



**OFFICE OF THE CITY COUNCIL  
RESEARCH DIVISION**

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**CITY COUNCIL FUTURE OF JEA WORKSHOP MEETING MINUTES  
Virtual meeting via Zoom.us – no physical location**

**May 27, 2020  
10:00 a.m.**

**Location:** Virtual meeting – no physical location

**In attendance:** Council Members Michael Boylan (Chair), Ron Salem, Sam Newby, Randy DeFoor, Aaron Bowman, Al Ferraro, Garrett Dennis, Scott Wilson, Terrance Freeman, Ju’Coby Pittman, Brenda Priestly Jackson, Randy White

**Also:** Peggy Sidman, Paige Johnston, Lawsikia Hodges and Jody Brooks – Office of General Counsel; Kyle Billy, Kim Taylor, Heather Reber and Phillip Peterson – Council Auditor’s Office; Cheryl Brown – Council Secretary/Director; Jeff Clements and Yvonne Mitchell – Council Research Division; Steve Cassada, Melanie Wilkes and Eric Grantham - Council Support Services; Paul McElroy, Kurtis Wilson, Renee Goode, Nancy Veasey and Joe Orfano - JEA; Carla Miller and Kirby Oberdorfer – Ethics Office

**Meeting Convened:** 10:00 a.m.

Council Member Boylan called the meeting to order and made brief opening remarks welcoming today’s meeting participants. He rearranged the agenda slightly to accommodate JEA interim CEO Paul McElroy’s schedule, as he needs to attend a hurricane preparedness drill at JEA later in the morning. He thanked the council members who have been participating in the process of developing a JEA “omnibus enhancement bill”.

The group first considered Council Member DeFoor’s proposal to regulate JEA privatization, reorganization and service territory transfers. Jody Brooks of the Office of General Counsel, the author of the document, described the provisions of the new language regarding changes in control of more than 10% of JEA’s assets. She noted the need for more discussion of the definitions of the various “systems” (electric, water, sewer, chilled water), the need to add a reference to the water utility, and the need to define the 10% threshold for each system. She noted that the service territory transfer threshold requiring City Council approval would be 1% rather than 10% of assets. Council Member DeFoor suggested the need for a more stringent threshold requiring Council approval of the sale of any portion of the JEA water system since control of the water supply is so vital to the city’s future.

Paul McElroy said that the net capital assets should be determined on a quarterly basis using the audited financial statements. A question was posed about whether utility operations in Clay County be included in the calculation. Jody Brooks said she will examine the need for a potential exclusion based on an intergovernmental agreement with that county. Another question was posed about whether service territory swaps with other utilities count as transfers. It was suggested that perhaps a 2% threshold could apply to those inter-utility operational swaps. Council Auditor Kyle Billy said he had a number of minor suggestions to incorporate and will work with OGC to make refinements to the proposal. He questioned whether the 2% threshold for service territory swaps would be on a gross or net basis. Mr. McElroy said they should be done on a gross basis.

Council Member Ferraro recounted his discussions with JEA about the lack of transparency of their procurement process. He has met with Mr. McElroy and with Deputy General Counsel Lawsikia Hodges and feels much better about JEA's level of cooperation under the new interim management team. He still feels that the JEA procurement process is still not entirely open for full and fair competition because of the frequent inclusion of "spec notes" that act to restrict the bidding to only particularly specified items and therefore only certain vendors who carry that item. The JEA procurement selection committee can also disqualify bids for reasons that are not apparent. New JEA vendors are being held to higher standards than existing vendors already on the books, which is unfair. He believes that the system doesn't get the best products for the best price, as evidenced by the fact that some items being procured through the bidding process could be obtained at half the price in many local retail outlets around the city. Mr. Ferraro expressed great frustration with getting full and understandable responses from the JEA to his questions. Council Member Dennis agreed that the procurement opportunities for a \$2 billion a year company have the potential for a huge positive impact on local businesses.

Lawsikia Hodges noted that one of the proposed JEA Charter revisions encourages JEA to be as open and competitive as possible in its procurement processes, but because it is a very complex area of operation, a full-blown procurement code is too long and too complex to be included in the Charter. The Charter should include fundamental principles, a commitment to fairness and transparency, and reporting requirements. She believes that JEA is committed to these principles and is open to crafting changes to its procedures to meet the fundamental principles. Mr. Ferraro believes that JEA has a long history of making its procurement process appear to be open and competitive when in fact it is not. He has had tremendous difficulty in getting information from JEA about its procurement practices, and hopes that the new leadership under Mr. McElroy will be much more cooperative and helpful. In response to a question from Chairman Boylan about what procurement-related items would be appropriate for inclusion in the Charter versus the JEA board manual, Mr. McElroy said that the JEA board recently decided to review all of JEA's policies in a formal manner at future board meetings and procurement will be one of those policies reviewed later this year. He pledged that JEA can and will do better to ensure a fair, open and transparent bid process that allows more companies to participate. Training, development and outreach to small businesses are important because government procurement is by its nature a somewhat complicated business. Mr. Ferraro said that cost savings through the procurement process will be extremely important in the very tight budget years that are facing the City and JEA following the COVID-19 emergency.

