



**OFFICE OF THE CITY COUNCIL
RESEARCH DIVISION**

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**CHARTER REVISION COMMISSION MEETING MINUTES
City Council Chamber, 1st floor, City Hall**

**September 20, 2019
9:00 a.m.**

In attendance: Commissioners Lindsey Brock (Chair), Jessica Baker, Frank Denton, W.C. Gentry, Charles Griggs, Nick Howland, Heidi Jameson, Ann-Marie Knight, Emily Lisska, Nelson McCoy, Celestine Mills, Betzy Santiago, Matt Schellenberg

Excused: Commissioner Chris Hagen

Also: Paige Johnston – Office of General Counsel; Jeff Clements – Council Research Division; Carol Owens and Ladayija Nichols – Legislative Services Division; Will Coffee – Council Staff Services

Meeting Convened: 9:00 a.m.

Approval of Minutes

The minutes of the meeting of September 13, 2019 were **approved as distributed**.

Remarks from the Chair

Chairman Brock expressed regret for the way the last meeting ended, but said he will not rebut or engage in discussion of the attacks on the Commission via social media in the last week. He has scheduled 15 minutes of public comment for the beginning of the meeting and a second period of public comment at the end of the meeting, if time allows given the hard stop at 12 noon. Future meetings will be re-noticed without a hard stop, but with the goal of completing the work within three hours.

On October 9 from 5:30 to 7:00 p.m. there will be a CRC public hearing in the Main Library downtown to hear the public's ideas about what needs to be changed in the Charter.

Mr. Brock noted that legislation has been filed in City Council to remove him both as the Chair of the Commission and as a commissioner. He pledged to lead the work of the commission with integrity and fairness and to defend the commission's reputation.

Motion: Commissioner Gentry made a motion that the Commission express the confidence of the body in Mr. Brock's performance as the Chairman. Chairman Brock relinquished the chair to Vice Chair Knight. The motion was **approved unanimously** (Commissioner Brock abstained). Mr. Brock resumed the chair.

Commissioner Denton said found School Superintendent Greene's presentation last week very interesting, but very long and not particularly on topic for the CRC. He recommends that future speakers be given a time limit and instructions on what topics the CRC is interested in hearing about. Mr. Brock said he will ask future speakers to plan a 15 minute presentation and take 30 minutes of questions and answers from the commissioners.

Public Comments

Billie Bussard – a retired long-time journalist who covered education for the Times-Union at the end of her career said she is very distressed by the “war on public education” being waged by those who favor private charter schools. The last CRC 10 years ago heard very biased testimony on charter schools and didn't hear about impartial academic research on the subject. She urged balance and fairness in future testimony.

John Nooney – urged adoption of a Charter amendment regarding Community Redevelopment Areas and the Downtown Investment Authority as they relate to waterway access throughout the City, guaranteeing public access in their projects. People may think they're getting public access to the navigable waters in incentivized projects, but they're not. The Waterways Commission needs to be more vigilant about ensuring access and invite speakers who will advocate for that position. Mr. Nooney asked if he would be allowed to speak again in the public comment period at the end of the meeting, to which the Chair agreed.

Carla Miller – Ethics Officer

Ms. Miller said that in 1965 corruption was a leading factor in prompting the consolidation movement that led to the referendum being approved. The original City Charter in 1968 provided for Florida's first Ethics Commission, which was disbanded in 1972 after the Florida Ethics Commission was created. She has been fascinated ever since by trying to understand why people go wrong and make the bad decisions they make, about which a great deal of research is being. She helped to write the City's first Ethics Code in 1999 and eventually was appointed as the Ethics Director after another FBI sting operation in 2006 investigating City employee corruption. Ordinance 2007-329-E, a major revision of the ethics code, was enacted with the full support of the Mayor and City Council, which is unusual in the country because that type of change is most often citizen-driven.

Ms. Miller explained her “three dog theory” of ethics programs – lap dog (cute but ineffective), attack dog (intended to make people afraid – the “gotcha” system), and watch dog (making sure everyone is aware of the rules and keeping them out of trouble). There can be a lot of confusion about who is responsible for what in the area of ethics, so clarity is needed. Fundamentally, there is a City ethics code and a state ethics code and associated laws that form the foundation. The Ethics Officer's job is to train, explain and advise, and each department has its own ethics officer. The City has a hotline and whistleblower protection, a Council Auditor who performs financial and performance audits, and internal controls. The City also has an Ethics Commission. The Inspector General position, created in 2014 and now in the Charter, can deal with the gray area between ethical lapses and actual crimes. The State Attorney has ultimate prosecution authority for criminal violations. Ms. Miller believes things are better now than in the 1960s and 1980s when systemic corruption appeared widespread. Change is hard and takes longer than she ever imagined. Jacksonville's problems are not unique – these ethical challenges happen everywhere. The systems are maturing and all the parties are working well together.

