*

Water Management District, No. 2009-0441-CA (Fla. 7th Cir. Ct. September 27, 2010), *per curiam affirmed*, 84 So. 3d 331 (Fla. 5th DCA 2011).

While recent decisions have clarified that the Sunshine Law does not mandate that boards permit the public to speak at open meetings, that law does not prohibit boards from choosing to do so as a matter of public policy. The benefits of public input into the decision-making process recognized in the *Doran*, *Gradison* and *Krause* opinions are still valid today. Accordingly, the Attorney General's Office strongly encourages public boards to consider a reasonable opportunity for the public to address the board prior to taking action. *Cf.* AGOs 04-53 and 91-53 (reasonable rules and policies designed to ensure orderly conduct of a public meeting and which require orderly behavior on the part of those attending, are appropriate).

Although not directly considering the Sunshine Law, the court in *Jones v. Heyman*, 888 F.2d 1328, 1333 (11th Cir. 1989), recognized that "to deny the presiding officer the authority to regulate irrelevant debate and disruptive behavior at a public meeting--would cause such meetings to drag on interminably, and deny others the opportunity to voice their opinions." Thus, the court concluded that a mayor's actions in attempting to confine the speaker to the agenda item in the city commission meeting and having the speaker removed when the speaker appeared to become disruptive constituted a reasonable time, place and manner regulation and did not violate the speaker's First Amendment rights. *And see Rowe v. City of Cocoa*, 358 F.3d 800 (11th Cir. 2004) (city council's regulation limiting speech of nonresidents during its meetings is viewpoint-neutral and does not violate the First or Fourteenth Amendment rights of nonresidents). *Cf.* AGO 04-53 (statute requiring special district board to hold "a public hearing at which time qualified electors of the district may appear and be heard" does not prohibit nonqualified electors from participating).

6. May the members of a public board use codes or preassigned numbers in order to avoid identifying individuals?

Section 286.011, F.S., requires that meetings of public boards or commissions be "open to the public at all times . . ." *See Neu v. Miami Herald Publishing Company*, 462 So. 2d 821, 823 (Fla. 1985), disapproving a procedure permitting representatives of the media to attend a city council meeting provided that they agreed to "respect the confidentiality" of certain matters: "Under the Sunshine Law, a meeting is either fully open or fully closed; there are no intermediate categories."

The use of preassigned numbers or codes at public meetings to avoid identifying the names of applicants violates s. 286.011, F.S., because "to permit discussions of applicants for the position of a municipal department head by a preassigned number or other coded identification in order to keep the public from knowing the identities of such applicants and to exclude the public from the appointive or selection process would clearly frustrate or defeat the purpose of the Sunshine Law." AGO 77-48. *Accord* AGO 76-240 (Sunshine Law prohibits the use of coded symbols at a public meeting in order to avoid revealing the names of applicants for the position of city manager). *And see News-Press Publishing Company v. Wisner*, 345 So. 2d 646, 648 (Fla. 1977) ("public policy of this state as expressed in the public records law and the open meetings statute eliminate any notion that the commission was free to conduct the county's personnel business by pseudonyms or cloaked references").

7. May members of a public board vote by written or secret ballot?

Board members are not prohibited from using written ballots to cast a vote as long as the votes are made openly at a public meeting, the name of the person who voted and his or her selection are written on the ballot, and the ballots are maintained and made available for public inspection in accordance with the Public Records Act. *See* AGO 73-344. In addition, because the Sunshine Law expressly requires that public meetings be open to the public "at all times," after the ballots are marked, it may be advisable for the person who tallies the votes to announce the

REQUEST FOR PROPOSAL

The Clay County Development Authority (the "CCDA") is seeking to obtain an Executive Director and/or administrative staff and office services from a qualified firm or individual. Those interested in providing these services should formally submit a proposal and other information that is detailed herewith addressed to Chair, Clay County Development Authority, 1734 Kingsley Avenue, Orange Park, FL 32073, by _____, 2013, at 12:00 noon.

