

City of

Jacksonville Beach

City Hall

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January 3, 2017

**MEMORANDUM TO:**

The Honorable Mayor and  
Members of the City Council  
City of Jacksonville Beach, Florida

**SUBJECT:** Special Council Meeting  
Thursday, January 5, 2017, at 6:00 p.m.  
Council Chamber, 1<sup>st</sup> Floor,  
City Hall, Jacksonville Beach

Councilmembers:

There will be a **Special Meeting of the City Council on Thursday, January 5, 2017, at 6:00 p.m.**, in the Council Chamber, located on the 1<sup>st</sup> Floor of City Hall, 11 North 3<sup>rd</sup> Street, Jacksonville Beach, Florida.

The purpose of the meeting is for the City Attorney to recommend changes to the Special Events Policy and to discuss the report on special events.

cc: George Forbes, City Manager  
News Media

*In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

*The public is encouraged to speak on issues on this Agenda that concern them. Anyone who wishes to speak should submit the request to the City Clerk or to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience.*

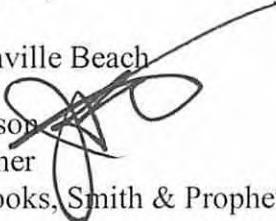
*In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299, extension 10, no later than one business day before the meeting.*





## MEMORANDUM

TO: Susan Smith Erdelyi  
City Attorney  
City of Jacksonville Beach

FROM: John F. Dickinson   
Managing Partner  
Constangy, Brooks, Smith & Prophete, LLP

DATE: November 21, 2016

RE: Review of Councilmembers' Involvement in Special Event Festivals

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### REPORT AND RECOMMENDATIONS

#### I. Introduction

On August 9, 2016, I was retained by the City of Jacksonville Beach for the purpose of issuing a Report and Recommendations (hereinafter "Report") on the involvement of City Councilmembers in festivals held at Latham Park and Seawalk Pavilion. I was instructed to include in my Report advice concerning the following:

- Whether City Councilmembers may ethically and lawfully be involved in promoting festivals in the City of Jacksonville Beach when they and/or their organizations must apply for and obtain permits from the City through its staff members?
- Whether City Councilmembers who are personally involved in promoting festivals or serving as officers in organizations that promote festivals are prohibited from using their office to influence City policy on special events and festivals?
- Whether City Councilmembers are authorized to interact with City staff when promoting festivals? If so, what are the appropriate parameters of that interaction? Do these parameters change when the Councilmember is promoting the festival for personal financial gain?
- If your review results in inappropriate activity, what action do you recommend to assure compliance with the laws and the ethical guidelines governing elected officials and how should staff respond to inappropriate activity by elected officials?

For purposes of this Report, the following materials were reviewed:

- Applicable provisions of the City Charter and Code of Ordinances
- Applicable Resolutions
- Special Events Policies & Procedures
- Emails related to festivals
- Communications between the Florida Commission on Ethics and Councilmembers Keith Doherty, Phillip Vogelsang, and Christine Hoffman
- Records from the Florida Department of State, Division of Corporations concerning Jacksonville Celtic Festival, Inc., Beaches Oktoberfest, Inc., and Duval Events, LLC (formerly Bruval, LLC)
- IRS Tax Form 990's for Beaches Oktoberfest, Inc. for tax year 2015
- A spreadsheet itemizing festivals produced in 2014, 2015 and 2016
- Calendars for 2015 and 2016 listing events held during those years
- All forms and agreements used by the Parks and Recreation Department concerning the permitting of special events and festivals
- Permitting files from the Parks and Recreation Department concerning festivals produced in calendar years 2013, 2014, 2015 and 2016
- Lease Agreement between City of Jacksonville Beach and Dial-A-Ride dated September 22, 2016
- Code of Ethics for Public Officers and Employees
- Opinions of the Florida Commission of Ethics, and court decisions construing the Code of Ethics for Public Officers and Employees

The following individuals were interviewed:<sup>1</sup>

- Mary Ellen Donner
- Patrick K. Dooley
- Mark Evans
- George Forbes
- Christine Hoffman

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<sup>1</sup> Councilmembers Phillip Vogelsang and Keith Doherty, who retained counsel for purposes of my Review, were not interviewed based upon the advice of their counsel. Through their counsel, Messrs. Vogelsang and Doherty have contended that this Review is "politically motivated" for the sole purpose of compromising the 2016 elections. Mr. Vogelsang's counsel, Josh Woolsey, advised that Mr. Vogelsang would not agree to be interviewed unless written questions were first provided to him in advance of any interview, and Mr. Doherty's counsel first advised that Mr. Doherty would not agree to be interviewed unless his interview was recorded by a court reporter. Despite a joint agreement having been reached between myself and Mr. Doherty's counsel to the use of a court reporter, and the attendance of only the court reporter, Mr. Doherty, Mr. Doherty's counsel and myself during the interview (which was confirmed in writing), Mr. Doherty's interview did not go forward as Mr. Doherty's counsel later demanded that the interview be videotaped.

- William Latham
- Karen Nelson
- Lorraine Troendle
- Barbara Prettyman
- Trish Roberts
- Jean Paul Smith
- Sam Veal
- Lorraine Troendle

## **II. Summary of Special Event Policies**

### **A. History**

The Special Event Policies (hereinafter the “Policy”) was originally adopted by the City Council on December 16, 1991. It was an off-shoot of Chapter 19.5 of Part II of the Code of Ordinances entitled, “Outdoor Music Entertainment or Festivals”, which was adopted on June 18, 1979. The Policy sets forth procedures for permitting “special events” and “festivals” held on City property. The principal distinctions between a “special event” and a “festival” are: a festival includes alcohol consumption and/or sales; a festival is more than six (6) hours in duration; and a festival is held at the Seawalk Pavilion and/or Latham Plaza. A “special event” can be conducted in any public place or public facility. A special event is not limited to time, and it does not include alcohol.

Chapter 19.5 and the Policy were products of a determination by the City Council that outdoor entertainment offered to the general public often attracts a large gathering of people which, if uncontrolled, may cause adverse health and safety conditions requiring municipal regulation in the interest of public safety and public health. The Policy has undergone periodic changes over the years. For example, the Policy was amended to include Latham Plaza and Seawalk Pavilion (as mentioned above under the definition of “festivals”), provisions with respect to the sale and consumption of alcohol, and the number and duration of festivals allowed.<sup>2</sup>

### **B. Applicable Provisions and Commitments of Organizers/Producers**

Regardless of whether or not the gathering is a special event or a festival, a “special event permit” must be obtained by the organizer or producer before it is sanctioned. A special event permit must be issued for each event. The Policy provides for a “special event committee”

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<sup>2</sup> Notably, some of the Policy amendments have inured to the benefit of Councilmembers whose organizations produce festivals subject to the Policy. For example, on December 16, 2013, the City Council voted to amend the Policy to allow more than one festival during the months, inter alia, of October and November, and to allow festivals to last up to 20 hours. These amendments are addressed in more detail in Section VI of this Report.

appointed by the City Manager to review and approve applications for special event permits. The Policy sets forth procedures for scheduling festivals and special events, including submission of applications with detailed forms required to include such information as the contact information of the organizer or producer, the name of the organization which is primarily responsible for the event, such as the organization's tax status, the type of event and required location of the event, whether the event is free to the public, or if it will include paid priority seating, if amplified sound is part of the event, the number of vendors (if any), whether the event includes selling and consumption of alcohol, fencing requirements, if access to electricity is required, if the organization or promoter requires road closures, a security plan, a traffic control plan, and a plan to keep the event area clean. Fees and charges for events held on City property are set forth in Resolution No. 1926-2013, adopted by the City Council on December 16, 2013. The organizer or producer must sign multiple commitments as a condition of putting on a festival, such as an indemnification agreement, an agreement to comply with the City's Codes and Ordinances, the Policy, and any other requirements stipulated by the special event committee and included in the permit. These commitments are typically signed by the event organizer or producer, or by an officer or agent of the organization producing the event.

### **C. Sale/Consumption of Alcohol**

With respect to the sale of alcohol at a festival, Florida law provides that upon the filing of an application with the Florida Division of Alcoholic Beverages and Tobacco, (hereinafter the "DABT"), presentation of a local building and zoning permit, and payment of a fee of \$25.00 per permit, the DABT may issue a permit authorizing a bonafide nonprofit civic organization, or charitable organization, to sell alcoholic beverages for consumption for a period not to exceed three (3) days, subject to any law or ordinance regulating the time for selling such beverages. See, Section 561.422, Florida Statutes. Florida law provides that all of the net profits from the sale of alcoholic beverages collected during the special permit period for a nonprofit or civic organization must be retained by such organization. In other words, the nonprofit organization, as the permit holder of the temporary permit, is the only entity that may receive any of the profits from the sale of alcoholic beverages under the temporary alcohol permit. The nonprofit organization cannot share any profits or receipts from the sale of alcohol and all records of alcoholic beverage purchases and sales must be retained for examination by the DABT personnel. Every festival event file produced by the Parks and Recreation Department during this Review contained documents showing that nonprofits were used to obtain temporary alcohol permits for the sale and consumption of alcohol during the festivals. This is discussed below.

### **III. The Florida Constitution and Code of Ethics**

Florida has been a leader among the states in establishing ethical standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Municipal officials are governed by both formal and informal standards of conduct. Informal standards of

conduct often exist as social norms of the community, and the particular municipal body or agency of which an individual is a part. Formal standards of conduct exist as constitutional provisions, laws, municipal ordinances and resolutions. In Florida, many formal standards of conduct for municipal officers are embodied in the Constitution and in State law. These various standards are scattered in the Constitution and Florida Statutes; they are not all to be found in one place. Thus, the “Sunshine Amendment” of 1976 (Article II, Section 8 of the Florida Constitution) contains only a small part of the complete set of formal standards. For example, Subsection (c) of Section 8 provides that, “Any public officer . . . who breaches the public trust for private gain . . . shall be liable to the state for all financial benefits obtained by such actions.”

The “Code of Ethics for Public Officers and Employees” (hereinafter “Code” or “Code of Ethics”) is codified in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. The following sections of the Code are particularly pertinent to this Review:

- Section 112.311, Florida Statutes, entitled “Legislature and Intent of Declaration of Policy” provides, in relevant part:

“(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

\* \* \*

(5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a . . . city . . . shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state and their government, there is enacted a code of ethics setting forth standards of conduct required by . . . city officers . . . and the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

(6) It is declared to be the policy of the state that public officers and employees . . . are agents of the people and hold their positions for the benefit of the public . . . . Such officers and employees are bound to observe, in their official acts, the high

standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.” (Emphasis added).

- Section 112.312, Florida Statutes, entitled “Definitions,” provides, in relevant part:

“(2) “Agency” means . . . municipal government entity . . . .

\* \* \*

(8) “Conflict” or “Conflict of Interest” means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(9) “Corruptly” means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.”

- Section 112.313, Florida Statutes, entitled “Standards of Conduct For Public Officers, Employees of Agencies, and Local Government Attorneys,” provides, in relevant part:

“(6) Misuse Of Public Position. – No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption from self, or herself, or others.

(7) Conflicting Employment Or Contractual Relationship. – (a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee . . . ; nor shall an officer or employee or an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.” (Emphasis added).

- Section 112.3143, Florida Statutes, entitled “Voting Conflicts,” provides, in relevant part:

“(1) As used in this section:

\* \* \*

(d) “Special private gain or loss” means an economic benefit or harm that would inure to the officer . . . business associate, or principal, unless the measure affects a class that includes the officer, . . . business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her . . . business associate, or principal receives a greater benefit or harm when compared to other members of the class . . . .

\* \* \*

“(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer’s interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.” (Emphasis added).

#### IV. Charter and Code of Ordinances

The City of Jacksonville Beach has not developed a code of ethics separate from the Code of Ethics set forth above. However, Part I, Chapter VII of the City's Charter and Code of Ordinances provides as follows:

**"Section 43. – Contract Prohibited**

The city government shall not employ or contract with any elective official of the city."

Moreover, Chapter V, Section 30 of the Charter and Code of Ordinances provides, in part:

"Except for the purpose of inquiry . . . the council and its members shall deal with the administrative service solely through the manager, and neither the council nor any members thereof shall give orders to any subordinate of the city manager either publicly or privately. Any violation of the provisions of this section by a member of council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted." (Emphasis added).

#### V. Councilmembers' Involvement in Special Events and Festivals

Three Councilmembers, Christine Hoffman, Phillip Vogelsang, and Keith Doherty, have been actively involved in producing special events and/or festivals covered by the Policy on behalf of corporations. This Review focuses on those events occurring, or scheduled to be held, in calendar years 2013-2016. The Review also includes, at Christine Hoffman's suggestion<sup>3</sup>, a review of the October 22, 2016, Dial-A-Ride annual celebration held at the South Beach Exhibition Hall & Community Center, and the possibility that Mayor Charlie Latham or his wife, Kathryn Latham, (who is an officer of Beaches Council on Aging – the parent organization of Dial-A-Ride) received special privileges from the City regarding the event.

