

**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**



Wilson B. Robertson
District One

Gene M. Valentino
District Two

Marie Young
District Three

Grover C. Robinson, IV
District Four

Kevin W. White
District Five

221 Palafox Place, Suite 400
P. O. Box 1591
Pensacola, Florida 32591-1591

Telephone (850) 595-4902
Toll Free (866) 730-9152
Telefax (850) 595-4908
(Suncom) 695-4902

November 4, 2011

State of Florida
Commission on Ethics
Post Office Drawer 15790
Tallahassee, Florida 32317-5709

Re: Request for An Advisory Opinion

Dear Madam/Sir:

I am requesting an advisory opinion from the Commission pursuant to section 112.322(3)(a), Fla. Stat., in order to establish the standard of public duty arising from the following summary of facts and circumstances.

I was elected County Commissioner in Escambia County representing District 1 in November 2008. My district has a public facility known as the Equestrian Center, which is County owned and maintained. This is a multi-purpose facility used for, as the name suggests, equestrian events, but it can be used for dog shows, dog trials, and other outdoor events. At the time of my election, this facility was losing approximately \$200,000 per year in operation costs due to lack of income-producing events. I had heard from promoters and potential users of the Equestrian Center that poor maintenance was one of the reasons for its lack of use. Shortly after my election, I met with the Parks & Recreation Division Manager, Michael Rhodes, a member of the Equestrian Center oversight committee and a promoter. The consensus I gained from that meeting was that an on-site manager was essential to the success of the Center as well as major improvements. Not long after that meeting, the Board of County Commissioners approved approximately \$1 million dollars worth of improvements which have been completed. In April 2011, the Board of County Commissioners voted to create a new position, that of Equestrian Center Manager, and set a budget of \$80,000 for the position with a starting salary of approximately \$60,000 plus benefits.

Pursuant to County hiring procedures formulated by the Human Resources Division, a selection committee was formed to take applications for the position of Equestrian Center Manager, review them, determine a list of candidates for interview and make a recommendation to the County Administrator as to whom should be

selected. The selection committee was chosen by County Administrator Randy Oliver. I had no input into whom Mr. Oliver put on the selection committee. The selection committee consisted of Barbara Keyser, Human Resources Supervisor, Michael Rhodes, Division Manager, Parks & Recreation, and Larry Newsom, Assistant County Administrator.

Two of the applicants listed my name as a reference on their application, one of them being Forrest Gibbs. I knew Forrest Gibbs through his father, Richard Gibbs. The Gibbs are a long-time, well-connected family residing in Escambia County. Two other Commissioners also were used as references for other applicants. It should be noted that Forrest Gibbs had an interest in a business with my business partner, Lamar Brazwell, but I did not know that until the news media reported this fact. Prior to the time the selection committee met to review applications and formulate a list of candidates for interview, I contacted Assistant County Administrator Larry Newsom to let him know that I considered Mr. Gibbs to be worthy of the position. At the time I spoke to Mr. Newsom, I did not know he was on the selection committee.

The selection committee winnowed 64 applicants to eight finalists, one of which was Forrest Gibbs. The eight finalists were interviewed by the selection committee and Forrest Gibbs was chosen for the position. About a month after Mr. Gibbs was selected I did have contact with the Selection Committee by invitation of Mr. Newsom. Prior to that time, I had contacted Mr. Newsom to find out why the position had not been filled. Mr. Newsom invited me to the meeting where compensation details would be discussed to make an offer to Mr. Gibbs. Alison Rogers, the County Attorney, also was present during a portion of the meeting. In addition, prior to this meeting, I had questioned Mr. Oliver as to the delay in negotiating compensation for Mr. Gibbs. Although the advertised range of the salary was between \$44,803 and \$51,521, I reminded Mr. Oliver that the Board had budgeted \$80,000 for the position with a starting salary of approximately \$60,000 plus benefits. A copy of the advertisement is enclosed. At the selection committee meeting, Ms. Rogers did state that it was legal to negotiate a salary higher than the advertised range although the better practice was not to do this. My only comment at this meeting about the salary was to express that the Board had approved the starting salary. The County Administrator and Assistant County Administrator expressed that they did not remember that Board action. They later reviewed the April 2011 minutes and agreed. I left the meeting shortly after the attorney, and then the committee started negotiating the starting salary. I was not at the meeting during salary negotiations. About a week later, I learned that the committee members agreed on that an offer should be made to Mr. Gibbs for the budgeted sum of \$80,000 with a salary of \$63,000 and \$17,000 in benefits.