1. Consideration will be given to individuals or firms having experience providing comparable executive director, agency head, and/or administrative office services to special districts, county governments, or municipalities within the State of Florida.
2. Individuals or firms should identify the principal or person(s) who will actually be supervising and managing the services to be provided and performed. Qualifications and experience of this/these individuals should be submitted with the information supplied. Please submit any credentials, certifications, professional designations, and /or licenses for these persons.
3. Firms or individuals interested in providing the requested services should explain any training or experience that the firm or individual(s) have as it relates to this request for proposal.
4. Firms or individuals interested in providing the requested services shall provide the monthly flat fee and cost related items they will charge for this engagement.
5. The CCDA will also entertain any additional information that would be helpful in making an ultimate decision. An appointed CCDA Committee may be assigned to recommend to the CCDA based on all such submitted information.
6. All information must be submitted with the Proposal that is due on _____, 2013. At its discretion, the CCDA, or the CCDA Committee tasked with making its recommendation to the CCDA, may request any additional information that may be helpful in the evaluation process.
7. The factors to be considered by the CCDA in evaluating the Proposals are ability of personnel, experience, ability to furnish the required services, flexibility and ability to adapt to the CCDA's goals and objectives, and compensation.

The CCDA reserves the right to accept or reject any or all proposals submitted and to make a final decision in the best interest of the Clay County Development Authority. One or more selected proposers may be asked to make preliminary presentations and submit to an interview with an appointed the CCDA Committee assigned to this task, in charge of making a recommendation for final selection to the CCDA.

CLAY COUNTY DEVELOPMENT AUTHORITY

October 16, 2013

The Clay County Development Authority (“CCDA”) is in the process of selecting an individual or firm to provide necessary Executive Director and/or administrative staff and office services for CCDA, which is an independent special district of the State of Florida.

Attached herewith is information that may be helpful to you in deciding if you or your firm is interested in this engagement.

At your earliest convenience, please review the attached information and submit a Proposal and qualifications if you are interested in providing these services.

Should you have any questions or need additional information, please contact _____, at _____.

Sincerely,

Debbie Ricks, Chair
Clay County Development Authority

Enclosure



GRADY H. WILLIAMS, JR., LL.M.
ATTORNEYS AT LAW, P.A.

Alison E. Hickman
Alison@FloridaElder.com

Grady H. Williams, Jr., LL.M.*
*Master of Laws in Taxation
Grady@FloridaElder.com

MAIN OFFICE
1543 Kingsley Avenue, Building 5
Orange Park, FL 32073
Tel: 904-264-8800

MAILING ADDRESS
P.O. Box 1542
Orange Park, FL 32067
Fax: 904-264-0155

JACKSONVILLE
Tel: 904-268-8170
www.FloridaElder.com

October 11, 2013

Clay County Development Authority
1734 Kingsley Avenue
Orange Park, FL 32073

Re: 2013/2014 Transition Matters for Clay County Development Authority

STATEMENT OF SERVICES RENDERED

| <u>Date</u> | <u>Description of Billable Activity</u> | <u>Amount</u> |
|-------------|---|---------------|
| 9/25/2013 | Prepare for and OC w/ support staff and public records consultant re transition, public records and IT matters. TCs w/ client. Follow up w/ support staff. 1.2 hrs. | \$ 300.00 |
| 9/26/2013 | Review and initial mark up of Agenda for October meeting. Follow up on other pending fiscal year transition matters. TC with support staff. .8 hrs. | \$ 200.00 |
| 8/27/2013 | Prepare for and OC w/ support staff and client. Follow up on transition matters and TCs w/ and to client. 2.0 hrs. | \$ 500.00 |
| 9/30/2013 | TCs w/ client. Email correspondence to CCDA Board re support staff transition and other 2013/2014 fiscal year transition matters. Research and follow up on pending transition matters including Public Meetings Resolution Policy. Emails to client re Oaths of Office for 2013/2014. 2.2 hrs. | \$ 550.00 |
| 10/1/2013 | Follow up Email and TC w/ client and work on transition matters. .6 hrs. | \$ 150.00 |
| 10/2/2013 | Finalize and distribute Public Meetings Resolution Draft and revised proposed Agenda for October CCDA meeting. Follow up TC w/ client. 1.8 hrs. | \$ 450.00 |