The sections that follow include relevant information discovered during the Review with respect to each Councilmember and his or her involvement in specific events.

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<sup>3</sup> Although during her interview Christine Hoffman also suggested that this Review should include a study of the Deck the Chairs lighted sculptural exhibit in Latham Plaza and the Seawalk Pavilion during the period November 25, 2016, to January 1, 2017, and particularly the propriety of Executive Director Kurtis Loftus's involvement in negotiating an agreement with the City to sponsor the exhibit, this was not within the scope of the Review because Mr. Loftus is not a Councilmember.

**A. Mayor Charlie Latham**

Mayor Latham has not been involved as a producer or sponsor of any special event or festival covered by the Policy. Moreover, according to Mayor Latham, he is not an employee, director or officer of any corporation which produces such events. Mayor Latham's wife, Kathryn Latham, serves as an officer of Beaches Council on Aging, which is the parent organization of Dial-A-Ride. On September 22, 2016, Dial-A-Ride entered into a lease agreement with the City to use South Beach Exhibition Hall & Community Center for a celebration held on October 22, 2016, between the hours of 5:00 p.m. and 8:00 p.m. Records reflect that Dial-A-Ride was charged for and paid the standard rental fee of \$150.00 per hour for use of the facility and also was charged and paid for the standard rental deposit of \$400.00 as alcohol was served at the celebration. This celebration, similar to other leasing arrangements for the facility, did not fall under the Policy. Instead, procedure is for the sponsor of such event to sign a standard, City prepared, lease agreement. According to Mayor Latham, his sole involvement in this event was to assist Council on Aging's staff during the celebration (e.g., helping prepare or serve food items).

**B. Christine Hoffman**

Since June 16, 2014, Councilmember Hoffman has been employed in the position of Executive Director of Beaches Area Historical Society, Inc. (hereinafter "BAHS"). BAHS is a not-for-profit corporation. During her interview Ms. Hoffman stated that she is not a corporate officer or director of BAHS, and she is not an officer or director of any other profit or not-for-profit corporation. In 1979, BAHS entered into a lease agreement with the City to develop and operate a historical park on approximately a two-block parcel of property owned by the City along Pablo Avenue and Fourth Street North. BAHS has since installed various improvements to the park for the benefit of residents and visitors. The lease presently extends to 2044. Ms. Hoffman had no involvement in the negotiation of this lease.

One of Ms. Hoffman's primary responsibilities as Executive Director is promoting the museum and fund-raising for BAHS. As part of her responsibilities, Ms. Hoffman has organized many social events at the park on behalf of BAHS. Three of these events, in 2016, "Sock it to Cancer" (March 5, 2016), "Fletcher All - Class Block Party" (April 23, 2016), and "Art Fest" (October 1-2, 2016) involved obtaining special event permits under the Policy. None was a festival.<sup>4</sup> According to Ms. Hoffman, she does not participate as a corporate officer or director or employee of any corporation that has produced either special events or festivals covered by the Policy. During her interview Ms. Hoffman stated that she received no special compensation or bonus from BAHS for her involvement in putting on BAHS events at the historical park.

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<sup>4</sup> Through Ms. Hoffman's efforts BAHS has also hosted numerous non-permitted events which are beyond the scope of this Review.

According to Ms. Hoffman, on or about March 25, 2016, William Catlin, a principle of Orange Peel Entertainment, LLC, and an acquaintance of Ms. Hoffman, contacted Ms. Hoffman and told her that he was planning on producing a concert at Seawalk Pavilion, but had been advised by the City's Parks and Recreation Department that he was too late to get a special event permit for the event because he wanted to put the concert on in less than sixty (60) days. Mr. Catlin indicated to her that the event would be held around the time of The Players Championship ("TPC"). Mr. Catlin asked Ms. Hoffman to see if she could assist in obtaining a waiver of the sixty-day period for his festival permit application. According to Ms. Hoffman, she agreed to and did visit City Manager, George Forbes, in his office on Mr. Catlin's behalf and inquired if the sixty-day period could be waived. While Mr. Forbes recalls that Ms. Hoffman's visit to him made reference to the event being in conjunction with TPC, Ms. Hoffman disagrees that she mentioned such to Mr. Forbes. According to both Mr. Forbes and Ms. Hoffman, while Ms. Hoffman was in Mr. Forbes's office, he telephoned the Parks and Recreation Department and determined that there were no other festivals scheduled at Seawalk Pavilion and Latham Plaza in May, 2016. He then advised Ms. Hoffman to tell Mr. Catlin that the City would waive the sixty-day application period. Ms. Hoffman then contacted Mr. Catlin to advise him of the waiver. According to Ms. Hoffman, that concluded her involvement in the festival that would later be known as "The Party," and held on May 14, 2016. Ms. Hoffman stated during her interview that Mr. Catlin, for her efforts in obtaining the waiver, gave her two (2) free passes to the concert which she later disclosed to the state.

### **C. Phillip Vogelsang**

According to records filed with the Florida Department of State, Division of Corporations, Councilmember Vogelsang is President of Beaches Oktoberfest, Inc. (hereinafter "BOI"), a not-for-profit corporation. Other officers include Councilman Keith Doherty (Treasurer), Joshua Woolsey (Secretary), and Charles Wagoner (Vice President). Mr. Woolsey also serves as registered agent and counsel for BOI. BOI is the successor (not-for-profit) corporation of Beaches Oktoberfest, LLC ("BO-LLC"), a for-profit corporation. Beaches Oktoberfest LLC, was formed on March 11, 2014. Messrs. Vogelsang and Doherty were officers in BO-LLC. On March 16, 2015, Beaches BOI was formed as a not-for-profit corporation. Because Mr. Vogelsang was not interviewed during this Review, it is unknown whether he serves as an officer or director of any other corporation, or whether he is employed by, has a contractual relationship with, receives any compensation from, or holds a membership in BOI.

BO-LLC was the producer of the Beaches Oktoberfest festival held on October 25-26, 2014, in Latham Plaza and Seawalk Pavilion. BOI was the producer of the Beaches Oktoberfest festivals held on October 16-18, 2015, and October 14-16, 2016, in Latham Plaza and Seawalk Pavilion. While there were problems that arose from the 2016 festival (e.g., trash from the festival was dumped off-site at Beach Plaza, insurance paperwork was not submitted in a timely manner; last minute adjustments to the special event permit were needed due to last minute changes by BOI; vehicles were parked on the grass; and the entire site of the event was not broken down and cleared

in a timely fashion as required by the Permit), these issues were eventually taken care of by BOI. There is no evidence that Mr. Vogelsang was personally responsible for these issues.

On March 17, 2016, BOI, through its counsel, Josh Woolsey, formally requested that the Parks and Recreation Department grant it a permit to hold a yet-to-be named festival in March, 2017, in place of the Great Atlantic Festival annually produced by Jax Beach Festivals, Inc. (hereinafter "JBFI"). On March 16, 2016, JBFI cancelled its March 19, 2016, festival because of hazardous weather conditions. Parks and Recreation Department Representative, Barbara Prettyman, immediately responded to BOI that producers of established events do not lose their scheduling priority when cancellations are made out of concern for public safety. Rather than accept this explanation, BOI continued pressing its request to unseat JBFI for the March, 2017, festival timeslot. On March 21, 2016, Mr. Woolsey wrote an email to Ms. Prettyman demanding that the Parks and Recreation Department answer the following questions:

"What is the public safety concern?"

"Who with the City determined that there were unsafe conditions which created concerns for public safety?"

"What information did he/she rely on in making such determination?"

While Councilmember Vogelsang did not directly write the demands on behalf of his not-for-profit BOI, he did reference same in a conversation with Mr. Forbes. On March 18, 2016, while in Mr. Forbes' office, Mr. Vogelsang asked Mr. Forbes if he had seen Mr. Woolsey's request for the JBFI March 17 date. When Mr. Forbes stated that he had, that the request had been referred to him, and that the request had been denied, Mr. Vogelsang angrily responded to Mr. Forbes, "you've not heard the end of this." This conversation was witnessed by Karen Nelson who was present in the office. Mr. Forbes stated that he tried to counsel Mr. Vogelsang that he needed to be careful to avoid conflicts of interest and ethical concerns arising from Mr. Vogelsang's involvement (as an officer of BOI) in pressing staff for permit privileges.

#### **D. Keith Doherty**

Councilmember Doherty is currently an officer in at least two (2) not-for-profit corporations – BOI (Treasurer) and Jacksonville Celtic Festivals, Inc. (Registered Agent and President). He is also an officer in at least one (1) for-profit corporation, Duval Events, LLC, formerly Bruval, LLC (Manager). He was also an officer in two (2) for-profit corporations, BO-LLC (mentioned above), and Jacksonville Celtic Festival, LLC, the predecessor of Jacksonville Celtic Festival, Inc. According to records filed with the Florida Division of Corporations, the LLC was active from February 27, 2013, to September 30, 2013, and the not-for-profit entity, Jacksonville Celtic Festival, Inc., was incorporated on October 2, 2013. It is unknown whether or not Mr. Doherty serves as an

officer or director of any other corporation, or whether he is employed by, has a contractual relationship with, receives any compensation, or holds a membership or stock interest in such corporations as he declined to be interviewed. Mr. Doherty's nonprofits have been, or will be, involved in either producing or materially supporting ten (10) festivals covered by the Policy – Jacksonville Celtic Festival (November 16, 2013), Beaches Oktoberfest (October 25-26, 2014), Jacksonville Celtic Festival (November 21-23, 2014), Bruval Beaches Fall Festival (September 19, 2015), Beaches Oktoberfest (October 16-18, 2015), Jacksonville Celtic Festival (November 14-15, 2015), The Party (May 14, 2016), Bruval Beaches Fall Festival (September 10, 2016), Beaches Oktoberfest (October 14-16, 2016), and Void Fest (November 18-20, 2016). In addition, during 2016, BOI requested and received tentative approval to produce a new July, 2017, festival. For ease of reference the 2016 festivals are briefly described below.

### 1. The Party

As mentioned above, the City waived the sixty-day time period for Orange Peel Entertainment, LLC to make application for this festival event. The event was advertised as “TPC’s Largest After Party Concert,” a TPC logo was used for such purposes, and Mr. Catlin referenced the event as a TPC event in his correspondence with the City.<sup>5</sup> The festival event permit application was not signed by Mr. Catlin until April 4, 2016, and, due to various problems during the application process, the Special Event Permit was not issued until May 12, 2016, just two (2) days before the May 14, 2016, festival. The permitting process created substantial problems for the City’s special event committee and City Manager. Josh Woolsey and/or Councilmember Doherty either participated in or witnessed these problems. The issues primarily stemmed from Orange Peel Entertainment’s insistence that the 50% limitation on reserved seating included both Latham Plaza and Seawalk Pavilion. Never before had the City construed the 50% restricted seating rule to include Latham Plaza. Other issues surrounding the concert included such things as untimely submission of a site plan, and failure of the producer to return telephone calls made by City staff who needed information to complete the event permitting process. As a consequence, multiple meetings had to be scheduled to discuss these and other event issues.

On April 27, 2016, just shortly after he submitted his permit application, Mr. Catlin wrote Mr. Forbes an email in which he contended that on April 11, 2016 – just one week after his event application was signed, and before any meeting had taken place to vet his application – he had been approved by the special event committee to hold his event. The first meeting to discuss the event application did not actually take place until April 18, 2016. Mr. Catlin’s email to Mr. Forbes included reference to Mr. Catlin having already incurred expenses relating to the set up and promotion of the event. In actuality, no approval of the application had been made by the committee, as many issues remained to be resolved. Mr. Forbes responded to Mr. Catlin via email dated April 28, 2016. In that communication, Mr. Forbes reminded Mr. Catlin that the event had only been tentatively given a date, subject to application review and approval. Mr. Forbes reminded

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<sup>5</sup> As it turned out, the event was not a TPC event.

Mr. Catlin that the application did not contain the requisite site plan and it gave no indication of how Mr. Catlin intended to use the space in the Seawalk Pavilion area and Latham Plaza. Other issues regarding the April 4, 2016, event application were also raised by Mr. Forbes in his email to Mr. Catlin, and he reminded Mr. Catlin that Mr. Catlin had not returned phone calls made to him (Mr. Catlin) by City staff since April 23, 2016. Mr. Catlin was referred to Mary Ellen Donner to complete the application process.