An offer letter was sent to Mr. Gibbs, a copy of which is enclosed, which required him, in his first year of employment, to bring in additional revenue for the Equestrian Center of at least \$80,000. If he did not do so, he was to be terminated. The second performance standard imposed on Mr. Gibbs required the Equestrian Center to break even with a zero deficit by the end of his second year of employment. If that was not

accomplished, then he was subject to termination. Even with these performance standards, Mr. Gibbs was subject to termination at will at any time upon 30 days notice.

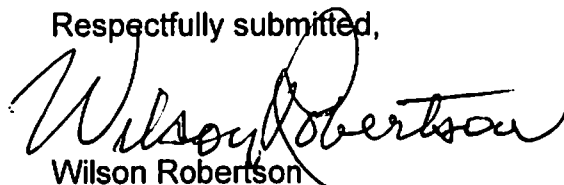
The *Pensacola News Journal* began publishing articles questioning the legality of my involvement in the selection process. In particular, the newspaper and certain members of the public accused me of violating § 112.313(6), Fla. Stat., which is entitled "Misuse of Public Position." Essentially, the *Pensacola News Journal*, certain members of the public and at least two Commissioners felt that I had used my position as a Commissioner, first, to influence the selection committee to choose Mr. Gibbs over all the others and, second, to bargain for and increase his salary beyond what was appropriate for an Equestrian Center Manager and beyond the advertised range.

Therefore, there are several questions upon which I need advice:

- (1) Have I violated the ethics code by allowing Mr. Gibbs and one other applicant to use my name as a reference on their applications?
- (2) Have I violated the ethics code by talking to Mr. Newsom and telling him that Mr. Gibbs was a good candidate for the position of Equestrian Center Manager?
- (3) Have I violated the ethics code by attending the selection committee's meeting to determine an appropriate offer to be made to Mr. Gibbs and by insisting to Mr. Oliver and other staff that he negotiate in good faith based on the budget and starting salary approved by the Board of County Commissioners?

I would appreciate receiving a prompt response to these questions as there is considerable public concern that I may have violated provisions of the ethics code applicable to public officers.

Respectfully submitted,



Wilson Robertson
Escambia County Commissioner, District 1

Enclosures



ESCAMBIA COUNTY

Department of Human Resources
221 Palafox Place, HR Suite 200
Pensacola, FL 32502-5835

(850) 595-3000 Out-of-Area: (866) 609-0603

<http://www.myescambia.com/Bureaus/ManagementServices/JobOpportunities.html>

INVITES APPLICATIONS FOR THE POSITION OF:

Equestrian Center Marketing & Promotions Coordinator
Parks and Recreation Department

An Equal Opportunity Employer

RECRUITMENT RANGE

\$21.54 - \$24.77 Hourly \$44,803.20 - \$51,521.60 Annually

ISSUE DATE: 05/27/11

FINAL FILING DATE: Thu. 06/30/11 11:59 PM Central Time

THE POSITION

Markets and promotes the County Equestrian Center; oversees the operation of the Center.

During the interview stage, candidates will be asked to identify and discuss a general approach to their business plan to market, manage, promote, and generate revenue at the Equestrian Center

The successful candidate will be required to sign an agreement describing the duties of the job and County expectations and requirements for continued employment.

EXAMPLES OF DUTIES

Develops marketing strategies to attract new customers to the Center

Visits potential customers to promote the center and explain all that it offers.

Visits local and regional business and public leaders to gain support and sponsorship for the Center

Prepares marketing tools such as pamphlets, handouts, etc. to advertise the Center

Attends all activities to ensure smooth operations and to ensure customer satisfaction

Maintains calendar of scheduled events

Intreracts with existing customers to ensure continued support and satisfaction with services provided

Maintains contacts within community

Routinely inspects Center and grounds and assigns work to staff based on scheduled events and facility needs

Performs other duties of a similar nature or level

QUALIFICATIONS

Training and Experience:

High School Diploma or equivalent (G.E.D.) and and three years experience, with a proven track record, in sales, marketing, public relations, preferably dealing with rodeo, equestrian, animal exhibition or outdoor activities, or a related field; one year of which was at a supervisory or management level or, an equivalent combination of education and experience sufficient to successfully perform the essential duties of the job such as those listed above.

Licensing Requirements:

Valid Operator's License

Knowledge of:

Sales and marketing techniques
Equestrian center and exhibition hall operations

Skill in:

Strong communications skills
Use of office equipment
Interpersonal skills
Facility management

SUPPLEMENTAL INFORMATION

Positions in this class require: fingering, grasping, feeling, talking, hearing, seeing and repetitive motions.

