

**OFFICE OF THE CITY COUNCIL**

**RESEARCH DIVISION**

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**CITY COUNCIL SPECIAL INVESTIGATORY COMMITTEE ON JEA**

**MEETING MINUTES**

**Virtual meeting via Zoom – no physical location**

 **August 10, 2020**

**5:00 p.m.**

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

**In attendance:** Council Members Brenda Priestly Jackson (Chair), Randy DeFoor, Rory Diamond and Scott Wilson

**Also**: Council Members Ron Salem, Al Ferraro, Garrett Dennis, Michael Boylan; Jason Gabriel, Peggy Sidman, Paige Johnston, Chris Garrett, Sean Granat, Jon Phillips, Jody Brooks – Office of General Counsel; Kim Taylor, Jeff Rodda, Heather Reber – Council Auditor’s Office; Steve Cassada, Melanie Wilkes and Eric Grantham – Council Support Services; Jeff Clements and Yvonne Mitchell – Council Research Division; Steve Busey – Smith, Hulsey and Busey law firm; Kurtis Wilson – JEA; Carla Miller – Ethics Office

**Meeting Convened**: 5:00 p.m.

Chairwoman Priestly Jackson convened the meeting and the attendees were introduced for the record. Council Member DeFoor gave the invocation and led the Pledge of Allegiance.

City Ethics Officer Carla Miller discussed City Council member disclosure of any potential personal relationships or private meetings with regard to JEA issues. She had a conference with Chairwoman Priestly Jackson and General Counsel Jason Gabriel to determine proposed parameters for disclosure from which she developed a proposed disclosure form to initiate discussion. Ms. Miller defined the terms “immediate family”, “interaction” and “person related to JEA” and said that the covered time frame goes back to 2015 to capture the actions of council members serving since then. Chairwoman Priestly Jackson said that this is not a conflict of interest form but a voluntary disclosure of personal relationships to ensure that the work of the Special Committee can’t be challenged or discredited later in the process by allegations of any improper relationships between council members and persons working for or affiliated with JEA or any of its potential purchasers. Council Member Diamond asked under what authority this disclosure is being suggested and what would compel council members not serving on the Special Committee to complete the form. General Counsel Jason Gabriel said this document is a policy decision by the special committee and is not legally or ethically binding on other council member. Ms. Priestly Jackson urged that if any council member has a question about what should or could be reported on the form, they should consult with Mr. Gabriel, Ms. Miller or special counsel Steve Busey to determine what may be relevant. Mr. Diamond suggested the publication (without personal identification) of the questions and answers with regard to unusual or quirky circumstances about which a council member may have a question or seek guidance. Council Member Boylan asked that the disclosure be restricted to those meetings/discussions that related to the advancement or promotion of the sale or privatization of JEA or the ITN process, and said that he had many conversations with JEA officials over the course of several months and may not be able to provide details on every one of those conversations.

**Motion** (Diamond/2nd DeFoor): the Special Investigatory Committee approves the form for voluntary disclosure of council members’ meetings or conversations aimed at promoting the sale or privatization of JEA or the ITN process – **approved 4-0**

Special Council Steve Busey gave the committee an update on the status of document production and review, which should be completed by the end of August. Over 400,000 documents have been reviewed to date and another 144,000 remain to be reviewed, the majority being documents produced by JEA for the federal investigation. Subpoenas for 5 people were approved at the last meeting – Alan Howard, Kevin Hyde, Sam Mousa, Michael Munz and Tim Baker – but all have agreed to appear voluntarily for interviews with special counsel and the production of documents not previously obtained. Those interviews should be complete by the middle of September and a draft report should be prepared by the end of October for the special committee’s consideration. Council Member DeFoor requested a list of the dates of those remaining interviews.

In response to a question from Council Member Salem about JEA Interim CEO Melissa Dykes’ computer tablet being locked and information deleted after the use of incorrect passwords, Mr. Busey said that JEA’s information technology director has testified that the locking and information deletion was the result of an accident and he has turned that information over to the federal investigators. In response to a question from Council Member Ferraro about whether Ms. Dykes is providing testimony, Mr. Busey said that the FBI requested that she not be interviewed by the City before she has testified in the federal investigation. He said that because of the COVID-19 pandemic, a federal grand jury will not be convened until later this year or perhaps early 2021 and therefore Ms. Dykes’ testimony will not be available to this special committee before its work is completed in the next few months.

Mr. Busey said that he has met with 4 or 5 council members to date and is available to meet with any more who have questions or suggestions about the progress of the investigation.

General Counsel Jason Gabriel said that the City has just gotten court orders today in two JEA-related cases: NextEra’s request for a permanent injunction against disclosure of information on the net proceeds of its bid to purchase JEA on the grounds of privileged information and trade secrets was denied and the court ruled the information may not be kept confidential. The court then approved NextEra’s request for permission to review the verbatim transcripts and exhibits for other privileged information and the company was given 15 days to review the documents and request more specific redactions.

Chris Garrett of the Office of General Counsel reviewed document production and review, which is in its final stages. The last of the documents should be provided to Smith, Hulsey and Busey by the end of the month for Mr. Busey’s review.

Council Member Dennis again expressed concern about the amount of private attorney fees that are being accrued by JEA and City officials who are involved in the investigation and will ask for those fees to be reimbursed if they are not indicted for any wrongdoing. Jason Gabriel said that he has asked his litigation staff to take a preliminary look at how much might be accruing in fees to date and Jon Phillips of the OGC said that $8,000 to $15,000 in legal fees per official would be typical based on previous investigations, depending on how many times they are interviewed. Two invoices have been submitted by private counsel for payment but are being held. Chairwoman Priestly Jackson asked about the process for reviewing and approving invoices and the timing of payment. Mr. Gabriel said that attorney fees would be paid after the special committee completes its work, which appears will be in the next several months. Florida common law says public officials are entitled to attorney fee reimbursement: 1) with respect to their official public duties; 2) if they are thereafter exonerated; and 3) there is a nexus between the fees charged and the scope of the investigation. Other legal fees may accrue for private representation for persons giving testimony in the federal or state investigations above and beyond what is related to the Special Committee’s investigation. Chairwoman Priestly Jackson asked for a list of public officials who have been interviewed and have obtained private counsel who will likely be seeking reimbursement of fees. Council Member Diamond reiterated earlier comments that the money being spent on the investigation and internal City costs is producing an incomparably greater benefits both in terms of dollars saved from the JEA privatization and in public confidence that the City government is being well run.

Next meeting: August 24th at 8 a.m.

**Meeting adjourned:** 6:01 p.m.

Minutes: Jeff Clements, Council Research Division

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8.13.20 Posted 5:30 p.m.