Florida Commission on Ethics

P. O. Drawer 15709, Tallahassee, Florida 32317-5709
"A Public Office is a Public Trust"

ORIGINAL

COMPLAINT

FLORIDA
COMMISSION ON ETHICS
APR 0 8 2020
RECEIVED

20-054

1. PERSON BRINGING COMPLAINT:

Name: JAMES MAHER Telephone Number: 386 237 8951

Address: 6 White Fox Place

City: Palm Coast County: Flagler State: FL Zip Code: 32164

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Use a separate complaint form for each person you wish to complain against:

Name: Milissa Holland Telephone Number: 386 986 3714

Address: 160 Lake Ave

City: Palm Coast County: Flagler Zip Code: 32164

Title of office or position held or sought: City of Palm Coast Mayor

3. STATEMENT OF FACTS:

Please provide a full explanation of your complaint, describing the facts and the actions of the person named above and why you believe he or she violated the law. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. Please do not submit more than 15 pages, including this form. Please do not submit video or audio tapes, CDs, DVDs, flash drives or other electronic media; such material will not be considered part of the complaint and will be returned.

4. OATH

I, the person bringing this complaint, do swear or affirm that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

SIGNATURE OF COMPLAINANT

SANDRA M CAMPO
Notary Public - State of Florida
Commission # GG 220893
My Comm. Expires Jul 31, 2022
Bonded through National Notary Assn.

STATE OF Florida
COUNTY OF Flagler

Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 1st day of April, 20 20, by James Maher.
(name of person making statement)

Sandra Campo
(Signature of Notary Public)

Sandra Campo
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known X OR Produced Identification ___
Type of Identification Produced: ___

4/1/2020

Florida Ethics Commission Complaint
Subject: City of Palm Coast Mayor Milissa Holland
Allegation: City of Palm Coast Charter Violations & Misuse of Official Office

Good Day:

My name is James (Jay) Maher I have been an employee of the City of Palm Coast for nearly 18 years. My current title is Compliance Manager. Since 2015 I have been investigating Fraud Waste and Abuse cases as well as managing a Whistleblower hotline. I believe I have investigated approximately 130 cases to date.

On March 27th, 2020 the Palm Coast City Manager Matthew Morton became aware of an internal investigation that myself and another investigator had conducted regarding potential public records violations by the administration. Upon discovering the case Mr Morton directed via email that I reopen the closed case. He also removed myself and the entire internal investigative team from investigating future Fraud Waste and Abuse cases. I do not take pleasure in reporting these potential City of Palm Coast Charter violations regarding the Mayor of Palm Coast Milissa Holland. For the most part I think Mayor Holland has been a good Mayor but the offenses I am reporting are well documented with physical evidence as well as personnel interviews.

Shortly after being elected the Mayor of the City of Palm Coast in 2016 Mayor Holland was hired as a Director by a company named Coastal Cloud. Coastal Cloud is a is a technology company that describes itself as a Platinum Consulting Partner of Salesforce. The unusual thing about the hiring of the Mayor was that it appeared that she had no experience or education in the technology sector. When examining job postings from Coastal Cloud it appeared that even for positions lower than Director the company required one or the other. Shortly after the hiring of the Mayor the company entered into an agreement with the city for zero dollars. The agreement allows Coastal Cloud to utilize city resources in order to gain a footing in the public sector. In order to execute this agreement, the city was required to pay for licensing from a company named Carahsoft. The amount of this license was approximately $98,000.00. This licensing contract appears to have circumvented the normal procurement guidelines for the city. This arrangement with Coastal Cloud would cause serious repercussions for many employees moving forward.

In early 2019 the city council hired a new City Manager named Matthew Morton. In looking back on that selection, it could be argued that based upon that specific selection the issues reported herein may have been exacerbated. It appears that Matthew Morton came to the City of Palm Coast from municipalities in the state of Washington that had strong mayor forms of government. In these types of situations there would be nothing wrong with what has occurred, but we do not have that form of government in the City of Palm Coast.

On many occasions over the last year the Mayor has interfered with the performance of City of Palm Coast employees in violation of section 11 of the city charter. On other occasions it appears that she potentially misused her official position in attempts to garner special consideration for her and her employer Coastal Cloud.

The evidence is too voluminous to include with this complaint as it would clearly exceed the 15 pages allowed to be submitted with Florida Commission on Ethics complaint form. Some of the situations in which the Mayor directed staff could potentially be considered minor others are quite serious.