On May 6, 2016, just eight (8) days before the tentatively scheduled concert, a meeting was called that included Police Chief Pat Dooley, Police Commanders Mark Evans and Jean Paul Smith, Police Sergeant Thomas Bingham, Fire Marshall Steve Scioto, Public Works Department employee Patrick Deighan, Parks and Recreation Department Director Mary Ellen Donner (who was relatively new to her position as she was employed on January 29, 2016), Orange Peel Entertainment, Inc.'s executive, William Catlin, and his attorney, Josh Woolsey. Councilmember Doherty was in attendance at this meeting. According to Chief Dooley, and Officers Evans, Smith, and Director Donner, this meeting was very acrimonious as Mr. Woolsey aggressively challenged the City concerning the 50% restricted seating rule. Mr. Doherty spoke up at the meeting in support of Mr. Catlin's argument that the Policy was flawed and the City had acknowledged such by having plans to amend the Policy. Mr. Doherty stated during the meeting that Mayor Latham had previously brought up to the City Council the need to amend the Policy.

During the May 6, 2016, meeting, representatives of Orange Peel Entertainment requested a caucus, and Mr. Doherty stayed in the room with them while the City's representatives left the room. The meeting later resumed for further discussion. At one point during the May 6, 2016, meeting Chief Dooley privately asked Councilmember Doherty if he was involved in the event, and Mr. Doherty responded, "No, not really." It was later learned by the Special events committee that Mr. Doherty had actually applied on April 18, 2016, for the temporary not-for-profit alcohol permit (on behalf of his non-profit Jacksonville Celtic Festival, Inc.) to be used by Orange Peel Entertainment (a for-profit corporation) to sell alcohol at The Party, and that the temporary alcohol permit had been issued to Jacksonville Celtic Festival, Inc. on April 28, 2016, by the Division of Alcoholic Beverages & Tobacco. After this was discovered, and the Special Event Permit was finally prepared for issuance, Mr. Doherty was asked to sign the Special Event Permit along with Mr. Catlin. Mr. Doherty refused to sign the Special Event Permit. It is not known whether Jacksonville Celtic Festival, Inc. or Mr. Doherty received any benefit for the use of the non-profit status to obtain the temporary alcohol permit for this festival, as Mr. Doherty declined to be interviewed.

On May 13, 2016, Councilmember Doherty called Mary Ellen Donner at the Parks and Recreation Department and asked her if The Party event could use a construction dumpster which was parked at Seawalk Pavilion. This request was referred to Trish Roberts who advised that The Party would have to make its own arrangements for a dumpster.

## 2. Bruval-Beaches Fall Festival

Councilman Doherty's for-profit corporation, Duval Events, LLC (formerly Bruval, LLC) was the festival producer of the September 10, 2016, event. A Special Event Permit application was signed on July 6, 2016, and a Special Event Permit was thereafter issued on September 8, 2016. Because the event involved the sale and consumption of alcohol, a temporary alcohol permit was required. Previously, for the September 19, 2015, Bruval-Beaches Fall Festival, the alcohol permit was applied for and obtained by Councilmember Doherty's not-for-profit corporation, Jacksonville Celtic Festivals, Inc. In 2016, the alcohol permit for this festival was first applied for by another not-for-profit organization, the Travis Manion Foundation; however, the alcohol permit application appears to have been prepared by Councilmember Doherty. When the City questioned the application, it was withdrawn, and another not-for-profit corporation, Beaches LaCrosse Club, Inc., made application for the temporary alcohol permit. Again, it appears that Mr. Doherty was responsible for filling out portions of that permit application.

Another issue arose concerning this festival. In order for event producers to hang banners on City streetlight poles, the producer must apply to the City's Parks and Recreation Department for approval. On August 15, 2016, BOI (one of Mr. Doherty's not-for-profit corporations) applied for a banner permit for the September 10, 2016, festival. After this was approved by the Department, banners appeared on streetlight poles advertising both the September 10, 2016, event, and the Beaches Oktoberfest October 14-16, 2016, event. This had not been approved. Moreover, while the banners were supposed to be taken down by September 12, 2016, they remained on the light poles past the deadline in violation of the permit until the City could contact BOI and have them removed.

## 3. Beaches Oktoberfest

As mentioned above, the Beaches Oktoberfest festival was conducted on October 14-16, 2016. It was produced by Beaches Oktoberfest, Inc., a not-for-profit corporation of which Councilmember Doherty is the Treasurer. There is no evidence that Mr. Doherty was directly responsible for the problems associated with this event which are described above.

## 4. Void Magazine Music Festival

The Void Magazine Music Festival scheduled for November 18-20, 2016, was formerly known as Jacksonville Celtic Festival. In 2013, 2014 and 2015, this festival was produced by Councilmember Doherty's not-for-profit corporation Jacksonville Celtic Festivals, Inc. In 2016, the producer was Duval Events, LLC (formerly Bruval, LLC), the for-profit corporation of which Mr. Doherty holds the title of Manager. Scheduling this event presented a particular challenge for the Parks and Recreation Department due, in part, to Mr. Doherty.

The Policy provides that only one festival may be scheduled in any one month, and that a festival may not be scheduled on a holiday weekend (except for the July 4 weekend, which requires City Council approval). The Jacksonville Celtic Festival has in past years been scheduled during the month of November. This was the month that Duval Events, LLC desired to schedule its Void Magazine Music Festival. This presented a scheduling problem because the Sea & Sky Spectacular was scheduled for the week of October 31-November 6, and the Veterans Day holiday (which prohibited a festival) commenced November 11. Moreover, the Parks and Recreation Department previously scheduled, at the event producer's request, the Right Whale Festival for November 19. In attempting to receive a November, 2016, date for this festival, Councilmember Doherty represented to Parks and Recreation Department employee, Barbara Prettyman, that City Manager Forbes had assured him that it was only fair that he (Mr. Doherty) be allowed to schedule his festival during the Veterans Day holiday, November 11, 12, and 13, 2016. This was later determined not to be the case as Mr. Forbes never agreed to waive the policy against scheduling festivals on a holiday. This representation created a scheduling dilemma and, as a result, the Parks and Recreation Department approached the producer of the Right Whale Festival to see if the producer would agree to move the Right Whale Festival from November 19, 2016, to October 1, 2016. Such a move would free up November 18, 19 and 20 for Duval Events, LLC's Void Magazine Music Festival. This was agreed upon by the producer of the Right Whale Festival.

#### 5. July 15, 2017, Event

On April 5, 2016, Mr. Woolsey wrote an email to Ms. Prettyman in the Parks and Recreation Department advising that, as counsel for his client Beaches Oktoberfest, Inc., he was making "application for a July 4th event to be held in 2017 on the weekend before July 4<sup>th</sup> or the weekend after July 4<sup>th</sup>. . . at the Jacksonville Seawalk Pavilion. Please let me know when this will be reviewed by the City Council." Mr. Woolsey, who is also the corporate secretary of BOI with fellow corporate officers Keith Doherty and Phillip Vogelsang, knew that the Policy required City Council approval in order to schedule a July 4<sup>th</sup> event. On April 15, 2016, Ms. Prettyman advised Mr. Woolsey that the weekends requested were not approved. Instead, she provided dates for BOI to consider later in the month for its proposed event. Ultimately, July 15, 2017, was selected by BOI.

In a meeting with Mr. Forbes on April 15, 2016, which was requested by Councilman Doherty to discuss various issues, BOI's request for the July 4, 2017, event was broached. Mr. Forbes reminded Mr. Doherty that his involvement in the request, as an officer of BOI, could present an ethical conflict of interest because the matter, if pressed by BOI, would have to come before the City Council for consideration. Mr. Forbes reminded Mr. Doherty of the prohibition in the City Charter of contracts between the City and a Councilmember. In this meeting, Mr. Doherty became upset and responded that, "Josh [Woolsey] could just set up a separate corporation to be the producer." Mr. Doherty then turned to the subject of the scheduling issue regarding Oktoberfest 2016, and, in a hostile demeanor, berated Mr. Forbes about scheduling Oktoberfest in relation to the

Veterans Day holiday. Councilman Doherty also brought up and challenged Mr. Forbes over a provision in the Policy that defined a festival as an event more than six (6) hours in duration, and expressed to Mr. Forbes that Mr. Forbes' interpretation was, "Wrong! Wrong! Wrong!"

## VI. Findings and Recommendations

Based upon the materials and facts available to me during this Review, and the applicable Code of Ethics and City Charter provisions, I make the following findings and recommendations.

**A. Depending upon the circumstances, a City Councilmember may ethically and lawfully be involved in producing festivals when organizations with which he/she is associated must apply for and obtain special event permits pursuant to the Policy.**

The propriety of Councilmembers' involvement in producing and/or obtaining permits for festivals is principally controlled by Section 112.313(7) (the "Conflicting Employment or Contractual Relationship" provision) of the Code of Ethics. Section 112.313(7) prohibits public officials from: (1) being employed by, or having a contractual relationship with, any entity which is subject to the regulation of, or is doing business with a public agency of which he is an elected official; and (2) from having any employment or contractual relationship (with any entity) that will create a continuing or frequently recurring conflict between his private interest and the performance of his public duties, or that would impede the full and faithful discharge of his public duties. Both subparts (1) and (2) of Section 112.313(7) require there to be an employment or contractual relationship between the public official and an entity that creates conflict. Absent such an employment or contractual relationship, the statutory provisions do not apply. Section 112.313(7) has been the subject of much interpretation by the state agency charged with interpreting and enforcing the Code, the Commission on Ethics (hereafter the "Commission"). A summary of the interpretation is set forth below.

In its ethics opinion ("CEO") dated October 27, 1977, the Commission held that a county commissioner who was a member of a board of directors of a non-profit corporation which (corporation) contracted with the board of county commissioners was not in violation of Section 112.313(7)(a) because the county commissioner did not have an "employment or contractual relationship with the non-profit corporation." CEO 77-164. Moreover, the commissioner was not a "member" of the non-profit.<sup>6</sup> The Commission on Ethics has further held that a person who is not paid for his services by an entity is not employed by or under a contractual relationship with that organization for purposes of Section 112.313(7). See, e.g., CEO 76-21, CEO 80-90, CEO 89-9, CEO 92-31, and CEO 92-45. Applying these principles to the facts that have been discovered during this Review, Councilmember Hoffman is employed by BAHS and as such she falls within

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<sup>6</sup> A "membership" has been determined to be a "contract". Membership has been found by the Commission to be analogous to being a shareholder (and the creation of a contractual relationship between the individual and the corporation.) See CEO 08-1 and CEO 10-2.

the first coverage element of the Section. But, because Councilmembers Doherty and Vogelsang have not been interviewed and there has been insufficient information provided during the Review to make a determination regarding the “employment/contractual relationship” issue with respect to them, no determination is made herein regarding this element’s applicability to their situations. While Messrs. Doherty and Vogelsang have been asked to produce tax records concerning their corporations mentioned above, which would aid in determining whether they have received any compensation from the various entities, only one return, for Beaches Oktoberfest, Inc.’s 2015 tax year, was produced. The latest communication received from Councilmember Doherty’s counsel, Jack Webb, dated October 26, 2016, advised that he was “working with (his client) and his (client’s) accountant to provide to you the documents you requested. It appears to be quite voluminous.” Notably, federal law provides that non-profit corporations must make their three most recently filed annual tax returns, and all related supporting documents, available for public inspection. No similar rule applies to non-exempt corporations. It is interesting to note that the 2015 Beaches Oktoberfest, Inc., tax return reports \$176,991 in gross income, and \$148,773 in expenses. \$33,396 in direct expenses is not itemized, so it remains unclear whether or not Messrs. Vogelsang or Doherty received any compensation in 2015 from Beaches Oktoberfest, Inc.

Even if the initial “employment/contractual relationship” element in subpart (1) of Section 112.313(7)(a) is present, in order for there to be an ethical violation of Section, the entity (either for-profit or not-for-profit corporation by whom the Councilmember either has a contractual relationship or employment relationship) must be subject to the regulation of, or be doing business with, the agency (i.e., City Council). The Commission on Ethics has narrowly interpreted this element of subpart one mentioned above to require that the entity with whom the elected official is either employed or has a contractual relationship: (1) be subject to the actual oversight/regulation of the agency (i.e., City Council) rather than by a department of the agency, (such as a parks and recreation department); or (2) be doing business with the agency (i.e. City Council) rather than with a department of the agency. While permitting has been found to be “regulating” for purposes of the Code, if the regulation is by a department rather than directly by the City Council, the “regulation” part of the statute is not triggered according to the Commission. See, CEO 94-10 and CEO 99-7. Furthermore, it has also been held that a license or permit does not have the elements of a contract. See, e.g., Slora v. Sun ‘N Fly-In, Inc., 173 So.3d 1099 (Fla. 2nd DCA 2015).

Therefore, based upon the narrow interpretation of subpart one of Section 112.313(7)(a) by the Commission, it would appear that none of the Councilmembers’ festivals is regulated by and none of the Councilmembers’ organizations is doing business with the City Council. Rather, the Policy calls for permitting and oversight of the festivals be conducted by the Parks Recreation Department and/or special event committee.