Commissioner Schellenberg – how do you feel about ranked voting? Ms. Miller said that her husband is Australian and she has seen ranked choice voting in action. It seems very logical but just hasn't been tried much in America. She believes it's worth exploring and is a fairer system for voting.

Commissioner Lisska – what do you think needs fixing in Jacksonville' Charter that you've seen in other parts of the country/world? Ms. Miller said she favors the city manager system of government, but that's probably beyond what the CRC wants to get into now. All the ethics-related structural pieces seem to be in place now, but a dedicated funding source would be good so that there's no potential for the offices to be compromised in the budget process because of their work offending someone.

Commissioner Lisska – are appointments to boards and commissions being made fairly with the proper balance between mayoral and council and state appointees? She has personal opinions but doesn't want to speak for the office. She said the appearance of fairness is important – citizens have to feel that the process is fair and equitable. Multiple appointing authorities can be helpful in that regard in some cases.

Commissioner Griggs – perception is as important as reality, so how do we improve the perception of Jacksonville's government where nothing illegal is being done, but it just looks bad? How do we improve public trust? Ms. Miller said that institutional corruption deals with an economy of influences which decrease public trust and institutional effectiveness, but is perfectly legal. There's work being done at the national level on that subject and it may trickle down to the local level, but it's hard to deal with perceptions.

Chairman Brock – do the ethics officers of the independent authorities report to the City Ethics Office? Ms. Miller said not officially, but they have a collaborative relationship rather than official reporting relationship. She doesn't feel a formal reporting structure is necessary.

Chairman Brock – how does a complaint get referred to the right agency for investigation? Ms. Miller said probable crimes go to State Attorney immediately, the Inspector General and Council Auditor are next in line depending on the sort of issue involved, and the Ethics Commission deals with ethics-only issues. There are rules of procedure for each office.

Commissioner Gentry – how does the “revolving door” prohibition against working/lobbying for an agency doing business with one's former City agency work, and if/how can it be waived? Ms. Miller said the Ethics Code post-employment restriction can be waived and is currently under review for being antiquated. She disagreed with the Office of General Counsel's recent opinion on the waiver exception and is working on revising the language to be clearer.

Commissioner Schellenberg – to whom should financial disclosure requirements apply? Ms. Miller said it used to apply to all appointed employees in 1999 and that didn't work. She thinks the Mayor's Chief of Staff should be a covered reporting position, but felt that would best be done in the Ordinance Code and not in the Charter.

Kyle Billy – Council Auditor

Mr. Billy described the Council Auditor's Office's rules and functions. It is the internal auditor for the City, conducting audits of the City and all its affiliated agencies and anyone who receives City funds. They do audits of all sorts from big to small and choose audit subjects by where risk potential is high. Reports are issued to City Council through the Finance Committee; the Auditor's Office does not report to the executive branch. The office follows federal government auditing standards and is peer reviewed every three years for compliance. Follow-ups of audits are conducted within 12 to 24 months to see how the agency responded and if all remedial actions were completed as promised. The Auditor's Office helps hire the City's independent auditor via an RFP and contributes 600 staff hours to the work. The office

also performs a legislative support function in committees and City Council, reading all legislation, attachments, contracts, etc. to ensure accuracy and completeness and recommending corrective or clarifying amendments when necessary. They're heavily involved in reviewing the Mayor's and independent authorities' proposed budgets each year, looking for notable increases and decreases, reasonableness of projections and estimates, etc. They perform special projects research upon request of council members, typically financially-related. The Auditor's Office monitors City grants appropriated under Chapter 118 of the Ordinance Code; agencies not in compliance can't get any more City funding until they rectify the problem. The office also reviews and comments on the Finance Department's budget-to-actual quarterly financial progress report.