Light Work: Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or negligible amount of force constantly to move objects. If the use of arm and/or leg controls requires exertion of forces greater than that for Sedentary Work and the worker sits most of the time, the job is rated for Light Work.

Incumbents may be subjected to extreme temperatures and travel

APPLICATIONS MAY BE OBTAINED AND FILED ONLINE AT:

<http://www.myescambia.com/Bureaus/ManagementServices/JobOpportunities.html>

OR

221 Palafox Place, HR Suite 200
Pensacola, FL 32502-5835

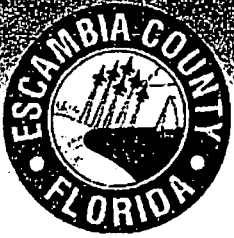
EXAM #

EQUESTRIAN CENTER MARKETING &
PROMOTIONS COORDINATOR

JF

Equestrian Center Marketing & Promotions Coordinator Supplemental Questionnaire

- * 1. The Escambia County Board of County Commissioners has adopted a Tobacco Free Hiring policy effective 10/01/2008. A candidate selected for employment will be tested for tobacco use. A positive test result or refusal to be tested will prevent employment and bar the applicant for the next twelve months. Have you used any tobacco products in the past 30 days?
 - Yes, I have used tobacco products in the past 30 days.
 - No, I have not used tobacco products in the past 30 days.
 - * 2. Do you have a high school diploma or equivalent?
 - Yes
 - No
 - * 3. Do you have a minimum of three years experience in the sales, promotions, and marketing in the equestrian field, outdoor events, and other related fields?
 - Yes
 - No
 - * 4. If yes, please explain.
 - * 5. Do you have a minimum of one year supervisory experience?
 - Yes
 - No
 - * 6. If yes, please explain.
 - * 7. Please describe your experience in producing a marketing plan or strategy to increase sales.
 - * 8. Please describe your experience in designing/producing brochures, pamphlets, and other marketing tools to advertise and promote an event.
 - * 9. Please describe your experience in obtaining corporate sponsorships.
 - * 10. Are you a current internal Escambia County BCC employee? (For recruitment purposes student assistants, temps and contract employees are considered external applicants.)
 - Yes
 - No
- * Required Question



Board of County Commissioners • Escambia County, Florida

Barbara Keyser
Human Resources

September 12, 2011

Forrest R Gibbs
33746 Magnolia Farms Road
Robertsdale, Alabama 36567

Dear Mr. Gibbs,

On behalf of Escambia County Board of County Commissioners, Department of Human Resources, I am pleased to offer you an "At Will" unclassified position as Equestrian Center Marketing & Promotions Coordinator. In this capacity your salary will be \$63,000 per year plus benefits. This position also has access to a county vehicle for Equestrian Center business only. The vehicle is not available for take-home or personal use.

This position receives the PTC level of Management Optional Benefits (MOB-fact sheet enclosed). You will receive 40 hours of MOB upon hire.

The following objectives have been established for this position and will be included in the Annual Employee Performance Evaluation for this position:

1. At the end of the first year of employment, \$80,000 in new revenue will have been generated directly by your efforts through a combination of corporate sponsorships and new events brought to the facility.

I agree to follow all county policies and procedures and understand that failure to meet this objective at the end of my first year of employment shall result in termination.

Initial

2. At the end of the second year of employment, the operations deficit is brought to zero (0) through a combination of corporate sponsorships, new events and expansion of existing events.

I agree to follow all county policies and procedures and understand that failure to meet this objective at the end of my second year of employment shall result in termination.

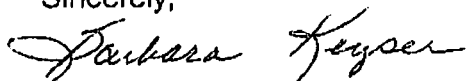
Initial

The above offer is also contingent upon successful background checks and physical examination. Upon submission of your acceptance of this offer, please contact Larry Daniel at (850) 595-5414, within two business days to schedule your pre-employment screening.

It is mandatory that all new employees have direct deposit for payroll processing. Please bring a voided check or deposit slip with you to your first pre-employment process meeting with Mr. Daniel.

We look forward to hearing from you about this offer and anticipate a tentative start date of October 4, 2011. Please indicate your acceptance/rejection of this offer by initialing where indicated above and signing below, returning one copy of the letter with your original signature by mail to the Escambia County Board of County Commissioners, Employment Division, 221 Palafox Place, Suite 200, Pensacola Florida 32502, or fax to 850-595-3020, to be received by 5:00 p.m. (Central Time) within two working days of the date of this notification.

