

December 1, 2025

Mayor Henriquez  
Commissioner Carey  
Commissioner Castillo  
Commissioner Haskell  
Commissioner Lee  
Commissioner Kaufman

Dear Mayor Henriquez and Commissioners,

I am writing to highlight fundamental flaws with the proposed Whistleblower Ordinance and the draft Policies & Procedures (P&P) Manual, both of which are on tomorrow's City Commission agenda.

As written, these documents conflict with Florida law, undermine transparency, and put both employees and the City at serious risk.

The whistleblower provisions in the ordinance and P&P manual fail their core purpose: **they do not require the City to investigate – let alone rectify – misconduct or whistleblower retaliation.** They create the appearance of a process without the substance of one.

The proposed Policy and Procedure Manual **eliminates fundamental protections for employees in violation of the Code. It introduces sweeping at-will employment policy to allow the City Manager to terminate any employee without cause or notice,** which directly conflicts with Civil Service protections in the City Code. It also eliminates the current, clear standards and penalties for Code of Conduct Violations, and replaces them with complete managerial discretion – the opposite of fair and transparent.

**Regarding the Whistleblower Ordinance and Policy, major issues include (but are not limited) to:**

- **No requirement to investigate misconduct.** Employees can report illegal acts or abuse of authority, but the City has no obligation to look into the underlying wrongdoing. This is the same systemic failure that whistleblower complaints about the former building official to be ignored for years, until law enforcement finally stepped in.
- **No requirement to investigate retaliation.** The City Manager "may" – but is not required – to request an investigation into retaliation complaints. The City Manager *may* forward the complaint to the City Attorney and convene a self-selected "impartial" panel, but is not *required* to do so. The City Attorney and panel can both decline to investigate, which would formally end the process before it even began.
- **All whistleblower retaliation complaints must be reported directly to the City Manager, who has unilateral authority over terminations under the draft manual:** The panel, if

chosen, must include two City employees. One must be department head, who can be fired at will by the City Manager. This isn't impartial. It's a built-in conflict of interest.

- **The City Manager is not required to notify HR, the City Attorney, or the Commission that a whistleblower report or retaliation complaint was made.**
- **No documentation, no required outcome:** The policy does not require a written report, a conclusion, or final determination, either for the City or for the whistleblower. Under the new City policy to "avoid putting sensitive information in writing" it's possible none of this would be recorded on paper.
- **No consequences for unlawful retaliation, and no relief for the whistleblower:** The policy imposes no consequences on anyone who engages in unlawful retaliation. It provides no relief for the whistleblower: no reinstatement, no back pay, no restoration of benefits. To get that, they'd just have to sue the City, which only increases what taxpayers will eventually owe.
- **Whistleblowers are put at risk.** The policy allows the City Attorney to publicize results of "informal" investigations, and uses City employees (not independent investigators) to handle complaints. This threatens confidentiality and can expose the whistleblower, especially those reporting serious misconduct.
- **Conflicts with Florida whistleblower statutes.**

In sum: this whistleblower policy is just as bad – if not worse – than having no policy at all. It's unclear who it benefits, except the person being reported and the person retaliating.

Oddly, the proposed Whistleblower Ordinance is identical to Opa Locka's, a city notorious for corruption and repeated whistleblower retaliation, including a \$500,000 settlement just last year. They've also been raided by the FBI. Why is Key West copying the Whistleblower Policy of a City who just paid \$500,000 in taxpayer money to settle retaliation claims, especially when far better models exist?

### **Proposed Policy & Procedure Manual:**

The draft P&P Manual only makes matters worse, increasing the City's legal exposure and fostering a culture of fear and suspicion instead of transparency and fairness.

Detailing every flaw would be too much for one letter, but I've highlighted key issues with the proposed Policy & Procedure Manual below and included a draft summary as an attachment.

- Introduces sweeping at-will employment policy allowing employees to be terminated without cause or notice, in violation of Sec. 50-95.
- Provides no clear guidance for when demotions, terminations, or suspensions are appropriate, and eliminates the role of Civil Service Board, in violation of Sec. 50-95.