Regardless of whether or not subpart one of Section 112.313(7)(a) is applicable to the facts surrounding festival permitting, Section 43 of the City Charter may be applicable. This section prohibits the City from contracting with any elected official. It is possible that this section of the

Code was intended to be interpreted much broader than Section 112.313(7)(a), Florida Statutes. A review of the City's event application process clearly reveals that event producers must agree in writing to indemnify, defend, and hold the City harmless from and against any and all claims in connection with the event and they must agree to comply with the City's Codes and Ordinances, Policy, and any other requirements stipulated by the City. The Policy further provides that appeals of denials of event requests shall be submitted to the City Manager for consideration. If the issue under appeal cannot be satisfactorily resolved, the organizer/producer may seek further review by the City Council. This Review disclosed that at least on one occasion the City Council had direct input concerning a festival. On September 8, 2015, the City Council approved the erection of a Ferris wheel at the Oktoberfest Festival. Mr. Woolsey spoke at the Council meeting on behalf of Beaches Oktoberfest, Inc. Thus, it is quite possible that Section 43 of the City Charter could be interpreted in a broader fashion than the Code of Ethics, and the commitments signed by the producers could be constructed as contractual in nature.

As mentioned above, subpart two of Section 112.313(7)(a) also prohibits a Councilmember from having or holding any employment or contractual relationship that "will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties." This provision has been found to create an objective standard which requires an examination of the nature and extent of the Councilmember's duties, together with a review of his or her private interests to determine whether the two are compatible, separate, and distinct, or whether they coincide to create a situation which "tempts dishonor" Zerweck v. State Commission on Ethics, 409 So.2d 57 (Fla. 4<sup>th</sup> DCA 1982); and CEO 16-02. The provision is preventative in nature and does not require intentionally wrongful conduct by a Councilmember.

Because Councilmember Hoffman clearly has an employment relationship with BAHS, this provision could be applicable to her and she must be careful to avoid violating the Section. However, as mentioned above, Ms. Hoffman has not been involved in the permitting of any festivals thus far through her employment at BAHS. With respect to Councilmembers Doherty and Vogelsang, this Review has been unable to determine whether or not either of them has or holds any employment or contractual relationship that could trigger this provision as they were not interviewed. The above-referenced conduct, however, with respect to the festivals with which they have been involved does suggest that they are very active in pressing employees, including City Manager Forbes, and Parks and Recreation staff, regarding the festivals produced by their non-profit corporations and, in Councilmember Doherty's case, produced by his for-profit corporations. This activity has created a recurring friction between their interests as corporate officers (albeit not necessarily as employees or as contractors) of or positions in corporations and the performance of their duties as Councilmembers to support the Policy. Their positions could "tempt dishonor" which is all that is required under the statute. But because the facts were not fully exploratory during the Review with respect to either Councilman Doherty or Councilmen Vogelsang, I make no

determination as to whether their actions violated the Code. There are bases for finding that neither Councilmember Hoffman nor Mayor Latham has violated Section 112.313(7)(a).

**B. A City Councilmember may not corruptly use or attempt to use his or her official position to secure any special privilege or benefit for a festival produced by a corporation of which he or she is an officer or director.**

Code of Ethics' misuse of public position provision is found Section 112.313(6), which is quoted in Part II of this Review. In order for it to be concluded that a Councilmember violated the Code Section, the following elements must be shown: (1) that the Councilmember used or attempted to use his or her official position; (2) that such use or attempt must be with an intent to secure a special privilege, benefit, or exemption for himself or herself or others; and (3) that such actions were done "corruptly" See In Re: Eli Tourgeman, 1994 WL1027912 (Fla Div. Admin. Hrgs. 1974); and Bennett v. Commission on Ethics, 871 So. 2d 924 (Fla. 5<sup>th</sup> DCA 2004). "Corruptly" is defined as "done with a wrongful intent for the purpose of obtaining, or compensating, or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties." (Emphasis added). Examples of facts which have been found to support a Code violation under the misuse of office provision include: (1) threats or intimidations towards employees or staff; (2) coercion of employees or staff; (3) references to official's position and communications; and (4) attempting to influence decision-making of those who are subordinate to the official. Implicit coercion is just as inappropriate as expressed coercion. For example, if an employee believes that a Councilmember has the authority over him or her, the Councilmember's actions can be found to be coerced, regardless of whether or not the Councilmember is vested with the power to fire, discipline, or otherwise affect the employee's employment. See In Re Lancaster, 5FALR 1565-A (Fla. Comm. on Ethics 1983). The Commission on Ethics has advised that while compliance with the strict letter of the Code may be adequate to avoid a violation, it may not be enough to foster public confidence in government. In other words, public officials should avoid even the appearance of a conflict of interest. (Emphasis added). See CEO 10-2. The Commission has further advised that in order to avoid even the appearance of impropriety, a public official should "scrupulously separate his public role from his private pursuits." See CEO 16- 09.

Although Councilmember Hoffman has not been involved with producing any festival in her BAHS role, or for any other entities, the Review did not disclose any facts which would suggest that Councilmember Hoffman has misused her office for purposes of her involvement in special events. On the other hand, both Parks and Recreation Department Director Mary Allen Donner, one other Parks and Recreation event coordinator (who requested that her name not be referenced for fear of retaliation), and City Manager Forbes have expressed that the behavior of Councilmembers Vogelsang and Doherty (as set forth above) has created tension and pressure for them.<sup>7</sup> In each

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<sup>7</sup> During her interview Barbara Prettyman stated that she did not feel coerced or threatened by any actions of Councilmembers.

incident referenced above, the behavior of the Councilmembers could be construed as having the intent to secure a special privilege or benefit for festivals associated with corporations with which they are involved. Moreover, Councilmember Doherty's deception about his involvement in the temporary alcohol permit for The Party to a member of the special event committee (Chief of Police Patrick Dooley) is disturbing. That said, Councilmembers Vogelsang and Doherty were not interviewed and as a result, their explanations for their actions has not been explored. Accordingly, I am unable to conclusively evaluate whether or not their actions were "corruptly" performed.

Also related to the misuse of public position issue is Section 112.3143 of the Code of Ethics. Councilmembers are prohibited by this section from voting upon any measure which would inure to their special private gain or loss, or to the private gain or loss of a business associate. In this regard, it is notable that on December 16, 2013, both Councilmembers Vogelsang and Doherty voted to approve an amendment to the Policy which allowed festivals to be up to 20 hours in duration during the months of October, November, December, January and February. In fact, Councilmember Vogelsang moved to add the month of October to the list of months. This change has materially benefitted both Councilmembers, who, as set forth above, have produced multi-day festivals in October and November since the Policy amendment was passed. Within three (3) months after the Policy amendment was voted on, Messrs. Vogelsang and Doherty formed Beaches Oktoberfest, LLC, on March 11, 2014. Their first Beaches Oktoberfest was thereafter held on October 25-26, 2014, and Councilmember Doherty held his first multi-day Celtic Festival on November 21-23, 2014, less than one (1) year after the Policy amendment passed. The record of festivals held since the Policy amendment indicates that Messrs. Doherty and Vogelsang have received the greatest benefit from the amendment of all producers. Moreover, because the Policy provides that first priority is given to annual events which have taken place for two (2) consecutive years, both Councilmembers will continue to reap the benefits of the December 16, 2013, Policy amendment.

**C. Councilmembers' interactions with city staff when promoting festivals must be within the parameters of the Code of Ethics and City Charter and Code of Ordinances.**

As can be gleaned from the above Code of Ethics provisions, a Councilmember should avoid any interaction which could be construed to be a misuse of his or her public position. This would include any interaction that suggests that his or her official position is being used to obtain a special privilege or benefit in the permitting process of a festival; and any activity where the Councilmember is attempting to secure a special festival date, waiver of a deadline, and a special interpretation of the Policy. Obviously, if the festival is one being produced by a corporation on which the Councilmember serves as a director, member, stockholder, contractor, and/or employee the greater the possibility that the Councilmember's actions could provide a "special privilege or benefit". Improper interaction in violation of the misuse of public position standard could also take the form of utilizing the services of an agent, or lawyer of a Councilmember to seek a special privilege or benefit. The Code does not require that the benefit or privilege obtained by improper conduct of a Councilmember be for personal financial gain. Therefore, even though a non-profit

corporation may be involved as the producer of a festival and the Councilmember serves on the board of the non-profit corporation, a special benefit or privilege to the corporation (which is not necessarily financially beneficial to the Councilmember) could be problematic. In interactions with the City Manager, Councilmembers must remember that pursuant to Chapter V, Section 26 of the Charter and Code of Ordinances, the City Manager serves at the pleasure of the City Council. Councilmember actions which have the effect of putting pressure on the City Manager or coercing the City Manager to provide a Councilmember's corporation with special privileges or benefits under the Policy must be avoided.

Interaction with City employees is also covered by Chapter V, Section 30 of the Charter and Code of Ordinances, which provides, in part:

“Except for the purpose of inquiry . . . the council and its members shall deal with the administrative service solely through the manager, and neither the council nor any members thereof shall give orders to any subordinate of the city manager either publicly or privately. Any violation of the provisions of this section by a member of council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.” (Emphasis added).

Even though a Councilmember may be doing so as an officer or director of a not-for-profit corporation, or for-profit corporation, rather than as a “Councilmember”, when he or she advocates for a festival, his/her communications with Parks and Recreation Department staff and other special event committee members could be construed as violating the spirit, if not the letter, of this Charter provision.

**D. Recommendations for future compliance include consideration of amending the Policy and taking other steps.**

This Review generated various ideas and recommendations for assuring future compliance and avoiding problems. These include the following:

- Prohibit Councilmembers from producing festivals.
- Amend the Policy to provide that the special events committee make recommendations for the issuance of special event permits for festivals to the City Council and that the final decision on the issuance of the permit be made by the City Council.
- Amend the Policy to require both the festival producer and the entity which obtains the temporary alcohol permit to sign the special event permit.

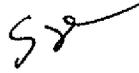
- Amend the Policy to require that the producer sign a contract with the City concerning festivals.
- Require the producer to disclose all promotional materials which will be used to promote the festival as part of the permit process.
- Lengthen the time period between the application of the special permit for the festival and the festival dates from 60 days to 90 days.
- Clarify the 50% space rule for priority/VIP seating.
- For non-profit entities obtaining temporary alcohol permits for festivals, require such entities to document the net profits from alcohol sales distributed to charitable causes.
- Require that Councilmembers disclose on a form their involvement in festivals.
- Consider reducing the number of festivals allowed under the Policy.

JFD/pp

**Memorandum**

**To:** Mayor and City Council

**From:** Susan Erdelyi, City Attorney



**Date:** December 14, 2016

**Re:** Special Events and Festival Review

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On May 16, 2016, at a special workshop, City Manager George Forbes asked me to review the special events policy and issues that had arisen from recent festivals and the involvement of some city councilmembers in promoting festivals.

Pending the review, Mr. Forbes also announced that the City would not accept any new reservations for 2016-2017 for festivals; however, festivals that already had an existing reservation would not be affected.

I began a review and concluded that it would be advisable to hire outside counsel to conduct the review. On August 9, 2016 I forwarded information from my preliminary work on the review to attorney John Dickinson of the Constangy, Brooks, Smith & Prophete Law Firm.

Mr. Dickinson has completed his review and has submitted the attached report which includes his recommendations. This memorandum summarizes Mr. Dickinson's report and supplements it with additional pertinent information.

As City Attorney, I seek policy direction from the City Council concerning potential revisions to the City's Special Events Policy which governs festivals. I also seek policy direction on conflicts that have occurred due to the involvement of two city council members (and/or representatives of their organizations) personally interacting with and at times, pressuring city staff concerning festivals that are promoted by the councilmembers or their organizations.

## Review Findings

The following outlines Mr. Dickinson's findings:

1. Under Florida law, temporary alcohol permits (of up to 3 days) are issued by a state agency to bonafide non-profit civic or charitable organizations. The non-profit organization is the only entity that may receive any of the profits from the sale of alcoholic beverages under the temporary alcohol permit. (Review p. 4)
2. On December 16, 2013, the City Council voted to allow festivals of up to 20 hours (Friday, Saturday and Sunday) during the months of October-February. Mr. Vogelsang moved to add the Month of October to allow for a "family-friendly Halloween festival or Oktoberfest." Mr. Doherty abstained from voting on the amendments to the special events policy citing the possibility of receiving a financial benefit if he were able to avail himself of a multi-day festival. The motion carried unanimously. (Review p. 20, 12.16.13 Council Minutes, *See Exhibit 1, voting conflict form*).
3. After this vote, the number of festivals expanded in number and time between 2014-2016. (Review p. 12). This has resulted in an impact on several departments, increasing their workload with no adjustment in personnel to accommodate the increase.
4. On March 11, 2014, Beaches Oktoberfest LLC was formed. Officers included Mr. Vogelsang, Mr. Doherty, Mr. Woolsey and one other. The first Oktoberfest was held on October 25-26 2014. (Review p. 20, Sunbiz website).
5. Mr. Doherty who has been personally involved in promoting festivals since 2013, held his first multi-day Celtic Festival on November 21-23, 2014. (Review p. 11-12, 20).
6. In March 2015, Beaches Oktoberfest Inc. was formed as a non-profit with the same officers. In 2016, the website for Beaches Oktoberfest advertised as "Florida's Largest Oktoberfest."
7. Federal Law requires that non-profits report certain financial data. The 2015 Form 990-EZ for Beaches Oktoberfest Inc. documents that the organization's gross receipts were \$176,991, "direct expenses" from fundraising events were \$148,773 leaving a net income of \$28,218. After additional expenses, the "net assets" or fund balance at year end was \$8,264. It is unknown how much of these funds were actually paid to any charity and whether the Beaches Oktoberfest organizers (including Councilmembers

Doherty and Vogelsang) received payment or a benefit of any kind. See *Exhibit 2, 990-EZ*.