Chairman Brock – does the Charter clearly give the CAO authority and discretion to conduct whatever audits it deems necessary? Mr. Billy said yes, for governmental entities; the authority to audit non-governmental grant recipients is in the Code, not the Charter. He needs to look again at the specific Charter wording regarding authority for non-governmental audits and whether that can only be done upon request of the City Council or if they have independent authority to do it on their own volition. It would be helpful to have the clarity if the Charter doesn't already say it specifically. He said his office has never had trouble getting cooperation from anyone they've wanted to talk to.

Commissioner Denton – who is responsible for vetting outside companies coming to town asking for incentives to do projects? Mr. Billy said that initially whoever is sponsoring the legislation would be responsible, but when a bill gets filed his office investigates as well. They sit in on the Mayor's Budget Review Committee and have an idea of what sort of legislation is coming, but don't do the work until the legislation actually gets filed and the proposal becomes official.

Commissioner Denton – could the Downtown Investment Authority ask the Auditor's Office to get involved in doing work before legislation is filed? Mr. Billy said yes, but it would not be at the same level of detail that they would do for filed legislation. Their authorization is sufficient to do preparatory work.

Commissioner Howland – does the Council Auditor audit the School Board? Mr. Billy said no, because the Florida Auditor General handles that function.

Commissioner Gentry – can the Auditor's Office get involved in data analysis for things like the JEA privatization proposal if asked? Mr. Billy said yes, they answer questions for individual council members as they are posed and would certainly look at it if and when legislation is actually filed.

Chairman Brock – what do you do if an auditee just refuses to comply after 2 or 3 follow-ups? Mr. Billy said the Finance Committee would want to call them in and ask for an explanation. They have a good relationship with their auditees and welcome comments and debate over findings and recommendations before an audit is issued. Ultimately City Council gets to deal with the issue if there's a serious disagreement.

Lisa Green – Inspector General

Ms. Green gave a brief overview of her career as an inspector general in the federal government. She reviewed the office's authorizations under the City Charter and Ordinance Code. In March of 2015 a voter referendum expanded the office's jurisdiction to include the independent authorities and constitutional officers in addition to the City government. Inspectors general are founded on the fundamental principles of independence, objectivity and impartiality and are bound by national IG standards. The IG is the only office of City government that offers whistleblower protection and has access to all records of the City government. It can issue subpoenas and takes all testimony under oath. They work on issues of fraud, waste and abuse, and all proceedings are exempt from the Public Records Law until complete, after which a report is issued. IGs are subject to Florida Commission for Law

Enforcement regulation. The office is in the process of applying for accreditation and hopes to be fully accredited by next summer. The IG's office has 3 divisions - Investigations, Audit, Contract Oversight - and 9 total staff. The IG is selected and overseen by the IG Selection and Retention Committee which is appointed by a wide variety of officials.

They collaborate closely with the Ethics Office and Council Auditor's Office and State Attorney so that each party deals with what is appropriate to their sphere of authorization. They retain the authority to do audits and investigations when issues are referred to other agencies if additional work is deemed to be needed. They're always looking for ways to strengthen and improve processes and they make recommendations in all their reports for improving policies and procedures. Their investigations have resulted in restitution, resignations, terminations, and arrests. The IG doesn't make recommendations on employee discipline, but builds a case sufficient for the Employee Services Department to take action if it is warranted.

Commissioner Schellenberg – does the IG investigate leaks of internal information? Ms. Green said she couldn't comment on that.

Commissioner Schellenberg - is there a statute of limitations? Yes for criminal activities, not for administrative issues.

Commissioner Gentry – JEA's reports to its regulatory bodies recently reported in the newspaper paint a very different financial picture than JEA's public statements to the media and City Council. Could the IG investigate this discrepancy? Ms. Green said they investigate fraud, waste and abuse, so it sounds like a financial auditor would be better equipped to deal with that issue.

Commissioner Griggs – are members of the general public covered by whistleblower protection? Ms. Green said no, it only applies to City employees who make reports. The IG works hard to keep citizen complaints as private as possible so that people are comfortable coming forward with issues.

Commissioner Griggs – how far does confidentiality go? Ms. Green said they ask everyone they talk to not to disclose anything until a case is closed, but people frequently leak information and word gets out.

Commissioner Griggs – do you ever affirmatively deny that you're doing an investigation? Ms. Green said that she just says they can't discuss the issue, but do not affirmatively deny.

Commissioner Griggs – what would you do about a case that involves a member of the IG Retention and Selection Committee? Ms. Green said she would have a one-on-one conversation with affected parties and try to find a way to work around the conflict.