Sincerely,



Barbara Keyser, HR Supervisor
Employment Division

Enclosures (1)

I, Forrest R Gibbs, ACCEPT/DECLINE (please circle one) Escambia County Board of County Commissioners' offer of employment. I understand that my employment with the Escambia County Board of County Commissioners is considered "at will", meaning that either the county or I may terminate this employment relationship at any time with or without cause or notice.

SIGNED: 

DATE: 9/14/11

Requisition Reference: 00917 – Equestrian Center Marketing & Promotions Coordinator



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

ORGANIZATION: Management and Budget Services
FROM: Amy Lovoy, Department Director *AL*
DATE: April 21, 2011
ISSUE: Local Option Sales Tax Reprioritization

RECOMMENDATION:

Recommendation Concerning the Reprioritization of Local Option Sales Tax (LOST) Funds and the Transfer of Ownership of Olive Road and Airport Boulevard - Amy Lovoy, Management & Budget Services Department Director

That the Board take the following actions concerning the Reprioritization of Local Option Sales Tax (LOST) funds and the transfer of ownership on Olive Road and Airport Boulevard:

- A. Approve allocating \$6,000,000 in Local Option Sales Tax funds to the Sector Plan Road Expansion project (Kingsfield, Well Line, Quintette). The Development Group acknowledges that this funding is insufficient to construct these roads and agrees to prioritize, within available funding, the roadways in a Memorandum of Understanding (MOU) between the parties within six months of the approval of this Recommendation. If the Development Group fails to mutually agree upon the priorities for these roadways within this time frame, the funds shall be reallocated to Bridge Renovations projects; and
- B. Approve allocating an additional \$2,000,000 in Local Option Sales Tax funding for the Saufley Landfill project; and
- C. Approve further reallocation of Local Option Sales Tax projects and funding according to the attached spreadsheet; and
- D. Direct staff to prepare solicitation documents for the Perdido Key Fire Station project with the following alternatives
 - Base bid to include the fire station and infrastructure build-out
 - An additive alternative to include a visitors' information center/community center
 - An additive alternative to include a helideck and associated infrastructure
 - An alternative to include all of the above; and
- E. Authorize the transfer process necessary to accept Olive Road (SR 290) between CR 95A and Scenic Highway (U.S. 90) from the State of Florida; and
- F. Authorize the process to transfer Airport Boulevard, between I-110 (SR 8A) and U.S. 29, from Escambia County to the State of Florida; and
- G. Authorize the transfer of the Pinestead-Longleaf connector, once constructed, from Escambia County to the State of Florida.

(This Recommendation will reprioritize projects in LOST by adding additional projects and moving other projects to different years. Funding for the additional projects will come from the Equestrian Center, the library construction project, funds remaining after the completion of the Central Office Complex and funds that were previously unallocated over the life of the tax. There will be \$1,000,000 remaining in the library construction project and \$1,611,416 unallocated through Fiscal Year 2018 if this action is approved. This action presumes that all current LOST revenue estimates will be met. If the estimates are not met, projects will have to be deleted or delayed.)

BACKGROUND:

The attached spreadsheet details a reprioritization of LOST funding and includes the following:

- Increases the Molino project budget by a total of \$1,800,000 bringing the total budget to \$4,389,156.
- Includes \$1,500,000 for a Stefani Road building expansion.
- Increases the funding for Olive Road by \$3,000,000 bringing the total budget to \$6,385,669.
- Increases the funding for bridge renovations by \$3,700,000.
- Increases the funding for resurfacing and lane widening by \$10,500,000.
- Increases the funding for the Perdido Key Fire Station by \$5,000,000 bringing the total budget to \$5,398,887.
- Increases the funding for Saufley Landfill by \$2,000,000 bringing the total budget to \$7,900,000.
- Provides \$6,000,000 for Kingsfield/Quintette/Well Line Roads.
- Provides \$350,000 for sidewalks on Burgess Road contingent on funding from the City of Pensacola.
- Includes \$2,700,000 for a PD&E study on an I-10 interchange in Beulah.
- Increases the funding for a Hwy. 297A drainage project by \$3,000,000 bringing the total budget for projects on Hwy. 297A to \$9,431,497.
- Includes \$400,000 for improvements at Wedgewood Park.
- Includes \$600,000 for an expansion to the L Street stormwater pond.
- Includes \$400,000 for a project on E Street (Leonard to Cervantes).
- Includes funding for one additional personnel position at the Equestrian Center for two (2) years to market the facility.