8. The only form 990-EZ was produced to the reviewer by Josh Woolsey, attorney for Mr. Vogelsang and an officer in Beaches Oktoberfest Inc. The reviewer requested additional form 990s for other festivals related to the councilmembers but none were produced. (Review p. 16-17).
9. Councilmembers Vogelsang and Doherty declined to be interviewed in the review based on advice of their attorneys.<sup>1</sup> (Review p. 2, 17).
10. Because they declined to be interviewed, it is unknown whether Mr. Vogelsang and Mr. Doherty receive any financial (or other) benefit from their involvement in promoting festivals. (Review p. 10, 12-13, 17).
11. In April 2016, at the request of Councilwoman Hoffman, the City Manager agreed to accommodate a promoter of a new event by waiving the sixty-day time period for applying for a permit for the event. The event later became known as "The Party" and was given a tentative date of May 14, 2016, pending compliance with permit requirements. (Review p. 12).
12. On April 27, 2016, the Party event promoter sent an email to the City Manager stating that he was "putting on THE PLAYERS CHAMPIONSHIP post concert event at the Seawalk Pavilion" and had "likely incurred around \$100,000 in expenses and future obligations to bands, production, vendors, and more." The email incorrectly stated that the promoter "had received approval from the City" when the approval was not yet given. (Review p. 12, *Exhibit 3 email*).
13. "The Party" was initially advertised as being "TPC's Largest After Party Concert" and included the TPC (The Players Championship) logo. It was later learned that the event was not authorized to use the TPC name and was unconnected to the TPC. (Review p. 12).

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<sup>1</sup> It should be noted that Mr. Vogelsang was willing to accept written questions and although Mr. Dickinson agreed to question Mr. Doherty in the presence of his attorney and a court reporter, Mr. Doherty was only willing to be interviewed with a videographer present. The reviewer declined to agree to these requirements citing a need for a face to face interview. All other witnesses had agreed to be interviewed including the mayor and Councilwoman Hoffman.

14. On May 6, 2016, a special event committee meeting was held to review and finalize the festival application/permit request for "the Party." The meeting, described as "acrimonious," was attended by Josh Woolsey representing the Party, Councilman Doherty who accompanied the Party representatives, the promoter, City staff and the Police Chief. The promoter and Mr. Woolsey disagreed with how the city interpreted the limitation on priority seating (for which the promoter charged a fee). The City required the promoter to follow its 20-year practice of interpreting the limitation on priority seating to assure that the event was open to the public. The reviewer recommended a need for clarity on the policy. (Review p. 12-13, 22).
15. When the Police Chief asked Mr. Doherty about his connection with the Party, Mr. Doherty denied involvement, but stayed in the room with "the Party" officials while city staff stepped out to allow the Party representatives to discuss a few matters. Mr. Doherty's name was also on the alcohol permit that was submitted to the City for the Party. (Review p. 12-13).
16. City Manager Forbes has attempted to counsel Mr. Vogelsang and Mr. Doherty that they needed to be careful to avoid conflicts of interest and to be aware of ethical concerns arising from their involvement in pressing staff for Festival permit privileges. (Review p. 11, 15).
17. When Mr. Forbes reminded Mr. Doherty of the prohibition in the City Charter of contracts between the City and a councilmember, Mr. Doherty "became upset and responded that "Josh [Woolsey] could just set up a separate corporation to be the producer." Mr. Doherty was also reported to have berated the City Manager about scheduling Oktoberfest in relation to the Veterans Day holiday. (Review p. 15-16).
18. One staff member reported that Mr. Doherty told her that the City Manager had approved his festival to be scheduled during the Veterans Day holiday. When the employee sought to verify the information, Mr. Forbes stated that no such conversation had occurred and that the City policy prohibiting festivals on holidays would be consistently followed. This resulted in confusion for the department and created a scheduling dilemma. (Review p. 15).
19. Councilmember Vogelsang was represented in the review by Josh Woolsey who also serves as an officer and the registered agent of the Beaches Oktoberfest LLC and Beaches Oktoberfest Inc. (non-profit) organization. (Review p. 10).

20. Mr. Woolsey acting through "Beaches Oktoberfest, Inc." sought to unseat another promoter from an event that had been in existence for 24 years after that promoter cancelled his event due to weather and safety concerns. The City Manager and staff had to intervene to prevent this. (Review p. 9).
21. Mr. Vogelsang asked the City Manager about Mr. Woolsey's request for permission to use the festival date mentioned above to promote a new festival. Upon being told that Mr. Woolsey's request had been denied, Mr. Vogelsang told Mr. Forbes, "You've not heard the end of this." (Review p. 9).
22. At one point in the review, Mr. Woolsey advised the reviewer that he represented three councilmembers, Ms. Hoffman, Mr. Vogelsang and Mr. Doherty. Mr. Woolsey first contacted the reviewer via email a few hours after Ms. Hoffman was interviewed. Mr. Woolsey's email advised the reviewer that he represented both Mr. Vogelsang and Mr. Doherty who were scheduled to be interviewed the following day, but did not appear for their interviews.
23. Ms. Hoffman later, via email, denied that she was represented by Mr. Woolsey.
24. Mr. Doherty later changed attorneys and is now represented by attorney Jack Webb.
25. Mr. Doherty is an officer in 3 not-for-profit corporations (Beaches Oktoberfest, Jacksonville Celtic Festivals, Inc. and Duval Events, LLD formerly Bruval, LLC). He and his organizations have been or will be involved in producing or materially supporting 10 festivals covered by the Special Events Policy. (Review p. 12).
26. Mayor Latham has not been involved as a producer or sponsor of any special event or festival covered by the Policy.
27. Councilwoman Hoffman has not been involved in promoting festivals. She receives no financial benefit from her involvement with promoting special events which she promotes on behalf of Beaches Area Historical Society, Inc. Ms. Hoffman is the Executive Director of Beaches Area Historical Society.

## FESTIVALS

Under the current City policy, festivals:

- Are held at the Sea Walk Pavilion and/or Latham Plaza,
- Include alcohol consumption and/or sales,
- Require a temporary alcohol permit from State (only available to non-profit organization),
- Are limited to one per month<sup>2</sup>,
- Are limited to one day except *Springing the Blues* and *Sea & Sky Spectacular* are 3 days and October-February festivals can be extended to up to 20 hours over 3 days.<sup>3</sup>
- May operate from 12 noon until 10 p.m.,
- May last between 6-20 hours,
- May not require paid admission except for priority seating on a limited basis,
- Are scheduled on a first-come, first-served basis
- Priority is given to City-produced events, City-contracted events and events which have taken place for 2 consecutive years,
- Require special events committee meeting with staff,
- Require fully completed application 60 days in advance,
- Require insurance coverage.

## POLICY DIRECTION

1. **Number of Festivals.** How many festivals are desired per year? The review revealed that the number of festivals has increased every year for the past few years. Does the Council wish to have a limit of festivals or increase or decrease the number of festivals?
2. **Grandfathering.** Currently the City has a practice of "grandfathering" certain festivals that have been in existence for two or more years by giving them priority in scheduling. For example if a festival was held on a certain weekend during the prior two years, that festival is given priority to be held during the same weekend the following year. Does the council wish to continue this practice or should it be revisited? Does the current practice of grandfathering promote consistency or curtail creativity and fresh ideas?

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<sup>2</sup> Exception – during month when Sea and Sky Spectacular occurs Parks and Recreation Director can approve one additional festival.

<sup>3</sup> This change was made December 16, 2013 by the City Council.

**3. Personal Involvement of Councilmembers (and/or their agents) in Promoting Festivals.** – Jacksonville Beach's City Charter, like many government charters, contains a provision that prohibits council members from interfering with administrative functions. Section 30 of the Charter provides: "Except for the purpose of inquiry... the council and its members shall deal with the administrative service solely through the manager, and neither the council nor any members thereof shall give orders to any subordinate of the city manager either publically or privately."

The city council has received training on this specific provision. Mr. Forbes has consistently stated that he has tried to counsel both Mr. Vogelsang and Mr. Doherty to be careful with their festival related activities because they may have a conflict of interest between their roles as city councilmembers and festival promoters. It was only after he felt that the councilmembers were not receptive to this message and his coaching and when it became apparent that his staff was being pressured that Mr. Forbes sought a review.

The review reflected a concern with two councilmembers violating this provision. The purpose of this provision is to prevent council members from misusing their authority to receive special privileges (whether intentional or not) and to protect staff from inappropriate pressure from any councilmember. Attached as Exhibit 4 is a memo from a sergeant of the Jacksonville Beach Police Department in which the Sergeant stood his ground in an incident with Mr. Vogelsang and Mr. Woolsey. This memo documents that Mr. Vogelsang told a Sergeant who was simply enforcing festival safety rules, "I pay you guys' salary." [sic] This is a violation of Section 30 and illustrates an example of the "dust-offs" that led to this review. Other examples include pressure placed on an employee by Councilman Doherty to get certain dates for his festival and pressure being placed by Josh Woolsey on several city officials related to Oktoberfest's promotion of festivals. While Woolsey is only a representative of Oktoberfest (and the attorney to Mr. Vogelsang in the review), In a conversation with the City Manager about the ethical and legal limitations, Mr. Doherty specifically told the City Manager that "Josh [Woolsey] could just set up a separate corporation to be the producer." *Review p. 15.* The policy issue here is whether the City Council wants to encourage, discourage or prohibit councilmembers and their agents from involvement in festivals. Should full disclosure be required with involvement of councilmembers and/or their agents in special events and festivals? What level of disclosure should be required?

4. **Financial issues.** A significant amount of money is generated from festival promotion on public property, much of it in cash and most of the income coming from alcohol sales. What policy concerns are raised by this fact? Is this a matter that the Council wishes to address?
  
5. **Contracts.** Council members are prohibited from contracting with the board on which they serve. Additionally, the City charter prohibits contracts between the City and a Councilmember. See *Fla. Stats. 112.313(7) and Sec. 43, City Charter* (“The city government shall not employ or contract with any elective official of the city.”) The City issues permits that authorize promoters to operate festivals on City property. These permits are very similar to contracts. They outline specific obligations of both parties and if a promoter were to receive a permit and the city were to not fulfill its obligations under the permit, litigation could result. Thus, one option is to require festivals to be governed by contract rather than permits.
  
6. **Charity/Non-profit issues.** The review revealed that confusion has occurred concerning how much of the City’s festival proceeds are actually being applied to charities. For example, one email (attached as Exhibit 5) documents that BEAM was advertised as a beneficiary of the original 2014 Oktoberfest but received no funds from the event. Also, “the Party” incorrectly represented that it was a TPC related event. Is this an issue the Council wishes to address in its revisions to the special events policy? Should the designated charity be required to sign off on the permit application?

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Doherty, Keith		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE City Council	
MAILING ADDRESS 927 North 4th Avenue		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Jacksonville Beach	COUNTY Duval	<input checked="" type="checkbox"/> CITY	<input type="checkbox"/> COUNTY <span style="margin-left: 100px;"><input type="checkbox"/> OTHER LOCAL AGENCY</span>
DATE ON WHICH VOTE OCCURRED December 16, 2013		NAME OF POLITICAL SUBDIVISION; City of Jacksonville Beach	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <span style="margin-left: 100px;"><input type="checkbox"/> APPOINTIVE</span>	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained), to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting, *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

# EXHIBIT 1

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency
- The form must be read publicly at the next meeting after the form is filed.

**IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:**

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Keith Doherty, hereby disclose that on December 16, 20 13

(a) A measure came or will come before my agency which (check one or more)

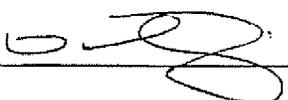
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows

I AM PRESIDENT OF TEX CELTIC FEST WHICH CURRENTLY OCCURS IN NOVEMBER. THEREFORE, IF THE MOTION PASSES I MAY BENEFIT FINANCIALLY SHOULD I BE ABLE TO AVAIL OF A MULTI-DAY EVENT. WITH THIS IN MIND, I FEEL IT PRUDENT TO REFRAIN FROM VOTING ON THE MOTION.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

December 16, 2013  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Short Form

OMB No. 1545-1150

Form **990-EZ**

**Return of Organization Exempt From Income Tax**

**2015**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

▶ Do not enter social security numbers on this form as it may be made public.