- Eliminates reference to the Civil Service Board for Employee Grievance procedures, in violation of Sec. 50-98. - Grievance procedure.
- Allowing the City Manager to use police to investigate non-criminal HR matters.
- Eliminating the standardized Code of Conduct and replacing it with total managerial discretion.
- Discouraging the creation of written records by telling employees to avoid email on “sensitive subjects” — a stance at odds with Florida’s Sunshine and Public Records laws.
- Restricting employees from transferring to higher-paid positions, even when qualified.
- Extremely broad “no right to privacy” language that could extend to anyone on City Wi-Fi, including personal, non-work communications during break time.

These changes create instability, concentrate unchecked power, & increase the City’s legal and financial risk. Replacing standard procedures with unlimited discretion makes it easier for employees to win wrongful termination or whistleblower suits, with taxpayers left to pay the bill.

Given the substantial legal and ethical issues in both the ordinance and the P&P Manual, I respectfully recommend that the Commission:

- Direct the City Attorney to issue a formal opinion on conflicts with the Civil Service Code.
- Explain to the public why the City is modeling its whistleblower ordinance after a weak policy from a corrupt City
- Revise the whistleblower provisions to comply with Florida Statutes.
- Require independent reporting pathways and mandatory timelines for investigating harassment, discrimination, and whistleblower claims.
- Prohibit use of police in routine HR matters.
- Restore a clear, tiered Code of Conduct with proportional discipline.
- Ensure employees can pursue internal promotions and transfers.
- Require investigation of the underlying misconduct in whistleblower reports.
- Clarify communication policies to ensure compliance with Sunshine and Public Records laws.

Transparency and accountability cannot just be buzz words. Citizens can see through empty promises. Residents and City employees deserve better. I appreciate your attention to these serious concerns.

Sincerely,

Jordan Mannix-Lachner

**Code Reference:**

Sec. 50-95. - Removal, suspension, demotion or discharge.

No employee within the civil service system shall be removed, suspended, demoted or discharged except for cause shown upon written charges or violation of the city's personnel policy rules and regulations. The city manager may suspend a subordinate for a reasonable period of time not exceeding 30 days for any cause which, in the opinion of the city manager, would be grounds for removal, suspension, demotion or discharge, provided that immediately upon such suspension being made, a report of such suspension and the cause therefor shall be given in writing to the suspended employee. Such report shall also be provided to the civil service board if the employee is entitled to appeal the action of the city manager to the board. If entitled and the employee files the proper grievance within ten days of action taken and follows the approved city grievance procedure, the civil service board shall, within seven working days of receipt of the grievance from the city manager, schedule within a reasonable time a hearing date to hear the grievance. If the board finds the action taken to be unwarranted, it shall certify its findings of fact to the city manager and may direct reinstatement of the employee. If the employee was suspended without pay and allowances, the board's direction to the city manager may include that such employee will be compensated for all the time to which he had been theretofore uncompensated.

Sec. 50-98. - Grievance procedure.

- (a) The city manager shall provide for a grievance procedure for the presentation and mutual adjustments of points of disagreements regarding discipline of city employees and to ensure that disciplinary complaints will be considered fairly, rapidly, and without reprisal.
  - (b) A grievance shall be limited to disciplinary matters involving the suspension, demotion or termination of an employee. An employee's grievance may only be heard by the civil service board after the employee has timely followed the city's grievance procedure. The grievance shall be heard according to board rules. The board shall render a decision that constitutes final administrative action, and such decision shall be enforced by the city manager.
- (Code 1986, § 6.16)

## **Other Policy and Procedure Manual Issues:**

This letter highlights the most concerning issues identified through quick review of the manual.

The issues fall into five principal categories:

1. Civil Service Conflicts and Unlawful At-Will Language
2. Deficient Harassment, Discrimination, and Retaliation Procedures
3. Insufficient/Ineffective of Whistleblower Protections
4. Improper Expansion of Investigative Authority, Including Police Involvement
5. Elimination of Clear Standards for Discipline, Promotions, and Demotions

### **1. Conflict With Civil Service Code and Unlawful Use of At-Will Employment**

The draft manual introduces a sweeping at-will employment clause that states any employee may be terminated immediately and without notice. This provision is legally incompatible with the City's Civil Service Code, which requires:

- Notice of disciplinary action
- Documentation of misconduct
- Opportunity for the employee to respond
- Proportional disciplinary measures
- Access to appeal procedures

Replacing these protections with at-will language does not repeal the Civil Service Code and is therefore unenforceable. Implementing it will expose the City to:

- Wrongful termination claims
- Breach of established policy claims
- Unfair labor practice charges
- Claims of politically motivated or retaliatory dismissal

If the City intends to abolish Civil Service, such a policy change must occur through a public ordinance revision, not through a unilateral administrative document.