| | | |
|-------------------------------|--|---------------------------|
| 10/3/2013 | TCs w/ support staff and client re transition, public records and IT matters. .4 hrs. | \$ 100.00 |
| 10/4/2013 | Research and prepare proposed Resolution No. 2 re approval of final adjusted 2012/2013 Fiscal Year Budget to Actual. Also Research and prepare proposed RFP for CCDA Executive Director or Administrative Office Staff services. Prepare distribution to client of same. Follow up email to support staff re additional available IT resources. 1.6 hrs. | \$ 400.00 |
| 10/7/2013 | Follow up research on authorities re proposed Public Meetings Resolution. Emails to support staff re pending transition matters. Email to CCDA Board re availability of Government in the Sunshine Manual as online resource. 1.0 hrs. | \$ 250.00 |
| 10/8/2013 | Follow up emails to support staff re public records, IT, and transition matters. TC w/ support staff and client re same. .5 hours. | \$ 125.00 |
| 10/9/2013 | Follow up emails and TC w/ support staff and website/IT vendor re pending transition matters and CCDA Board presentations. .4 hrs. | \$ 100.00 |
| 10/10/2013 | TCs w/ support staff re transition matters. Follow up email to staff. Prepare for next day's meeting to finalize October Agenda and attachments for website posting and distribution. .7 hrs. | \$ 175.00 |
| 10/11/2013 | Prepare for and OC w/ support staff to finalize Agenda and Attachments for website posting and distribution to CCDA Board for October meeting. 1.0 hrs. | \$ 250.00 |
| TOTAL DUE THIS BILLING | (GHW 14.2hrs. @ \$250.00/hr.) | <u>\$ 3,550.00</u> |

Thank you for allowing us to represent you on this matter. Please contact Grady H. Williams, Jr., LL.M., if you have any questions regarding this billing or the subject matter of this representation.

FLORIDA STATUTES (2013)

Section 668.6076 Public records status of e-mail addresses; agency website notice.—Any agency, as defined in s. 119.011, or legislative entity that operates a website and uses electronic mail shall post the following statement in a conspicuous location on its website:

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

History.—s. 1, ch. 2006-232.

Copyright © 1995-2013 The Florida Legislature

2010), *review denied*, 47 So. 3d 1288 (Fla. 2010) (canvassing board minutes constitute “final work product of the [b]oard, not a preliminary draft or note”); *City of Pinellas Park, Florida v. Times Publishing Company*, No. 00-008234CI-19 (Fla. 6th Cir. Ct. January 3, 2001) (rejecting city’s argument that employee responses to survey are “notes” which are not subject to disclosure because “as to each of the employees, their responses were prepared in connection with their official agency business and they were ‘intended to perpetuate, communicate, or formalize knowledge’ that they had about their department”); and *Florida Sugar Cane League, Inc. v. Florida Department of Environmental Regulation*, No. 91-4218 (Fla. 2d Cir. Ct. June 5, 1992) (handwritten notes of agency staff “utilized to communicate and formulate knowledge within [the agency] are public records subject to no exemption”).

Similarly, in AGO 05-23, the Attorney General’s Office was asked whether handwritten notes taken by an assistant city labor attorney during her interviews with city personnel were public records. The notes were reviewed by the city’s labor attorney, used to prepare a disciplinary action form, and then filed. The opinion concluded that the notes “are public records when those notes are made to perpetuate and formalize knowledge and to communicate that information to the labor attorney.” The notes represented the “end product of her interviews and were the formalized knowledge that was used to prepare a separate and distinct public record: the disciplinary action form.”

3. Electronic and computer records

a. Electronic databases and files

Information stored in a public agency’s computer “is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet . . .” *Seigle v. Barry*, 422 So. 2d 63, 65 (Fla. 4th DCA 1982), *review denied*, 431 So. 2d 988 (Fla. 1983). *And see National Collegiate Athletic Association v. Associated Press*, 18 So. 3d 1201 (Fla. 1st DCA 2009), *review denied*, 37 So. 3d 848 (Fla. 2010) (public records law is not limited to paper documents but applies to documents that exist only in digital form); AGO 98-54 (application and disciplinary reports maintained in a computer system operated by a national securities dealers association which are received electronically by state agency for use in licensing and regulating securities dealers doing business in Florida are public records); AGO 91-61 (agency must provide copy of computer disk in response to Ch. 119 request); and AGO 85-03 (computer tape subject to disclosure).