▶ Information about Form 990-EZ and its instructions is at [www.irs.gov/form990](http://www.irs.gov/form990).

Open to Public Inspection

Department of the Treasury  
Internal Revenue Service

**A** For the 2015 calendar year, or tax year beginning and ending

**B** Check if applicable:

Address change  
 Name change  
 Initial return  
 Final return/terminated  
 Amended return  
 Application pending

**C** Name of organization: **BEACHES OKTOBERFEST, INC.**

**D** Employer identification number: **47-3706974**

**E** Telephone number: **904-638-4235**

**F** Group Exemption Number: **▶**

**G** Accounting Method:  Cash  Accrual Other (specify) **▶**

**H** Check  if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF).

**I** Website: **▶ WWW.BEACHESOKTOBERFEST.COM**

**J** Tax-exempt status (check only one) -  501(c)(3)  501(c) ( ) (Insert no.)  4947(a)(1) or  527

**K** Form of organization:  Corporation  Trust  Association  Other

**L** Add lines 5b, 6c, and 7b to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ **▶ \$ 176,991.**

**Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances** (see the instructions for Part I)

Check if the organization used Schedule O to respond to any question in this Part I

		1	2	3	4	5a	5b	5c	6a	6b	6c	6d	7a	7b	7c	8	9	10	11	12	13	14	15	16	17	18	19	20	21						
Revenue	1	Contributions, gifts, grants, and similar amounts received																																	
	2	Program service revenue including government fees and contracts																																	
	3	Membership dues and assessments																																	
	4	Investment income																																	
	5a	Gross amount from sale of assets other than inventory																																	
	5b	Less: cost or other basis and sales expenses																																	
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)																																	
	6	Gaming and fundraising events																																	
	6a	Gross income from gaming (attach Schedule G if greater than \$15,000)																																	
6b	Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)									176,991.																									
6c	Less: direct expenses from gaming and fundraising events									148,773.																									
6d	Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)											28,218.																							
7a	Gross sales of inventory, less returns and allowances																																		
7b	Less: cost of goods sold																																		
7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)																																		
8	Other revenue (describe in Schedule D)																																		
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8											28,218.																							
Expenses	10	Grants and similar amounts paid (list in Schedule D)																																	
	11	Benefits paid to or for members																																	
	12	Salaries, other compensation, and employee benefits																																	
	13	Professional fees and other payments to independent contractors																																	
	14	Occupancy, rent, utilities, and maintenance																																	
	15	Printing, publications, postage, and shipping																																	
	16	Other expenses (describe in Schedule D)																																	
17	Total expenses. Add lines 10 through 16											19,954.																							
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)										8,264.																							
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)											0.																						
	20	Other changes in net assets or fund balances (explain in Schedule D)											0.																						
	21	Net assets or fund balances at end of year. Combine lines 18 through 20											8,264.																						

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Form 990-EZ (2015)

832171 12-02-16



Part V Other Information (Note the Schedule A and personal benefit contract statement requirements in the instructions for Part V) Check if the organization used Sch. O to respond to any question in this Part V

X

Form 990-EZ (2015) questions 33-45b regarding organizational activities, financials, and compliance. Includes sections for political expenditures, borrowing, tax shelter, and controlled entities.

46	Did the organization engage, directly or indirectly, in political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I .....	Yes	No
			X

**Part VI Section 501(c)(3) organizations only**

All section 501(c)(3) organizations must answer questions 47-49b and 52, and complete the tables for lines 50 and 51.

Check if the organization used Schedule O to respond to any question in this Part VI

47	Did the organization engage in lobbying activities or have a section 501(h) election in effect during the tax year? If "Yes," complete Sch. C, Part II	Yes	No
48	Is the organization a school as described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E		X
49a	Did the organization make any transfers to an exempt non-charitable related organization?		X
49b	If "Yes," was the related organization a section 527 organization?		

50 Complete this table for the organization's five highest compensated employees (other than officers, directors, trustees and key employees) who each received more than \$100,000 of compensation from the organization. If there is none, enter "None."

(a) Name and title of each employee	(b) Average hours per week devoted to position	(c) Reportable compensation (Forms W-2/1099-MISC)	(d) Health benefits, contributions to employee benefit plans, and deferred compensation	(e) Estimated amount of other compensation
NONE				

f Total number of other employees paid over \$100,000

51 Complete this table for the organization's five highest compensated independent contractors who each received more than \$100,000 of compensation from the organization. If there is none, enter "None." NONE

(a) Name and business address of each independent contractor	(b) Type of service	(c) Compensation

d Total number of other independent contractors each receiving over \$100,000

52 Did the organization complete Schedule A? Note: All section 501(c)(3) organizations must attach a completed Schedule A  Yes  No

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

<b>Sign Here</b>	Signature of officer	Date
	JOSH WOOLSEY, SECRETARY	
	Type or print name and title	

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	DARRELL CLARKSON				P01209339
	Firm's name <b>THE GRIGGSGROUP, CPAS</b>	Firm's EIN <b>20-0708248</b>		Firm's address <b>238 PONTE VEDRA PARK DR, ST 201 PONTE VEDRA BEACH, FL 32082</b>	
				Phone no. <b>904-280-2053</b>	

May the IRS discuss this return with the preparer shown above? See instructions  Yes  No



**Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)**

(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

**Section A. Public Support**

Calendar year (or fiscal year beginning in) ▶	(a) 2011	(b) 2012	(c) 2013	(d) 2014	(e) 2015	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.") .....						
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf .....						
3 The value of services or facilities furnished by a governmental unit to the organization without charge .....						
4 Total. Add lines 1 through 3 .....						
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f) .....						
6 Public support. Subtract line 5 from line 4.						

**Section B. Total Support**

Calendar year (or fiscal year beginning in) ▶	(a) 2011	(b) 2012	(c) 2013	(d) 2014	(e) 2015	(f) Total
7 Amounts from line 4 .....						
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources .....						
9 Net income from unrelated business activities, whether or not the business is regularly carried on .....						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.) .....						
11 Total support. Add lines 7 through 10						
12 Gross receipts from related activities, etc. (see instructions) .....					12	
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here .....						<input type="checkbox"/>

**Section C. Computation of Public Support Percentage**

14 Public support percentage for 2015 (line 6, column (f) divided by line 11, column (f)) .....	14	%
15 Public support percentage from 2014 Schedule A, Part II, line 14 .....	15	%
16a 33 1/3% support test - 2015. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization .....		<input type="checkbox"/>
b 33 1/3% support test - 2014. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization .....		<input type="checkbox"/>
17a 10% -facts-and-circumstances test - 2015. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization .....		<input type="checkbox"/>
b 10% -facts-and-circumstances test - 2014. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization .....		<input type="checkbox"/>
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions .....		<input type="checkbox"/>

**Part III Support Schedule for Organizations Described in Section 509(a)(2)**

(Complete only if you checked the box on line 9 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

**Section A. Public Support**

Calendar year (or fiscal year beginning in) ▶	(a) 2011	(b) 2012	(c) 2013	(d) 2014	(e) 2015	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.") .....						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose .....					176,991.	176,991.
3 Gross receipts from activities that are not an unrelated trade or business under section 513 .....						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf .....						
5 The value of services or facilities furnished by a governmental unit to the organization without charge .....						
6 Total. Add lines 1 through 5 .....					176,991.	176,991.
7a Amounts included on lines 1, 2, and 3 received from disqualified persons .....						0.
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year .....						0.
c Add lines 7a and 7b .....						0.
8 Public support. (Subtract line 7c from line 6.)						176,991.

**Section B. Total Support**

Calendar year (or fiscal year beginning in) ▶	(a) 2011	(b) 2012	(c) 2013	(d) 2014	(e) 2015	(f) Total
9 Amounts from line 6 .....					176,991.	176,991.
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources .....						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975 .....						
c Add lines 10a and 10b .....						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on .....						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.) .....						
13 Total support. (Add lines 9, 10c, 11, and 12.)					176,991.	176,991.

14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here

**Section C. Computation of Public Support Percentage**

15 Public support percentage for 2015 (line 8, column (f) divided by line 13, column (f)) .....	15	100.00 %
16 Public support percentage from 2014 Schedule A, Part III, line 15 .....	16	%

**Section D. Computation of Investment Income Percentage**

17 Investment income percentage for 2015 (line 10c, column (f) divided by line 13, column (f)) .....	17	.00 %
18 Investment income percentage from 2014 Schedule A, Part III, line 17 .....	18	%

19a **33 1/3% support tests - 2015.** If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

b **33 1/3% support tests - 2014.** If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

20 **Private foundation.** If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions

**Part IV Supporting Organizations**

(Complete only if you checked a box in line 11 on Part I. If you checked 11a of Part I, complete Sections A and B. If you checked 11b of Part I, complete Sections A and C. If you checked 11c of Part I, complete Sections A, D, and E. If you checked 11d of Part I, complete Sections A and D, and complete Part V.)

**Section A. All Supporting Organizations**

	Yes	No
1 Are all of the organization's supported organizations listed by name in the organization's governing documents? If "No" describe in Part VI how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.		
2 Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? If "Yes," explain in Part VI how the organization determined that the supported organization was described in section 509(a)(1) or (2).		
3a Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? If "Yes," answer (b) and (c) below.		
b Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? If "Yes," describe in Part VI when and how the organization made the determination.		
c Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? If "Yes," explain in Part VI what controls the organization put in place to ensure such use.		
4a Was any supported organization not organized in the United States ("foreign supported organization")? If "Yes," and if you checked 11a or 11b in Part I, answer (b) and (c) below.		
b Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? If "Yes," describe in Part VI how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.		
c Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? If "Yes," explain in Part VI what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes.		
5a Did the organization add, substitute, or remove any supported organizations during the tax year? If "Yes," answer (b) and (c) below (if applicable). Also, provide detail in Part VI, including (i) the names and EIN numbers of the supported organizations added, substituted, or removed; (ii) the reasons for each action; (iii) the authority under the organization's organizing document authorizing such action; and (iv) how the action was accomplished (such as by amendment to the organizing document).		
b Type I or Type II only. Was any added or substituted supported organization part of a class already designated in the organization's organizing document?		
c Substitutions only. Was the substitution the result of an event beyond the organization's control?		
6 Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? If "Yes," provide detail in Part VI.		
7 Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (defined in section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
8 Did the organization make a loan to a disqualified person (as defined in section 4958) not described in line 7? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
9a Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? If "Yes," provide detail in Part VI.		
b Did one or more disqualified persons (as defined in line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? If "Yes," provide detail in Part VI.		
c Did a disqualified person (as defined in line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? If "Yes," provide detail in Part VI.		
10a Was the organization subject to the excess business holdings rules of section 4943 because of section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? If "Yes," answer 10b below.		
b Did the organization have any excess business holdings in the tax year? (Use Schedule C, Form 4720, to determine whether the organization had excess business holdings.)		

**Part IV Supporting Organizations** (continued)

	Yes	No
11 Has the organization accepted a gift or contribution from any of the following persons?		
a A person who directly or indirectly controls, either alone or together with persons described in (b) and (c) below, the governing body of a supported organization?		
b A family member of a person described in (a) above?		
c A 35% controlled entity of a person described in (a) or (b) above? If "Yes" to a, b, or c, provide detail in Part VI.		

**Section B. Type I Supporting Organizations**

	Yes	No
1 Did the directors, trustees, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's directors or trustees at all times during the tax year? If "No," describe in Part VI how the supported organization(s) effectively operated, supervised, or controlled the organization's activities. If the organization had more than one supported organization, describe how the powers to appoint and/or remove directors or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.		
2 Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? If "Yes," explain in Part VI how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised, or controlled the supporting organization.		

**Section C. Type II Supporting Organizations**

	Yes	No
1 Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? If "No," describe in Part VI how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s).		

**Section D. All Type III Supporting Organizations**

	Yes	No
1 Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?		
2 Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization(s) or (ii) serving on the governing body of a supported organization? If "No," explain in Part VI how the organization maintained a close and continuous working relationship with the supported organization(s).		
3 By reason of the relationship described in (2), did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? If "Yes," describe in Part VI the role the organization's supported organizations played in this regard.		

**Section E. Type III Functionally-Integrated Supporting Organizations**

1 Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions):		
a <input type="checkbox"/> The organization satisfied the Activities Test. Complete line 2 below.		
b <input type="checkbox"/> The organization is the parent of each of its supported organizations. Complete line 3 below.		
c <input type="checkbox"/> The organization supported a governmental entity. Describe in Part VI how you supported a government entity (see instructions).		
2 Activities Test. Answer (a) and (b) below.		
a Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? If "Yes," then in Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.		
b Did the activities described in (a) constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? If "Yes," explain in Part VI the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.		
3 Parent of Supported Organizations. Answer (a) and (b) below.		
a Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? Provide details in Part VI.		
b Did the organization exercise a substantial degree of direction over the policies, programs, and activities of each of its supported organizations? If "Yes," describe in Part VI the role played by the organization in this regard.		

**Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations**

- 1  Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970. See instructions. All other Type III non-functionally integrated supporting organizations must complete Sections A through E.

Section A - Adjusted Net Income		(A) Prior Year	(B) Current Year (optional)
1	Net short-term capital gain	1	
2	Recoveries of prior-year distributions	2	
3	Other gross income (see instructions)	3	
4	Add lines 1 through 3	4	
5	Depreciation and depletion	5	
6	Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	6	
7	Other expenses (see instructions)	7	
8	Adjusted Net Income (subtract lines 5, 6 and 7 from line 4)	8	

Section B - Minimum Asset Amount		(A) Prior Year	(B) Current Year (optional)
1	Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year):		
a	Average monthly value of securities	1a	
b	Average monthly cash balances	1b	
c	Fair market value of other non-exempt-use assets	1c	
d	Total (add lines 1a, 1b, and 1c)	1d	
e	Discount claimed for blockage or other factors (explain in detail in Part VI):		
2	Acquisition indebtedness applicable to non-exempt-use assets	2	
3	Subtract line 2 from line 1d	3	
4	Cash deemed held for exempt use. Enter 1-1/2% of line 3 (for greater amount, see instructions).	4	
5	Net value of non-exempt-use assets (subtract line 4 from line 3)	5	
6	Multiply line 5 by .035	6	
7	Recoveries of prior-year distributions	7	
8	Minimum Asset Amount (add line 7 to line 6)	8	

Section C - Distributable Amount			Current Year
1	Adjusted net income for prior year (from Section A, line 8, Column A)	1	
2	Enter 85% of line 1	2	
3	Minimum asset amount for prior year (from Section B, line 8, Column A)	3	
4	Enter greater of line 2 or line 3	4	
5	Income tax imposed in prior year	5	
6	Distributable Amount. Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions)	6	

- 7  Check here if the current year is the organization's first as a non-functionally-integrated Type III supporting organization (see instructions).

Schedule A (Form 990 or 990-EZ) 2015

**Part V** Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations (continued)

Section D - Distributions	Current Year
1 Amounts paid to supported organizations to accomplish exempt purposes	
2 Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity	
3 Administrative expenses paid to accomplish exempt purposes of supported organizations	
4 Amounts paid to acquire exempt-use assets	
5 Qualified set-aside amounts (prior IRS approval required)	
6 Other distributions (describe in Part VI). See instructions.	
7 Total annual distributions. Add lines 1 through 6.	
8 Distributions to attentive supported organizations to which the organization is responsive (provide details in Part VI). See instructions.	
9 Distributable amount for 2015 from Section C, line 6	
10 Line 8 amount divided by Line 9 amount	

Section E - Distribution Allocations (see instructions)	(i) Excess Distributions	(ii) Underdistributions Pre-2015	(iii) Distributable Amount for 2015
1 Distributable amount for 2015 from Section C, line 6			
2 Underdistributions, if any, for years prior to 2015 (reasonable cause required-see instructions)			
3 Excess distributions carryover, if any, to 2015:			
a			
b			
c			
d From 2013			
e From 2014			
f Total of lines 3a through e			
g Applied to underdistributions of prior years			
h Applied to 2015 distributable amount			
i Carryover from 2010 not applied (see instructions)			
j Remainder. Subtract lines 3g, 3h, and 3i from 3f.			
4 Distributions for 2015 from Section D, line 7: \$			
a Applied to underdistributions of prior years			
b Applied to 2015 distributable amount			
c Remainder. Subtract lines 4a and 4b from 4.			
5 Remaining underdistributions for years prior to 2015, if any. Subtract lines 3g and 4a from line 2 (if amount greater than zero, see instructions).			
6 Remaining underdistributions for 2015. Subtract lines 3h and 4b from line 1 (if amount greater than zero, see instructions).			
7 Excess distributions carryover to 2016. Add lines 3j and 4c.			
8 Breakdown of line 7:			
a			
b			
c Excess from 2013			
d Excess from 2014			
e Excess from 2015			

Schedule A (Form 990 or 990-EZ) 2015

**Part VI**

**Supplemental Information.** Provide the explanations required by Part II, line 10; Part II, line 17a or 17b; Part III, line 12; Part IV, Section A, lines 1, 2, 3b, 3c, 4b, 4c, 5a, 6, 9a, 9b, 9c, 11a, 11b, and 11c; Part IV, Section B, lines 1 and 2; Part IV, Section C, line 1; Part IV, Section D, lines 2 and 3; Part IV, Section E, lines 1c, 2a, 2b, 3a and 3b; Part V, line 1; Part V, Section B, line 1e; Part V, Section D, lines 5, 6, and 8; and Part V, Section E, lines 2, 5, and 6. Also complete this part for any additional information. (See instructions.)

Multiple horizontal lines for supplemental information.



**Part II Fundraising Events.** Complete if the organization answered "Yes" on Form 990, Part IV, line 18, or reported more than \$15,000 of fundraising event contributions and gross income on Form 990-EZ, lines 1 and 6b. List events with gross receipts greater than \$5,000.

		(a) Event #1	(b) Event #2	(c) Other events	(d) Total events (add col. (a) through col. (c))
		BEACHES OKTOBERFEST		NONE	
		(event type)	(event type)	(total number)	
Revenue	<b>1</b> Gross receipts .....	176,991.			176,991.
	<b>2</b> Less: Contributions .....	0.			
	<b>3</b> Gross income (line 1 minus line 2) .....	176,991.			176,991.
Direct Expenses	<b>4</b> Cash prizes .....				
	<b>5</b> Noncash prizes .....				
	<b>6</b> Rent/facility costs .....	23,079.			23,079.
	<b>7</b> Food and beverages .....	67,498.			67,498.
	<b>8</b> Entertainment .....	24,800.			24,800.
	<b>9</b> Other direct expenses .....	33,396.			33,396.
	<b>10</b> Direct expense summary. Add lines 4 through 9 in column (d) .....				148,773.
<b>11</b> Net income summary. Subtract line 10 from line 3, column (d) .....				28,218.	

**Part III Gaming.** Complete if the organization answered "Yes" on Form 990, Part IV, line 19, or reported more than \$15,000 on Form 990-EZ, line 6a.

		(a) Bingo	(b) Pull tabs/instant bingo/progressive bingo	(c) Other gaming	(d) Total gaming (add col. (a) through col. (c))
Revenue	<b>1</b> Gross revenue .....				
Direct Expenses	<b>2</b> Cash prizes .....				
	<b>3</b> Noncash prizes .....				
	<b>4</b> Rent/facility costs .....				
	<b>5</b> Other direct expenses .....				
	<b>6</b> Volunteer labor .....	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	
<b>7</b> Direct expense summary. Add lines 2 through 5 in column (d) .....					
<b>8</b> Net gaming income summary. Subtract line 7 from line 1, column (d) .....					

**9** Enter the state(s) in which the organization conducts gaming activities: \_\_\_\_\_  
 a Is the organization licensed to conduct gaming activities in each of these states?  Yes  No  
 b If "No," explain: \_\_\_\_\_

**10a** Were any of the organization's gaming licenses revoked, suspended or terminated during the tax year?  Yes  No  
 b If "Yes," explain: \_\_\_\_\_



Part IV Supplemental Information (continued)

Lined area for supplemental information.

**SCHEDULE O**  
**(Form 990 or 990-EZ)**

Department of the Treasury  
Internal Revenue Service

**Supplemental Information to Form 990 or 990-EZ**

Complete to provide information for responses to specific questions on  
Form 990 or 990-EZ or to provide any additional information.  
▶ Attach to Form 990 or 990-EZ.

▶ Information about Schedule O (Form 990 or 990-EZ) and its instructions is at [www.irs.gov/form990](http://www.irs.gov/form990).

OMB No. 1545-0047

**2015**

Open to Public  
Inspection

Name of the organization

BEACHES OKTOBERFEST, INC.

Employer identification number  
47-3706974

**FORM 990-EZ, PART I, LINE 10, GRANTS AND ALLOCATIONS:**

**ACTIVITY CLASSIFICATION:**

**GRANTEE NAME: FIRST COAST NO MORE HOMELESS PETS**

**GRANTEE ADDRESS: 6817 NORWOOD AVE JACKSONVILLE, FL 32208**

**GRANTEE RELATIONSHIP: N/A**

**PROPERTY DESCRIPTION: CASH**

**DATE OF GIFT: 12/15/15**

**AMOUNT GIVEN: 19,000.**

**FORM 990-EZ, PART I, LINE 16, OTHER EXPENSES:**

**DESCRIPTION OF OTHER EXPENSES: AMOUNT:**

**BANK SERVICE CHARGES 101.**

**FORM 990-EZ, PART III, PRIMARY EXEMPT PURPOSE - TO SHOWCASE JACKSONVILLE  
BEACH'S BEAUTIFUL SANDY BEACHES AND HISTORY RICH CITY TO THE ENTIRE  
NATION.**

**FORM 990-EZ, PART III, LINE 28, PROGRAM SERVICE ACCOMPLISHMENTS:**

**THE ORGANIZATION HOLDS A THREE DAY CONCERT IN JACKSONVILLE  
BEACH ANNUALLY WITH THE GOAL OF BRINGING GREATER AWARENESS  
TO THE CITY OF JACKSONVILLE BEACH AND WHAT IT CAN OFFER  
WHILE ALSO RAISING MONEY FOR LOCAL CHARITIES.**

**FORM 990-EZ, PART V, INFORMATION REGARDING PERSONAL BENEFIT CONTRACTS:**

**THE ORGANIZATION DID NOT, DURING THE YEAR, RECEIVE ANY FUNDS, DIRECTLY,**

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.  
532211  
08-02-15

Schedule O (Form 990 or 990-EZ) (2015)

**SCHEDULE O**  
**(Form 990 or 990-EZ)**

Department of the Treasury  
Internal Revenue Service

**Supplemental Information to Form 990 or 990-EZ**

Complete to provide information for responses to specific questions on  
Form 990 or 990-EZ or to provide any additional information.  
▶ Attach to Form 990 or 990-EZ.

▶ Information about Schedule O (Form 990 or 990-EZ) and its instructions is at [www.irs.gov/form990](http://www.irs.gov/form990).

OMB No. 1545-0047

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BEACHES OKTOBERFEST, INC.

Employer identification number  
47-3706974

OR INDIRECTLY, TO PAY PREMIUMS ON A PERSONAL BENEFIT CONTRACT.

THE ORGANIZATION, DID NOT, DURING THE YEAR, PAY ANY PREMIUMS, DIRECTLY,

OR INDIRECTLY, ON A PERSONAL BENEFIT CONTRACT.

- If you are filing for an **Additional (Not Automatic) 3-Month Extension**, complete only Part II and check this box  **X**
- Note. Only complete Part II if you have already been granted an automatic 3-month extension on a previously filed Form 8868.
- If you are filing for an **Automatic 3-Month Extension**, complete only Part I (on page 1).

**Part II Additional (Not Automatic) 3-Month Extension of Time.** Only file the original (no copies needed).

Enter filer's identifying number, see instructions	
<b>Type or print</b>	Name of exempt organization or other filer, see instructions.
File by the due date for filing your return. See instructions.	<b>BEACHES OKTOBERFEST, INC.</b>
	Employer identification number (EIN) or <b>47-3706974</b>
	Number, street, and room or suite no. If a P.O. box, see instructions.
	<b>4925 BEACH BLVD</b>
	Social security number (SSN)
	City, town or post office, state, and ZIP code. For a foreign address, see instructions.
	<b>JACKSONVILLE, FL 32207</b>

Enter the Return code for the return that this application is for (file a separate application for each return) 011

Application Is For	Return Code	Application Is For	Return Code
Form 990 or Form 990-EZ	01		
Form 990-BL	02	Form 1041-A	08
Form 4720 (individual)	03	Form 4720 (other than individual)	09
Form 990-PF	04	Form 5227	10
Form 990-T (sec. 401(a) or 408(a) trust)	05	Form 6069	11
Form 990-T (trust other than above)	06	Form 8870	12

**STOP! Do not complete Part II if you were not already granted an automatic 3-month extension on a previously filed Form 8868.**

**THE GRIGGS GROUP, CPAS - 238 PONTE VEDRA PARK DRIVE,**

- The books are in the care of **SUITE 201 - PONTE VEDRA BEACH, FL 32082**  
Telephone No. **904-280-2053** Fax No. **904-280-2055**
- If the organization does not have an office or place of business in the United States, check this box
- If this is for a Group Return, enter the organization's four digit Group Exemption Number (GEN) \_\_\_\_\_ . If this is for the whole group, check this box  . If it is for part of the group, check this box  and attach a list with the names and EINs of all members the extension is for.