Commissioner Denton – do you see anything in the Charter that need changing? Ms. Green said the Charter framework is sufficient, and any changes should be made in the Code instead.

Chairman Brock – earlier you mentioned the concept of a dedicated funding source for the IG – would that be best put in the Charter or the Code? Ms. Green said she would need to look at other IG offices and their charters to see what's common, although she doesn't really see the need for that to be in the Charter.

Chairman Brock – do interviewees have the right to counsel? Ms. Green said they do, and anyone in a union has a right to have a union representative present as well.

Chairman Brock – what's the division of responsibilities between Inspector General's auditor and the Council Auditor's Office? Ms. Green said the IG is about fraud, waste and abuse cases, other more operational issues would be directed to the Council Auditor.

Chairman Brock – where do IG reports go? Ms. Green said they are posted on IG’s web site, sent to the city email group, given to City Council, released to the media, and copies are sent to the independent authorities and constitutional officers so that they can see any common themes.

Chairman Brock – should there be something in the Charter to require review of and action on IG reports? Ms. Green said they expect the auditee to respond within 21 days and the result of that response is included in the IG’s final report.

Commissioner Griggs – is there a formal process for referring issues from one office to another and following up on what happens when they go from one area to another? Ms. Green said the IG has a tracking system that follows cases from initial report to final closeout and she sends letters to everyone who was involved throughout the process when they close a case. Commissioner Griggs – is that an informal or formally mandated system? Ms. Green said it’s standard IG process and any IG would do the same thing.

Chris Hand – *A Quiet Revolution: The Consolidation of Jacksonville-Duval County and the Dynamics of Urban Political Reform* 50th anniversary edition

Chris Hand, a former Mayor’s Chief of Staff (under Mayor Alvin Brown) said that the Council Auditor’s Office is a center of institutional knowledge and historical perspective so is extremely important to the consolidated government. He commended the Charter Revision Commission on holding a public town hall meeting in October. The future of consolidated government relies in large part on the continued engagement and support of the citizens.

Mr. Hand explained the process by which the book, which is the definitive history of the consolidation effort, has been updated over the years. The book was written by a *Florida Times-Union* reporter who covered the political crises of the 1960s and then was hired as a City information officer after consolidation. This 5th edition update was commissioned for the 50th anniversary of consolidation in 2018. He chose to take a somewhat different approach for the 2008-2019 time period than the previous authors did in their updates, trying to identify important issues for the City’s future in part to help inform the work of Charter Revision Commissions. He interviewed former mayors, city council members, city employees, and did other primary research to identify those issues. He commends the Blueprint for Prosperity II report of the Task Force on Consolidated Government as a very thorough study. Former City Council Member Lori Boyer, who chaired that task force, got many of its recommendations enacted while she was still on City council, but there are others that didn’t get done. For example, the recommendations relating to neighborhoods, all of which have very different needs and desires. Jacksonville is a very big and diverse city and the apparatus of government may not be as responsive to neighborhood communities as it could be.

Mr. Hand said that he identified several primary issues:

Infrastructure – what has been done about the promises made in the 1967 consolidation campaign? Promises were made regarding provision of infrastructure improvements (street lights, roads, drainage, etc.) as an inducement to build support for the consolidation referendum. The book talks about whether Jacksonville can ultimately fulfill the promises made.

Independent authorities – too independent or not independent enough? He suggested considering require super-majority approval of independent authority board appointments; re-consolidation of the JPA, JTA and JAA by taking them back from the state and making all appointments local; and one-term board appointments.

Elections – timing (spring or fall, better turnout, timing of new administration with budget process), non-partisan, and unitary system issues.

General Counsel issues – one of the most unique aspects of consolidation; proper organization; proper degree of authority; binding legal opinion power (including better public access to those opinions online); equal representation of all clients; selection method (i.e. more constituents get to be involved in the selection process).

City Council – size, composition, the utility of the at-large positions.

Mr. Hand said he would be happy to speak to commissioners individually outside of meetings to answer their questions.

Commissioner Schellenberg - should parts of the city have the ability to raise their own funds for local needs? Mr. Hand said that former City Council Member and President Bill Bishop suggested that there should be some neighborhood veto control over actions that affect them, and former Council Member and President Jack Webb suggested giving neighborhoods dedicated funding to address their particular needs.

Commissioner Gentry – Article 12 (judiciary) and Article 13 (School District) of the City Charter deal with heavily state-regulated areas, but how does the Charter play into that? Which prevails? How much freedom does Jacksonville really have to differ from the state law? Mr. Hand said he didn't really research that issue but it looks like some of that is going to be decided by the courts in pending lawsuits. One of the overarching themes of consolidation was efficiency.