Chairman Boylan returned the group to the discussion of the proposed changes to the JEA Charter from the chart distributed at the previous meeting. Lawsikia Hodges reviewed the changes agreed to at the workshop's May 11<sup>th</sup> meeting regarding: 1) JEA operation of the utilities for the benefit of the City; 2) proposed JEA board member qualifications; 3) elimination of references to JEA board members being paid; 4) inclusion of many details in the board policy manual rather than directly in the Charter; 5) restrictions on lobbying or doing business with JEA by former JEA board members or their families; 6) changes to real estate provisions and language regarding assessed value; 7) Council Auditor notification of certain actions regarding new business lines or privatization efforts; 8) limitation on the percentage of annual budget that may be spent on public education programs and prohibition on using JEA educational

expenditures to promote the sale or privatization of JEA; 9) changing liberal construction of JEA's charter to strict construction of JEA's powers and duties; 10) move some employee-related language from Section 21.07(n) of the Charter to Section 21.08; 11) limiting employment contracts to only the CEO; 12) a requirement that employee incentive programs be more regulated and reviewed by City Council (Council Member Salem has filed a bill to accomplish that which will be up for discussion in committee next week); 13) express prohibition against using a procurement process as a means to sell the utility; 14) limitation of employee confidentiality agreements; and 15) a requirement for the JEA to have open and transparent public discussions about strategic planning.

Regarding the limitation on educational expenses Council Members DeFoor and Salem agreed to a 1% of budget limitation as previously recommended by Mr. McElroy. Council Member Priestly Jackson asked for more specificity on consensus comment #7 regarding Council Auditor notification regarding JEA expansion to new business lines. Ms. Hodges said that there is some specificity in the redline Charter amendment regarding the notice requirement and annual reporting, but she will consult with Ms. Priestly Jackson on further refinements to achieve her desired end. Council Auditor Kyle Billy said he needs more information about how the notification will take place (timing, email or letter directly to the Auditor, copy of the JEA board package, etc.) in order to be comfortable that the requirement is sufficient. Ms. Hodges said she would coordinate a meeting with the Council Auditor and Council Member Priestly Jackson to hammer out the details for the next round of review. Council Member Salem said he is interested in the next step beyond notification – what is the Auditor's role and authority thereafter, especially if the Council Auditor disagrees with something that JEA is proposing? How would the process proceed from there? Assistant Council Auditor Kim Taylor said the Auditor's Office is extremely sensitive to alerting the City Council to any item that may deserve its attention in a timely manner so there are no surprises. In response to a question from Council Member Ferraro, Mr. Billy suggested using the example of JEA's expansion of service to Nassau and St. Johns counties as a case study to examine the sufficiency of the current notification process and to determine what would be good notification. Chairman Boylan said that topic will be taken up at a future meeting. Council Member DeFoor urged the Council Auditor to inform the workshop about any further questions that should be asked or procedures that need improving.

Chairman Boylan turned to the ethics reform element and invited Lawsikia Hodges to explain two potential paths for how to proceed. Ms. Hodges said that language could be added to the Charter regarding restrictions on the actions of former board members, or it could be included in the JEA board manual. Ethics Officer Carla Miller suggested that the JEA Charter simply refer to Chapter 602 of the Ordinance Code (Ethics Code) so that it can be easily changed over time via Code amendments as need be rather than via JEA Charter amendments. She said that the city administration and Ethics Commission will be working on a comprehensive ethics policy re-write later this year. Council Member Priestly Jackson said that the Future of JEA Workshop process should interact with the Special Investigatory Committee on JEA about needed ethics changes with regard to the JEA board and employees.

Deputy General Counsel Peggy Sidman updated the group on the drafting of the JEA Charter refinement bill. Several attorneys are working on different aspects based on the consensus agreements from previous workshops and on the several different council member bills currently under consideration. She described a timeline by which the bill would be filed for introduction by the deadline for the July 28 meeting, with public hearings to follow in September, then a required 60 day holding period before final action in November. The bill will repeal three sections of Article 21 as part of the revision process. A draft will be prepared for the workshop's consideration before filing. Ms. Sidman said she will draft the bill to be worded as if the JEA board appointment revision referendum will pass in the November referendum, but the language can be changed that after the referendum depending on the outcome.

Mr. Boylan told Mr. McElroy that the next meeting agenda will include an item regarding notification requirements for expansion into new business lines, discussed while he was away from the meeting earlier. He said that his goal is to have an omnibus ordinance drafted for consideration by the end of June.

Next meeting: Preferably June 8<sup>th</sup> at 10 a.m. if there is not a conflict with another meeting.

**Meeting adjourned:** 11:35 a.m.

Minutes: Jeff Clements, Council Research Division

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