- I request an additional 3-month extension of time until **NOVEMBER 15, 2016**.
- For calendar year **2015**, or other tax year beginning \_\_\_\_\_, and ending \_\_\_\_\_.
- If the tax year entered in line 5 is for less than 12 months, check reason:  Initial return  Final return  Change in accounting period

7 State in detail why you need the extension  
**AN ATTEMPT TO OBTAIN INFORMATION NECESSARY FOR FILING A RETURN WAS REQUESTED IN A TIMELY FASHION, BUT THE INFORMATION WAS NOT FURNISHED IN SUFFICIENT TIME TO PERMIT THE TIMELY FILING OF THE RETURN, OR THE TAXPAYER PERSONALLY VISITED AN IRS OFFICE FOR THE PURPOSE OF SECURING INFORMATION OR ADVICE AND WAS UNABLE TO MEET WITH AN IRS REPRESENTATIVE**

8a If this application is for Forms 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions.	8a	\$	0.
b If this application is for Forms 990-PF, 990-T, 4720, or 6069, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit and any amount paid previously with Form 8868.	8b	\$	0.
c Balance due. Subtract line 8b from line 8a. Include your payment with this form, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions.	8c	\$	0.

**Signature and Verification must be completed for Part II only.**

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete, and that I am authorized to prepare this form.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

## Susan Erdelyi

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**From:** George Forbes <GForbes@jaxbchfl.net>  
**Sent:** Wednesday, April 27, 2016 4:26 PM  
**To:** Susan Erdelyi; Patrick K. Dooley  
**Cc:** Trish Roberts  
**Subject:** FW: PLAYERS CHAMPIONSHIP event 5/14/16  
**Attachments:** PLAYERS PERMIT.pdf

-----Original Message-----

**From:** BILLY CATLIN [<mailto:billycatlin1@att.net>]  
**Sent:** Wednesday, April 27, 2016 3:02 PM  
**To:** George Forbes <GForbes@jaxbchfl.net>; City Manager's Office <CityManager'sOffice@jaxbchfl.net>  
**Subject:** PLAYERS CHAMPIONSHIP event 5/14/16

Dear Mr. Forbes,

Good afternoon. As you know, I'm putting on THE PLAYERS CHAMPIONSHIP post concert event at Seawalk Pavilion and surrounding properties on May 14, 2016. As a promoter of events for almost 20 years in North Florida, I am extremely excited about the opportunity to finally partner with Jacksonville Beach, as many of my friends have encouraged me to do so for years. I am also excited to partner with you and Jacksonville Beach, and look forward to a long healthy relationship. We will have plenty of new "townie" faces to the park that Saturday.

With respect to this event, I previously completed the City's SEA (attached), and received approval from the City to host our event on April 11. Since the approval, I have invested significant funds in bands, infrastructure, advertising and more to promote and prepare for the event. One of the main reasons I moved forward with this event and have taken on such expense, is because of the ability to charge for tickets in the Latham Plaza (East) area. I immediately informed the City in my preliminary meeting, and the official meeting, of my intention to make the Latham Plaza (East) the paid admission area for the priority seating and the City approved at each meeting. The City has been aware of this for weeks and continually approved setup.

Based on this approval and the specific language set out in the City's paperwork, I continued to incur obligations and expenses relating to the set up and promotion of this event. For example, I booked expensive bands, knowing I could recoup this money by selling tickets for entry into Latham (East). I have likely incurred around \$100,000 in expenses and future obligations to bands, production, vendors, and more.

Weeks after approving this event and knowing of my plans, this weekend (over 2 weeks prior to May 14) I was called in for a meeting and Chief Dooley said he was there to speak on your behalf. He told me that I could not move forward as planned, as he indicated that he interprets the rules prevent me from doing so. This contradicts the language in the City documents and what had been approved and agreed upon in the advance meetings.

I attempted to contact you yesterday by phone and coming by your office to discuss, and Chief Dooley returned my call stating (in a voicemail) that he had the authority to speak on your behalf and that he was not changing his position. I have only met Chief Dooley once (at our Saturday meeting), and fully respect his authority...however, I would like to speak to you about this. The City's documentation confirms that I am entitled to have priority seating with paid admission, as long as "at least 50% of the event area is open and free to the general public without charge." Page 5 of the City's attached document confirms the "area" consists of Latham Plaza East, West and the parking lot.

My plan from the beginning, which has been known by the City, has been consistent with this language. It upsets me that we are having such an issue after weeks of smooth transition from Barbara's dealings to the "official" meeting. Everyone could not have been nicer with your staff, and I enjoyed meeting all of them. It simply has been a great relationship marrying THE PLAYERS and the City of Jacksonville Beach together for an amazing event for locals and all of the out-of-towners filling the local hotels. But, this change of plan will have a huge financial impact on me and this event. Will you please reconsider your position or work with me to address this issue? I sincerely appreciate your review and consideration on this matter.

Thank you in advance for your time, and I look forward to getting to know you better and bringing more amazing events to the Beach.

Sincerely,  
William "Billy" Catlin IV  
904.509.8244

Report this message as spam.

<http://smtp.ixbchfl.net/quarantine/notifications/reportspam/message/4654252/check/80c611a423543dc76a5b6598f45395d0>

10/27/14

Sgt K.O. Shackelford, Sr.  
Beaches Oktoberfest 10/26/14

On 10/26/14 at approximately 2015 hours I was approached by Phil Vogelsang, in reference to allowing him to drive a truck into the festival area to load equipment. I told Vogelsang he could not drive within the festival area until 2100 hours. Vogelsang stated to me, "this a private event, why can't I drive slowly into the area to start loading up"? I explained to Vogelsang that it would be unsafe to allow him to drive within the festival area while people were still walking around and the event was still occurring. Vogelsang stated, "I pay you guys' salaries". I told him yes he did, but that does not mean I will allow him to do whatever he wants. I then told Vogelsang he could have two of the event staff open the fencing on the 2nd Street side of festival area and utilize it for loading. Vogelsang stated, "what if I drive very slowly, with a police escort"? I told him that was not an acceptable solution, and that he could enter on the 2nd Street side of the festival to load his equipment.

Approximately five minutes after speaking with Vogelsang, I was approached by another event promoter asking why I would not allow the truck through. He went on to say, "you mean to tell me I have to drive way over there, instead of driving through here"? I told him yes it's the safest solution, unless he wanted to end the festival early and move the people out of the area. The promoter then stated, "This is a private event and we paid for all of this, why can't we do what we want to do"? I told him my job is to insure the safety and security of the event and all parties involved. The promoter told me, "I did not hire you for safety, but for security only"! He went on to say, "I paid for you to be here". I told the promoter I did not sell my soul to him and that safety and security comes first. He asked one final time if I was going to allow them to drive within the area. I told him to utilize the area I set aside, or wait until the event was over. He walked off and stated, "This is ridiculous"!

At approximately 2135 I retrieved the event permit from my patrol vehicle. I went to the event check-in tent, where Vogelsang and the other promoter were. I called both of them over to me and showed the general rules about vehicles not being allowed to drive within the festival area. I told both of them I did not appreciate their conduct, and my job was to ensure that all parties are protected, without compromise. I also reminded them that they must adhere with the guidelines of event permit at all times, without exception. The both stated they understood, apologized, and walked away.

# EXHIBIT 4

## Susan Erdelyi

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**From:** Dickinson, John <JDickinson@constangy.com>  
**Sent:** Tuesday, October 18, 2016 1:38 PM  
**To:** Susan Erdelyi  
**Subject:** FW: BEAM Correspondence

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**John F. Dickinson**  
**Partner - Office Head**

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**From:** Susan King [mailto:[Susan@jaxbeam.org](mailto:Susan@jaxbeam.org)]  
**Sent:** Tuesday, October 18, 2016 1:37 PM  
**To:** Dickinson, John <JDickinson@constangy.com>  
**Subject:** BEAM Correspondence

John,

Below please find my entire conversation with Mr. Doherty regarding the Octoberfest issue. Susan Taylor is the employee referenced in Mr. Doherty's email. She runs our thrift operations and before joining our staff, she was a long-time volunteer and a board member. I can assure you that Susan would NEVER have agreed to provide volunteers, etc. Prior to the first Octoberfest, we agreed to participate in a "pub crawl" event in Jax Beach. Susan had to work the event (which was horrendous) and afterwards we, as an organization, decided that we would not lend our name to such events in the future. Please let me know if there is anything else you need.

Best regards,  
Susan



Susan King  
*Executive Director*  
[Susan@jaxbeam.org](mailto:Susan@jaxbeam.org)  
800 8th Ave South, Ste 400  
Jacksonville Beach, FL 32250  
Phone: (904) 241-7437 x  
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**From:** Keith Doherty [mailto:[keith1doh@aol.com](mailto:keith1doh@aol.com)]  
**Sent:** Monday, August 01, 2016 11:12 PM  
**To:** Susan King <[Susan@jaxbeam.org](mailto:Susan@jaxbeam.org)>  
**Subject:** Re: To Susan King

Susan,

Thank you so much for taking the time to write back to me. Indeed, I agree with your assertion that there was some promotional material released which showed Beam as the official non-profit of the Oktoberfest. Nevertheless, I did not realize that the individual in question did not have the authority to make such decisions until after these materials went out. However, when we came to the realization that indeed BEAM would not be partnering with us on the event will removed your logo from all further promotional items, our social media and print advertising. Also, in the interests of good faith we offered a free booth at the event for promotional and informational items. I honestly thought nothing else about this after the fact, nor was I approached by anyone explaining that there was anything wrong. Believe me, we do not want to be known as untrustworthy charity cheaters as I'm even ashamed having to bring this to your attention.

As I said in my previous email that I had heard that my name was being brought into conversations at the Thrift Shop. Now I had run into this individual on several occasions and even threw her husband a political fundraiser at the Pub and viewed both of them as good friends. Again, nothing was ever said to me about the Oktoberfest debacle. Now, it appears than when her husband did not get enough signatures to qualify for another race that he chose me as his next target. This hurt, but what hurts more is the assertion that I have ethics issues including owing money to your organization. Many of my friends and family shop at the Thrift stores and they have heard a couple of times now about your employee's husband coming back to Jax Beach to save everyone from the corruption which I have been conveniently labeled with.

Now this individual is entitled to her own political opinions and if she maintains that I owe BEAM money then get her to send me a bill and I will pay it. What I can not have is my family's name and place of business brought into this mud-slinging and I beg of you to ask your employee to tone down the rhetoric whilst she is at work. I really hate having to involve you Susan as I know that you have enough on your plate but please believe me when I say there was no unintended or illicit use your organization's name on our behalf.

Regards,

Keith Doherty  
[keith1doh@aol.com](mailto:keith1doh@aol.com)

-----Original Message-----

From: Susan King <[Susan@jaxbeam.org](mailto:Susan@jaxbeam.org)>  
To: Keith Doherty <[keith1doh@aol.com](mailto:keith1doh@aol.com)>  
Sent: Mon, Aug 1, 2016 5:12 pm  
Subject: RE: To Susan King

Keith,

I do remember that one of our employees told me that BEAM was advertised as a beneficiary of the original Oktoberfest event. I did not attend the event so I cannot speak to that directly. We did not receive any donations from the event. As to the issue of a promise of volunteers, I never had any discussions regarding providing volunteers for this event. I can, in fact, tell you that the answer would have been an emphatic "NO" as we have a policy regarding such events after a bad experience. I am very confused as to your statement regarding political affiliations. BEAM exists to serve families in our community experiencing a financial crisis. Politics has no place in the work we do. If you need more information or would like to discuss you can reach me at the numbers below.

Sincerely,  
Susan

Susan King  
Executive Director  
Susan.King@jaxbeam.com  
1000 Beach Blvd, Suite 400  
Jacksonville, Florida 32209  
Phone: 904-881-5453  
Fax: 904-881-5454  
www.jaxbeam.com



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**From:** Keith Doherty [mailto:keith1doh@aol.com]  
**Sent:** Monday, August 01, 2016 9:49 AM  
**To:** [jaxbeam@bellsouth.net](mailto:jaxbeam@bellsouth.net)  
**Subject:** To Susan King

Dear Ms. King,

It has come to our attention that there are serious accusations afoot were our company promised to make a contribution to BEAM in 2014 but did not come through with the donation. We would like to state, for the record, that there were brief discussions between myself (representing Beaches Oktoberfest) and a member of BEAM about a partnership where your organization would provide volunteers for our event and in return we would make a monetary donation. This, in fact, did not come to fruition and we decided at the eleventh hour to go with another non-profit, the Beaches Hospitality Network, instead. As far as we were concerned this was a non-issue. We did not hear from any representative from your organization about this matter until about one month ago when a constituent of mine had a discussion with one of BEAM's employees where this accusation was made. Nevertheless, if there is some kind of misunderstanding regarding this matter we would like to settle this amicably. We greatly appreciate what your organization does for our community but not realize that BEAM had any political affiliations or aspirations. We would like to clarify what your stance is on this issue and apologize if there was any unintended misrepresentation on our behalf.

Sincerely,

Keith Doherty  
Board Member  
Beaches Oktoberfest Inc.  
904-881-5453

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