Thus, information such as electronic calendars, databases, and word processing files stored in agency computers, can all constitute public records because records made or received in the course of official business and intended to perpetuate, communicate or formalize knowledge of some type, fall within the scope of Ch. 119, F.S. AGO 89-39. *Compare* AGO 85-87 (to the extent that “machine-readable intermediate files” may be intended to “communicate” knowledge, any such communication takes place completely within the data processing equipment and in such form as to render any inspection pursuant to Ch. 119, F.S., unintelligible and, except perhaps to the computer itself, meaningless; therefore, these files are analogous to notes used to prepare some other documentary material, and are not public records). *And see Grapski v. Machen*, No. 01-2005-CA-4005 J (Fla. 8th Cir. Ct. May 9, 2006), *affirmed per curiam*, 949 So. 2d 202 (Fla. 1st DCA 2007) (spam or bulk mail received by a public agency does not necessarily constitute a public record).

Moreover, the definition of “public records” specifically includes “data processing software” and establishes that a record made or received in connection with official business is a public record, regardless of physical form, characteristics, “or means of transmission.” *See* s. 119.011(12), F.S. “Automation of public records must not erode the right of access to [public records].” Section 119.01(2)(a), F.S.

Accordingly, electronic public records are governed by the same rule as written documents and other public records--the records are subject to public inspection unless a statutory exemption

exists which removes the records from disclosure. *Cf.* AGO 90-04, stating that a county official is not authorized to assign the county's right to a public record (a computer program developed by a former employee while he was working for the county) as part of a settlement compromising a lawsuit against the county.

b. Consideration of public access in design of electronic recordkeeping system

When an agency is designing or acquiring an electronic recordkeeping system, the agency must consider whether the proposed system is capable of providing data in some common format such as, but not limited to, the American Standard Code for Information Interchange. Section 119.01(2)(b), F.S. *Cf.* Inf. Op. to Moore, October 19, 1993, noting that an agency considering the acquisition of computer software should be responsive to the need for preserving public access to the information through use of the computer's software and that "[t]he design and development of the software, therefore, should ensure that the system has the capability of redacting confidential or exempt information when a public records request is made." *And see* s. 287.042(3)(h), F.S. (Department of Management Services responsible for development of procedures to be used by state agencies when procuring information technology commodities and contractual services that ensure compliance with public records and records retention requirements).

Similarly, an agency may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic recordkeeping system used by the agency. Section 119.01(2)(c), F.S.

The importance of ensuring public access to computer records is recognized by statute and in the electronic recordkeeping rules of the Division of Library and Information Services of the Department of State. Rule 1B-26.003(6)(g), F.A.C., provides that each agency shall "[e]nsure that agency electronic recordkeeping systems meet state requirements for public access to records in accordance with Chapter 119, F.S."

c. E-Mail

E-mail messages made or received by agency officers and employees in connection with official business are public records and subject to disclosure in the absence of an exemption. AGOs 96-34 and 01-20. *See Rhea v. District Board of Trustees of Santa Fe College*, 37 F.L.W. D1722, 1724 (Fla. 1st DCA 2012), noting that "electronic communications, such as e-mail, are covered [by the Public Records Act] just like communications on paper." *Cf.* s. 668.6076, F.S., requiring agencies that operate a website and use electronic mail to post the following statement in a conspicuous location on the agency website: "Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

Similarly, e-mails sent by city commissioners in connection with the transaction of official business are public records subject to disclosure even though the e-mails contain undisclosed or "blind" recipients and their e-mail addresses. AGO 07-14. *Cf. Butler v. City of Hallandale Beach*, 68 So. 3d 278 (Fla. 4th DCA 2011) (affirming a trial court order finding that a list of recipients of a *personal* e-mail sent by mayor from her personal computer was not a public record).

Like other public records, e-mail messages are subject to the statutory restrictions on destruction of public records. See s. 257.36(6), F.S., stating that a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the Division of Library and Information Services (division) of the Department of State. Thus, an e-mail communication of "factual background information" from one city council member to another is a public record and should be retained in accordance with the retention schedule for other records relating to performance of the agency's functions and formulation of policy. AGO 01-20.



COLEMAN & ASSOCIATES
Certified Public Accounting Firm

ACCOUNTANTS' COMPILATION REPORT

To the Board of Directors of
Clay County Development Authority
Orange Park, FL

We have compiled the accompanying government-wide balance sheet of Clay County Development Authority (a governmental organization) as of September 30, 2013 and 2012, and the related statements of revenues and expenses for the one month and fiscal year then ended, and the accompanying supplementary statement of revenues and expenses – budget vs. actual – current month and fiscal year to date.