Emails Issues-

Three emails were sent from the Milissa Holland's official City of Palm Coast email address on and around February 1st 2018 . In the body of the emails sent to City of Orlando officials Milissa Holland identified herself as the Mayor of Palm Coast and both are signed Milissa Holland Mayor 160 Lake Ave Palm Coast FL 32164. One email mentions Costal Cloud the other mentions Salesforce. Both appear to be written with the intent to obtain a meeting with City of Orlando officials related to the Mayors Coastal Cloud position

Two emails dated October 24th 2017 were sent from Mayor Melissa Hollands Coastal Cloud email account to two city email accounts belonging to councilmen Nicholas Klufas and Robert Cuff. The emails were titled "What I learned from Hurricane Irma". In the body of the email Melissa Holland introduces herself as the Mayor of Palm Coast and describes several city departments operations during Hurricane Irma. The email specifically mentions Coastal Cloud in the body and uses the title Millissa Holland Mayor, Palm Coast in closing. The mail invites the recipients to RSVP for a Webinar related to a 311 solution for her employer Coastal Cloud. It appears that these 311 projects type project related to Coastal Cloud would later come before city council. In reviewing meetings related to this project it does not appear that either council people that received the emails revealed the ex-parte communications.

Gartner City of Palm Coast Technology Study-

A study was undertaken regarding the software need of the city. The city entered into a piggy back contract with Gartner which is a leading Global research and advisory company for IT. The city paid in excess of $70,000.00 for this study. In interviewing Directors related to this project it came to light that staff had been directed by Mayor Holland as well as her employer Tim Hale to ignore the findings of the study. Our staff was told by the Mayor and Mr. Hale that Gartner is just a pay for play organization. The report warned of moving in the direction Coastal Cloud appeared to be taking us. In an email from Gartner to the IT Director dated 2/28/2020 the company recapped their findings. They wrote:

- **The City recognizes that Tyler remains a viable suite but would require investment to bring it to the current versions; albeit nowhere near the cost of replacing these systems which could be 5x-10x this cost.**
- **The City Leaders have lost confidence in the Tyler suite, and have decided to pursue replacement of their ERP system in spite of the apparent cost and risk. Hence, they have decided to take the analysis in a different direction, focused on ERP replacement.**
- **You understand that an ERP replacement would cost the City millions of dollars and is highly risky; potentially brining down numerous critical City systems if not properly implemented by a team with proper experience and prior expertise.**
- **City Leadership** seems to have a bias towards a cloud-based solution, based upon popular market trends.
- The **City leadership** has heard examples of other Cities implementing Workday, but may not be fully aware of the cost, risk and resource

Subsequent Interviews with City staff involved in the project determined that the references to **City Leadership** in the mail referred to Mayor Holland. The employees that were interviewed stated that they were given direction on this project but justified it by saying she did not recommend specific software.

Request for Proposal –

RFP-IT-20-25- Enterprise Resource Planning (ERP) Software and Implementation Services.

On January 15th 2020 the City of Palm Coast published an official Request for Proposal via Bonfire for IT Enterprise Resource Planning Software (ERP). Suddenly on February 4th, 2020 the RFP was ordered killed by the City Manager Matthew Morton via text message sent to the city's Chief of Innovation. At this point in the project over 90 companies had requested bid documents. Included in these companies was Coastal Cloud.

This RFP came about because of the rejection of the Gartner studies findings. The mayor had previously ordered staff to stop renewing software licensing for existing processes. This was done during a city council meeting. Most Department heads had projects that came to a screeching halt because of this order. The department heads that took part in the Gartner study were disappointed when **"City Leadership"** rejected the findings. At this point the Chief Innovation Officer hired an outside facilitator to assist the city in developing an RFP. Interviews of staff reveal that there was a conference call that included the Mayor, Chief Innovation Officer and IT director in which they discussed what should be included in the RFP. During this interview it was stated that this RFP could result in a project that could cost the city tens of millions of dollars over the course of time. Although the Mayor was involved in the initial conversations regarding the RFP she became uninvolved during the course of the project. The actual participants in the project that drafted the RFP were the subject experts including the IT Director, Chief of Innovation and every city Department Director. The RFP that they crafted in the end would exclude the Mayors employer Coastal Cloud from bidding. One employee interviewed stated that the City Manager was basically unengaged during this process and made the statement "Whatever the Mayor wants" when asked about publishing the RFP. An interviewee explained in simple terms that the RFP that was produced by the subject experts and put out to bid was for an ERP system. This was clearly stated in the name of the RFP, he further stated that Coastal Cloud is a CRM not an ERP. This fact would preclude Costal Cloud from bidding on the RFP for an ERP. When asked if Morton possessed expertise to override the subject experts who created the RFP the interviewee stated that Morton only knows what he has been taught by salesforce.