BUDGETARY IMPACT:

This agenda item will reprioritize projects in LOST by adding additional projects and moving other projects to different years. Funding for the additional projects will come from the Equestrian Center, the library construction project, funds remaining after the completion of the Central Office Complex and funds that were previously unallocated over the life of the tax. There will be \$1,000,000 remaining in the library construction project and \$1,611,416 unallocated through FY2018 if this action is approved. This action presumes that all current LOST revenue estimates will be met. If the estimates are not met, projects will have to be deleted or delayed.

LEGAL CONSIDERATIONS/SIGN-OFF: N/A

PERSONNEL:

BCC: 04-21-2011
RE: Local Option Sales Tax Reprioritization
Date: 04-21-2011
Page: 3 of 3

2011-000426 BCC
Apr. 21, 2011 Page 5

This action provides for one additional position: an Equestrian Center Manager with an estimated starting salary of \$60,000 plus benefits. If after two years the facility deficit is not reduced, the position will be eliminated.

POLICY/REQUIREMENT FOR BOARD ACTION/DISCUSSION:

N/A

IMPLEMENTATION REQUIREMENTS:

N/A

COORDINATION WITH OTHER AGENCIES/PERSONS:

N/A

CONCUR: _____
Charles R. "Randy" Oliver, County Administrator

LOST Prioritization

Project	2011	2012	2013	2014	2015	2016	2017	2018	Total
From									
Congestion Improvements		\$150,000							\$150,000
Equestrian Center Improvements		80,334	82,744	85,226	87,783	90,416	93,128	95,922	615,553
ITS Application/Feasibility Study	1,462,936								1,462,936
JLUS Land Acquisition		250,000	500,000	500,000	250,000	500,000	500,000		2,500,000
JPA Design Box		500,000	400,000						900,000
Libraries LOST II	1,100,000								1,100,000
Libraries LOST III *			9,350,000	3,000,000			5,350,000		17,700,000
Neighborhood Enhancements	3,700,000		1,400,000						1,400,000
New Office Building	3,000,000								3,700,000
Olive Road (Existing Funds)									3,000,000
Rebel Road			2,000,000						2,000,000
Sidewalks		400,000							400,000
Traffic Calming		200,000							200,000
Unallocated Funds	1,100,000	250,000	1,582,404	1,619,470	1,763,170	5,952,851	2,479,756	2,813,765	17,561,416
Total	\$10,362,936	\$1,830,334	\$15,315,148	\$5,204,696	\$2,100,953	\$6,543,267	\$8,422,884	\$2,909,687	\$52,689,905
To									
Bridge Renovations	100,000		1,016,666	516,666	263,170	770,162	516,666	516,670	3,700,000
Burgess Sidewalks **				150,000		350,000			350,000
Congestion Improvements									150,000
E Street (Leonard to Cervantes)						400,000			400,000
Equestrian Center Manager		80,334	82,744	85,226	87,783	90,416	93,128	95,922	615,553
Hwy 297A Drainage						3,000,000			3,000,000
I-10 Interchange/Beulah	1,462,936	1,080,000	157,064				1,462,936		2,700,000
ITS Application/Feasibility Study									1,462,936
JPA Design Box							300,154	599,846	900,000
L Street Pond Expansion				600,000					600,000
Molino Library	700,000								700,000
Neighborhood Enhancements							1,400,000		1,400,000
Olive Road									6,000,000
PA/TC Molino Building	1,100,000	100,000	5,900,000						1,100,000
Perdido Key Fire Station	5,000,000								5,000,000
Rebel Road							2,000,000		2,000,000
Resurfacing/Lane Widening			1,228,674	3,452,804	1,750,000	1,732,689	1,584,622	751,211	10,500,000
Saulfey Landfill***	2,000,000								2,000,000
Sector Plan Road Expansion ***		420,000	5,580,000						6,000,000
Sidewalks							400,000		400,000
Stephani Road Building Expansion		150,000	1,350,000						1,500,000
Traffic Calming									200,000
Wedgewood Park Improvements				400,000		200,000			400,000
Total	\$10,362,936	\$1,830,334	\$15,315,148	\$5,204,696	\$2,100,953	\$6,543,267	\$7,757,506	\$1,963,649	\$51,078,489
Remaining Available	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$665,378.00	\$946,038.00	\$1,611,416.00

* This will leave \$1,000,000 for library construction, and \$1,611,416 unallocated.

** Funding contingent on the City

*** Allocated on previous agenda item. Only shown as reference