We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with accounting principles generally accepted in the United States of America.

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements.

Management has elected to omit the management discussion and analysis, the governmental fund financial statements and substantially all of the disclosures required by generally accepted accounting principles. If the omitted management discussion and analysis, governmental fund financial statements and disclosures were included in the financial statements, they might influence the user's conclusions about the Organization's financial position and changes in net assets. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to the Clay County Development Authority.

Coleman & Associates Cpa firm

October 14, 2013

Clay County Development Authority
Governmentwide Balance Sheet
 As of September 30, 2013

| | <u>Sep 30, 13</u> |
|---|----------------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| 100001 · Wells Fargo(Operating) | 20,011.03 |
| 100002 · First Atlantic Checking - 1484 | 48,548.02 |
| 100004 · Heritage Bank (CD) | 50,000.00 |
| 100005 · Heritage Bank 2 (CD) | 50,000.00 |
| 100007 · Investment - Florida Prime - A | 140,137.73 |
| 100008 · Investment - Florida Prime - B | 8,712.18 |
| 100016 · Compass Bank Money Market - Pub | 175,239.47 |
| 100018 · First Atlantic Bank MMKT -1493 | 967,178.15 |
| 100025 · Fifth-Third CD | 76,305.00 |
| 100026 · Fifth-Third 2 (CD) | 76,305.00 |
| Total Checking/Savings | <u>1,612,436.58</u> |
| Accounts Receivable | |
| 115002 · Revenue Receivable | 53,633.58 |
| Total Accounts Receivable | <u>53,633.58</u> |
| Other Current Assets | |
| 115000 · Accrued Interest Receivable | 755.00 |
| 115001 · Loan to Clay Co. Chamber of Com | 115,858.51 |
| 1499 · Undeposited Funds | 695.50 |
| Total Other Current Assets | <u>117,309.01</u> |
| Total Current Assets | <u>1,783,379.17</u> |
| Fixed Assets | |
| 162950 · Leasehold Improvements - Devcom | 28,842.00 |
| 166900 · Office Equipment | 58,347.98 |
| 167900 · Accum Depreciation | -84,778.00 |
| Total Fixed Assets | <u>2,411.98</u> |
| Other Assets | |
| 1160000 · Note Receivable - St Johns Coun | 48,000.00 |
| 162900 · Equity Interest - Devcom | 194,688.56 |
| 163000 · License Agreement - Big League | 450,000.00 |
| Total Other Assets | <u>692,688.56</u> |
| TOTAL ASSETS | <u>2,478,479.71</u> |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Accounts Payable | |
| 200000 · Accounts Payable | 188.48 |
| Total Accounts Payable | <u>188.48</u> |
| Other Current Liabilities | |
| 220000 · Security Deposits | 2,788.00 |
| 25500 · Sales Tax Payable | 152.99 |
| Total Other Current Liabilities | <u>2,940.99</u> |
| Total Current Liabilities | <u>3,129.47</u> |
| Total Liabilities | <u>3,129.47</u> |
| Equity | |
| 272000 · Net Asset Balance | 1,908,993.80 |
| 280000 · Invest in Fixed Assets | 349,102.04 |
| 32000 · Retained Earnings | 368,437.19 |
| Net Income | -151,182.79 |
| Total Equity | <u>2,475,350.24</u> |
| TOTAL LIABILITIES & EQUITY | <u>2,478,479.71</u> |

Clay County Development Authority
Statement of Revenues and Expenses
 For the One Month and Fiscal Year ending September 30, 2013