### **2. Inadequate Harassment, Discrimination & Retaliation Procedures**

While the manual includes policy statements prohibiting harassment and discrimination, the procedural protections are deficient:

#### **No Investigation Timelines**

The manual includes no deadlines for completing investigations. This allows:

- Investigations to remain open indefinitely

- Employees to remain exposed to harassment or retaliation
- Complainants to lose faith in the process and resign

If the employee believes that their complaint was not appropriately addressed, it simply directs them to submit another complaint.

### No Independent Pathway When Leadership Is the Alleged Harasser

When a complainant believes the investigation is mishandled, they are directed to:

- HR
- The Assistant City Manager
- The City Manager

This framework is flawed because:

- The City Manager may be the subject of the complaint
- The HR Director and ACM both report to the City Manager, and can be terminated at will under the same manual (if the at-will employment provisions are carried out)
- No independent ombudsperson, Civil Service entity, or external investigator is provided

### Unclear Consequences for Misconduct

The previous manual provided clear tiers of misconduct (minor → severe) with corresponding corrective actions. The new draft eliminates these standards entirely, creating:

- Unpredictability in discipline
- Increased risk of discriminatory or arbitrary outcomes
- Lack of notice to employees of what actions warrant termination

This undermines both fairness and legal defensibility.

### **3. Improper Use of Police Department for Internal HR Investigations**

The draft states that internal investigations may be conducted by the Police Department at the request of the City Manager. This is an extraordinary and inappropriate provision in a civilian municipal context.

Using police investigators for civil workplace issues is:

- Coercive
- Inconsistent with HR best practices
- A potential First Amendment retaliation trigger
- A significant legal liability under Title VII
- A misuse of police authority and City funds

Employees will reasonably assume:

- speaking up about wrongdoing puts you at risk of police interrogation
- disagreements with management could escalate to police involvement
- the City Manager can weaponize law enforcement for personnel purposes

No healthy workplace can function under that level of fear.

There is no limiting language requiring:

- Criminal suspicion
- HR involvement
- Civil Service oversight
- Documentation or justification

This allows police involvement in *any* personnel matter, which would chill reporting, erode trust, and destabilize the workforce.

#### **4. Elimination of Standards for Discipline, Promotion, Demotion, and Pay**

Several provisions strip out the structure necessary for a fair and legally defensible employment system:

##### **A. Removal of Prior Tiered Discipline System**

The previous Code defined:

- Levels of misconduct
- Proportionate consequences
- When termination is appropriate

The new manual eliminates all of these protections.

##### **B. Demotion and Promotion Procedures Are Vague and Discretionary**

There is no clear guidance for:

- When demotions are appropriate
- Standards for promotion
- Eligibility for internal applicants
- Protection against punitive demotions

#### **5. Serious Deficiencies in Whistleblower Protections**

This policy relates to whistleblower *retaliation*, defined as adverse personnel action (such as demotion or termination). The city manager has the ultimate authority for personnel action (such as demotion or termination.) This policy gives the city manager the discretion to decide whether and

how to address the complaints of retaliation. Therefore, this policy puts the City Manager in charge of investigating themselves, and provides them 100% discretion, zero accountability, and does not require any reporting, documentation, transparency, or consequences for wrongdoing.

#### A. No Transparency, Reporting, or Investigation Requirements for Retaliation

The policy does not:

- Require any investigation into allegations of retaliation against the whistleblower
  - The City Manager may - but is not required to - forward the complaint for investigation by the City Attorney or to an "impartial" panel of the City Manager's own choosing, which must include two City employees.
  - Both the City Attorney and the panel may decline to investigate at all, meaning the process can end before it begins.
  - The panel is not truly impartial because its members are City employees evaluating whether their own boss (the City Manager) engaged in retaliation, and under the proposed manual the City Manager may terminate panelists at will.
  - The panel is empowered to make findings of fact and conclusions of law, effectively acting as judge and jury.
  - The policy allows the panel to scrutinize the *whistleblower's* "pattern of conduct," but does not allow or require similar scrutiny of the retaliator.
  - The panel may call its own witnesses, but the whistleblower cannot call witnesses and has no ability to object to or veto panel members.
  - Once the panel reports to the City Manager, the process is considered "exhausted" - regardless of whether an investigation ever occurred, and regardless of the panel's findings. The whistleblower's only next action is to file a suit or bring their complaint to the state.
  - Even if retaliation is confirmed, the policy does not require corrective action or reinstatement of the employee.
  - The City Attorney and the panel may reach conflicting conclusions, and the policy offers no mechanism to resolve those discrepancies.
  - The City Attorney also has unilateral discretion to publicize or withhold findings, which could either expose the whistleblower to further harm or conceal wrongdoing entirely.
  - Finally, the City Manager is not required to accept any recommendation from the panel or the City Attorney and may disregard both.
- Require that any written records be maintained
- Require that anyone but the City Manager be informed of the retaliation complaint (including HR, the City Attorney, and the City Commission)
- Require any action to be taken against the person who engages in/authorizes retaliation
- Provide the whistleblower with a report, conclusion, or determination following a retaliation complaint
- Require that the whistleblower be reinstated to their former position, salary, etc. after a finding has been made that retaliation did occur



- Provide any protections against harassment, intimidation, or threats by other employees
- Provide any substantive, effective measure of confidentiality.
- Require the investigations to be completed with any minimum timeline, but
- Required a maximum time period for investigations. It gives the City Manager/Attorney 30 days before they even have to acknowledge the complaint, and allows at least 75 days total for review – but it also allows the City Manager/Attorney to extend the time period, with no requirement to justify the extension.
- Address harassment, threats, intimidation or retaliation by the person who the whistleblower made the complaint about, and no other policy in the proposed manual requires consequences for that either. It leaves everything up to the discretion of the City Manager

Florida law protects employees who report wrongdoing to any supervisory official.

The draft protects only those who report:

- Directly to the City Manager
- To the City Attorney if the City Manager is the subject

This creates major gaps:

- Employees who report to their department director or supervisor are not protected, even if the director forwards the issue to the City Manager
- This is inconsistent with Florida Statutes

#### B. No Process to Investigate the Underlying Misconduct

The policy only outlines steps for reporting retaliation—not for reporting or investigating:

- Fraud
- Waste
- Safety violations
- Misuse of public funds
- Illegal acts

This structure is operationally nonsensical and legally inadequate.

#### **Conclusion:**

#### **Other issues include, for instance,**

- The draft manual instructs employees to “avoid communicating through e-mail on a sensitive subject that should be addressed in person.” In a state governed by robust Public Records and Sunshine laws, discouraging employees from creating written records of

concerns, decisions, or potential misconduct is highly problematic. Documentation is essential not only for transparency, but also for tracking and substantiating harassment, discrimination, safety violations, or misuse of public resources. A policy that suppresses the creation of public records risks violating the spirit of Florida's open-government framework and could be used - intentionally or unintentionally - to punish employees for documenting legitimate concerns.

- The draft further appears to restrict employees from transferring into higher-paying positions within the City. Such a prohibition is unprecedented in public-sector employment and would severely inhibit career development, penalizing employees who invest in additional education or credentials while working for the City.
- the manual's broad "no right to privacy" language seems to apply to anyone connected to City Wi-Fi - even for personal, non-work communications - raising serious privacy and questions.
- The "no right to privacy" language appears to apply to City Wi-Fi generally, which could theoretically expose private, non-work-related communications to monitoring.

## Keri O'Brien

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**From:** Jordan <jordanmannixlachner@gmail.com>  
**Sent:** Monday, December 1, 2025 3:52 PM  
**To:** District VI; District I; District V; District II; District III; Mayor E-Mail; District IV; City Clerk  
External E-Mail  
**Subject:** [EXTERNAL] Proposed Whistleblower and Policy & Procedure Manual  
**Attachments:** LTC\_Mannix\_Whistleblower\_PPM\_12.1.25.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Mayor & Commissioners,

I've attached a letter regarding the proposed Proposed Whistleblower and Policy & Procedure Manual on tomorrow night's agenda.

There are fundamental flaws with the whistleblower policy. I am also deeply concerned about elements of the P&P Manual that violate Civil Service protections required by Code, and would subject employees to terminations without cause or notice - and subsequently exposing the City to wrongful termination and retaliation suits.

Among other things, authorizing the use of *police* for non-criminal policy/HR investigations was particularly alarming.

I know you are all very busy, but I do hope you can take time to read these concerns, as I believe they are of the utmost importance for employees and residents.

Sincerely,

Jordan Mannix-Lachner