Commissioner Jameson – what about the idea of moving City elections from spring to fall but still in an off-year? Mr. Hand said that several proposals have been made over the years to move the City elections to the gubernatorial election calendar, or to the fall of odd-number years still as a stand-alone election; that proposal failed in a referendum vote in 2010 by only a few percentage points.

Commissioner Griggs – what can the CRC recommend about promises made but not kept at consolidation? How do you make the public feel that something is going to happen to rectify it? Mr. Hand felt that addressing neighborhoods in the Charter (strengthening CPACs, enshrining the Neighborhood Bill of Rights) would help, as well as adopting a City Master Plan that mandates improvements. A dedicated funding source for ensuring parity of conditions across neighborhoods (maybe 3-6% JEA franchise fee) would be a possibility.

Commissioner Denton – what can be done in the Charter about improving citizen involvement? Mr. Hand said that the City can't do a lot about the running of elections because that's state-regulated. The Consolidation Task Force recommended enhancing the power of CPACs and he thinks that's a good idea. He also suggested looking at ways to bring the internet and digital media to enhanced public involvement – crowdsourcing policy debate, online budget accessibility, etc.

Commissioner Mills – citizens seem to be losing interests in CPAC attendance, could it be because some City Council members don't go to the meetings any more? Mr. Hand said this in his City Hall days council members usually attended the CPACs, and he doesn't know if that's changed. He suggested a need to think “big picture” about how to empower neighborhoods in the Charter.

Commissioner Santiago – agrees with Ms. Mills that council members don't always come to CPAC meetings. Who could the CRC talk to about what's the right number of council members? Mr. Hand suggested looking at what other comparable big Florida counties have and at other consolidated governments nationally. Nashville, for instance has over 30 Metro councilors, while some big Florida counties have only 7 commissioners.

Legal Memorandum regarding Charter Amendment Authority

Paige Johnston of the Office of General Counsel distributed and discussed a memorandum she prepared covering two questions: 1) whether the Florida Legislature has the authority to amend any and all provisions of the City Charter; and 2) whether that power is in accordance with the Florida Constitution. In brief, the answer to both of those questions is yes. Florida's 1968 Constitution reincorporated the 1934 provision allowing consolidation of Jacksonville and Duval County. She briefly reviewed the 4 means by which the City Charter can be amended. She noted that the Florida Constitution is general law applying statewide, but incorporates provisions specific to Jacksonville.

In response to a question from Commissioner Gentry about whether the adoption of the new Constitution in 1968 ended the ability of Jacksonville to differ from the Florida Constitution, Ms. Johnston said the Constitution specifically allowed Jacksonville to adopt a charter under the 1934 amendment and referenced Miami-Dade's charter since it had already been approved. She surmised that the new Constitution probably didn't mention Jacksonville's charter because the City's new charter hadn't been finalized at the time the 1968 Constitutional re-write was occurring.

Commissioner Updates and Discussion

Commissioner Schellenberg pointed out that October 9th is Yom Kippur and also a typical Christian church night, so wouldn't be the best night for a town hall meeting. Chairman Brock said will look at potentially choosing another date.

Commissioner Denton asked how the commission's earlier vote of confidence in Chairman Brock would be communicated to the City Council. Vice Chair Knight said she would communicate it to the Council.

Commissioner Griggs said that he has submitted the name of the Health Department Director as a speaker for a future commission meeting.

Commissioner Gentry recommended adding river issues to the running list as a future topic. Chairman Brock said he is inviting former Council Member and Waterways Commission Chair Lori Boyer to a meeting and she will be addressing that subject. Mr. Gentry also recommended Dr. Quint White of Jacksonville University as a river expert.

Public Comment

John Nooney – our waterways are the soul of the community. He recommends a charter amendment requiring CRAs and the DIA to ensure public access to waterways. The School Board headquarters should be a public access point. Mr. Nooney said that since the adoption of Ordinance 2014-560-E he wonders if citizens really have legal access to 4.8 miles of City waterfront downtown and whether that access is subject to federal enforcement. The ordinance has had a chilling effect on public access. He recommended inviting Kay Ehas of Groundwork Jax to speak at a future meeting about river access. Speak for the river while you have the chance.

Meeting adjourned: 12:00 p.m.

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