| | Sep 13 | Oct '12 - Sep 13 | % YTD |
|--|------------------|--------------------|---------------|
| Ordinary Income/Expense | | | |
| Income | | | |
| 331000 · Grant Revenues | 53,183.12 | 99,195.77 | 53.6% |
| 361000 · Investment Earnings | 296.54 | 3,989.21 | 7.4% |
| 361008 · Unrealized gain/(loss) Fund b | 0.00 | 1,839.39 | 0.0% |
| 362000 · Rents & Royalties | 2,185.50 | 15,283.51 | 14.3% |
| 369000 · Miscellaneous Revenues | 0.00 | 21,244.84 | 0.0% |
| Total Income | 55,665.16 | 141,552.72 | 39.3% |
| Expense | | | |
| 512000 · Funding to CCC | 8,333.33 | 99,999.96 | 8.3% |
| 513300 · Professional Fees | 600.00 | 18,278.16 | 3.3% |
| 513440 · Liability Insurance | 0.00 | 1,404.92 | 0.0% |
| 513460 · Devcom LLP Expense | 2,200.00 | 26,400.00 | 8.3% |
| 513470 · Property Maintenance | 0.00 | 267.47 | 0.0% |
| 513490 · Business Meeting | 0.00 | 727.64 | 0.0% |
| 513491 · Miscellaneous | 0.00 | 44.94 | 0.0% |
| 513493 · Service Charges | 21.22 | 402.76 | 5.3% |
| 513494 · Dues & Subscriptions | 126.08 | 2,251.05 | 5.6% |
| 513510 · Office and Operating Expenses | 1,338.00 | 4,507.84 | 29.7% |
| 513800 · Community Development Project | 0.00 | 39,201.00 | 0.0% |
| 513900 · Economic Sustainability | 0.00 | 54.00 | 0.0% |
| 559000 · Grant Expense | 0.00 | 99,195.77 | 0.0% |
| Total Expense | 12,618.63 | 292,735.51 | 4.3% |
| Net Ordinary Income | 43,046.53 | -151,182.79 | -28.5% |
| Net Income | 43,046.53 | -151,182.79 | -28.5% |

Clay County Development Authority Statement of Revenues and Expenses - Budget to Actual September 2013

| | Sep 13 | Budget | Oct '12 - Sep 13 | YTD Budget | Annual Budget |
|--|------------------|-------------------|--------------------|--------------------|--------------------|
| Ordinary Income/Expense | | | | | |
| Income | | | | | |
| 331000 · Grant Revenues | 53,183.12 | | 99,195.77 | | |
| 361000 · Investment Earnings | 296.54 | 500.00 | 3,989.21 | 6,000.00 | 6,000.00 |
| 361008 · Unrealized gain/(loss) Fund b | 0.00 | | 1,839.39 | | |
| 362000 · Rents & Royalties | 2,185.50 | 535.50 | 15,283.51 | 15,426.00 | 15,426.00 |
| 369000 · Miscellaneous Revenues | 0.00 | 400.00 | 21,244.84 | 18,600.00 | 18,600.00 |
| Total Income | 55,665.16 | 1,435.50 | 141,552.72 | 40,026.00 | 40,026.00 |
| Expense | | | | | |
| 512000 · Funding to CCC | 8,333.33 | 8,334.00 | 99,999.96 | 100,000.00 | 100,000.00 |
| 513300 · Professional Fees | 600.00 | 850.00 | 18,278.16 | 15,100.00 | 15,100.00 |
| 513440 · Liability Insurance | 0.00 | | 1,404.92 | 1,500.00 | 1,500.00 |
| 513460 · Devcom LLP Expense | 2,200.00 | 2,200.00 | 26,400.00 | 26,400.00 | 26,400.00 |
| 513470 · Property Maintenance | 0.00 | | 267.47 | | |
| 513490 · Business Meeting | 0.00 | | 727.64 | 100.00 | 100.00 |
| 513491 · Miscellaneous | 0.00 | | 44.94 | | |
| 513493 · Service Charges | 21.22 | 15.00 | 402.76 | 180.00 | 180.00 |
| 513494 · Dues & Subscriptions | 126.08 | 60.00 | 2,251.05 | 1,470.00 | 1,470.00 |
| 513510 · Office and Operating Expenses | 1,338.00 | 1,900.00 | 4,507.84 | 8,075.00 | 8,075.00 |
| 513800 · Community Development Project | 0.00 | | 39,201.00 | | |
| 513900 · Economic Sustainability | 0.00 | | 54.00 | | |
| 559000 · Grant Expense | 0.00 | | 99,195.77 | | |
| Total Expense | 12,618.63 | 13,359.00 | 292,735.51 | 152,825.00 | 152,825.00 |
| Net Ordinary Income | 43,046.53 | -11,923.50 | -151,182.79 | -112,799.00 | -112,799.00 |
| Net Income | 43,046.53 | -11,923.50 | -151,182.79 | -112,799.00 | -112,799.00 |