Tech Beach Hackathon-

The Tech Beach Hackathon was an event that was held at Palm Coast City Hall over the course of a weekend. The cost to the city was in excess of $60,000.00. The original city employee that helped create this event was the Head of Innovation. She was told to resign reportedly because she complained about ethical issues related to this event. In an interview with her prior to her resignation she confided in me that the event was nothing other than a pay day for the Mayors employer Coastal Cloud. She states that

she was present in meetings where the City Manager was advised by the City Attorney against proceeding with the event as planned because of legal issues. The City Manager reportedly pushed back saying he did not agree with them. A later interview with the Human Resources Director revealed that the City Manager wanted to have the Head of Innovation resign. She stated that the reason for this forced resignation was because the Head of Innovation had protested the ethical issues regarding the event and had alerted the city attorney. The Human Resources Director that had related this story stated that the forced resignation was absolutely retaliatory and that it was actually she that had alerted the attorneys regarding the legal issues.

Recommendation Letters-

On three separate occasions the Mayor directed staff to write letters of recommendation for the children of Tim Hale the owner of Coastal Cloud. The letters were written by Communication staff at the direction of the Mayor.

Closing:

This complaint only highlights a few of the unethical issues that city staff has had to endure during the last three years. Many employees that had protested in the past were made to resign. They were given substantial buyouts and were made to sign non-disparagement agreements. The list of witnesses to these events is substantial. I am concerned about the witnesses that are still employees so I wish to withhold their names until contacted by your office I also have physical evidence as well as interview reports to support each allegation contained herein. I will provide all of these to the assigned investigator upon request.

Thank You

James Jay Maher
6 White Fox Place
Palm Coast FL 32164
386-237-8951

3. If, for any reason other than recall, a vacancy occurs in the office of any Council seat within the last two years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by majority vote of the remaining Council members. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the regular four-year term.
4. If a vacancy occurs as a result of a Recall Petition, such vacancy will be filled by Special Election as outlined in section 8(5)(b).
5. Any person appointed to fill a vacant seat on the Council is required to meet all the qualifications for office except the petition requirement.
(8) *City Council meetings: organizational meeting; quorum; special meetings.* The Council shall meet regularly at least once a month, at such times and places as the Council may prescribe by ordinance. Such meetings shall be public meetings, and shall be subject to notice and other requirements of law applicable to public meetings. Pursuant thereto:
(a) Organizational meeting. The first meeting following a general City election at which elected or re-elected Council members are inducted into office shall be held in accordance with City ordinance.
(b) Quorum. A majority of the Council, including the Mayor, shall constitute a quorum. No action of the Council shall be valid unless adopted by an affirmative vote of the majority of the Council members and Mayor in attendance, unless otherwise provided by law, ordinance, or stated herein. All actions of the City Council shall be by ordinance, resolution, or motion.
(c) Special meetings. Special meetings may be held at the call of the Mayor, or, in the absence of the Mayor, at the call of the Vice-Mayor. Special meetings may also be called upon the request of a majority of the Council members. The City Clerk shall provide not less than 24 hours prior notice of the meeting to the public, unless a declared emergency situation exists.
(9) *City records.* The Council shall, in a properly indexed book kept for the purpose, provide for the authentication and recording in full of all minutes of meetings, and all ordinances and resolutions adopted by the Council, and the same shall at all times be a public record. In addition, the Council shall keep *ver batim* recordings of all meetings in accordance with state law. The Council shall further maintain a current codification of all ordinances. Such codification shall be printed and be made available to the public on a continuing basis. All ordinances or resolutions of the Council shall be signed by the Mayor or in the Mayor's absence, by the Vice-Mayor, or in the absence of both, by the Acting Mayor, and attested to by the City Clerk.
(10) *Limit of employment of Council members.* Neither Council members nor the Mayor shall be in the employment of the City while in office, nor shall any former Council member or former Mayor be employed by the City until after the expiration of one (1) year from the time of leaving office.
(11) *Noninterference by City Council.* Except for the purpose of inquiry and information, the Council and its members, including committees thereof, are expressly prohibited from interfering with the performance of the duties of any City employee who is under the direct or indirect supervision of the City Manager or City Attorney. Such action shall be malfeasance within the meaning of Florida Statutes.
(Ord. No. 03-08, § 1, 4-15-03; Ord. No. 07-07, § 1, 4-3-07)

Sec. 6. Charter officers.
The designated Charter Officers shall be the City Manager and the City Attorney.