

**OFFICE OF THE CITY COUNCIL**

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JACKSONVILLE, FLORIDA 32202

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**JACKSONVILLE SMALL & EMERGING BUSINESS SPECIAL COMMITTEE**

**Virtual Meeting Minutes**

**September 11, 2020**

**10:30 a.m.**

**Location:** Virtual Meeting

**In attendance:** Council Members Ju’Coby Pittman (Chair), Garrett Dennis, Terrance Freeman

**Also**: Council President Tommy Hazouri (Visiting), Council Member Joyce Morgan (Visiting); Jeff Clements, Anthony Baltiero and Yvonne Mitchell – Council Research Division; Lawsikia Hodges, Paige Johnston and Julie Davis – Office of General Counsel; Steve Cassada and Melanie Wilkes – Council Staff Services

**Meeting Convened**: 10:32 a.m.

Call to Order / Remarks from the Chair – Chair Pittman convened the meeting and introduced the attending Council Members. A quick procedural overview of the meeting was presented noting the guest speakers and the scope of the meeting. Chair Pittman noted that the Hon. Warren Jones would not be presenting at this meeting due to a death in his family, but will come and present at a future meeting.

Approval of 8/28/2020 JSEB Meeting Minutes – The minutes for the 8/28/2020 JSEB Special Committee Meeting were reviewed and approved as distributed.

Presentation by Devin Reed, Director of the Department of Procurement for JAA – Mr. Reed spoke on his direct involvement with the JSEB program when he was the Director of the Department of Procurement for the City of Jacksonville. Mr. Reed talked about the different legal cases related to minority set aside programs and the programs that preceded the JSEB Program. A perspective was provided as to why the city was sued for the implementation of the previous iteration of the JSEB program noting that the creators of the program missed a vital step when creating the race-based program. The Supreme Court had outlined specifics benchmarks that are required to be met before creating and operating a race-based procurement program. The City missed the benchmark of first attempting a race-neutral procurement program to meet the needs outlined by the prescribed disparity study. As such, the City settled by implementing the JSEB Program that is a hybrid of a race-based and race-neutral program. The initial idea was to start the JSEB program as race-based and each year lower the set asides for minority businesses by 20-25% for four years until the program becomes a race-neutral program. Mr. Reed reviewed some of the findings the Tillman disparity study focusing on the disparities in procurement. The Joint Agency Task Force Report houses some of the particulars about the procurement disparities and Mr. Reed urged the committee to review that report and to include the report in the committee’s documents. Mr. Reed opined on the importance and usage of the disparity study as it relates to procurement and making adjustments to any minority set aside program. The disparity study concluded that the current iteration of the JSEB Program was inadequate to eliminate the disparity needs within the procurement process of the City. As such, the use of the JSEB Program (once it had reached race-neutral status) could potentially be seen as an attempt to use a race-neutral program to meet disparity needs. Since the disparity study showed that great disparities still exist, a race-based program is now permissible based on the benchmarks prescribed by the Supreme Court. Mr. Reed discussed the steps that are required to get to a race-based set aside program and said that the City initially made the mistake of jumping directly to the race-based set aside program before trying the other options. There has to be a race-neutral program first, then a race-based program with goals, then ultimately a race-based program with set asides.

Mr. Reed opined on the importance and successes of the JSEB Program. An example was provided where Mr. Reed attended an event dedicated to business success and business-related programs. At the event, a presenter was outlining all of aspects needed for a successful business procurement program and Mr. Reed realized that the JSEB program already had all of the mentioned aspects.

Mr. Reed said that the framework for the current JSEB Program is very sound. The problem with the current program is that it is implemented in isolation from the larger community in regard to the larger available job pool. The City only represents approximately 20-25% of the biddable contract jobs within the Jacksonville community with the private sector owning the other 80%. It is very difficult to address procurement disparities across Jacksonville when the City is only responsible for 20% of the biddable jobs. Mr. Reed feels that it is imperative to bring the private sector to the table to properly address the disparity issues. Cities that have successful programs similar to JSEB have strong private/public sector partnerships.

Mr. Reed said that the second major issue with the current JSEB Program is that it is the sole responsibility of the Procurement Department and Equal Business Opportunity (EBO) Office. These departments can be the “face” of the JSEB Program, but for it to be truly effective there needs to be support from the other City agencies such as Public Works, Office of Economic Development, and more. Mr. Reed stressed the importance of having small and emerging businesses be able to bid on every possible City contract. Some contracts by nature will be difficult, if not impossible, for a small business to complete for. Mr. Reed provided the example of “Firetrucks”. It is very unlikely that a local small or emerging business has the capacity to complete a contract for building firetrucks.

Chair Pittman asked if there was a monitoring advisory committee for the JSEB Program, and if so, did they provide any type of monthly report. Mr. Reed said that in the early days of the program, they had to do “a lot with a little” and that there was not an established committee, but he did create and provide reports for the Council. There were informal quarterly reports given to the Council and a formal annual report. Mr. Reed said that he highly encourages the inclusion of consistent reporting to keep track of the efficacy of the program, either by a committee or possibly through the Council Auditor’s Office.

Mr. Reed discussed some of the successes of the JSEB Program with focus on the Access to Capital Program. This program was designed to loan small and emerging businesses capital funds based on prescribed criteria. The City went to all of the independent authorities and asked for financial contributions to fund the Access to Capital Program. The loans were given to small businesses with the City contract acting as the collateral. Mr. Reed said that this program was hugely successful.

Another successful part of the JSEB Program was the Ombudsman position. This position was designed to be a mediator for complaints from JSEB small businesses against the City, staff, or other municipal entities. The idea is that a small business can go to the Ombudsman with a complaint without having to make the complaint directly to the person or agency that is the basis for the complaint. Mr. Reed provided multiple examples of small businesses going to the Ombudsman with complaints and having them resolved without additional issues.

Mr. Reed talked about some of the challenges with the JSEB Program. There was difficulty in coming to terms with the insurance companies regarding bonding. The City and the insurance companies were not able to come up with a supplemental bonding program that would be compatible with the JSEB Program.

Mr. Reed opined on the current application process for small businesses to apply for contracts. Currently, the application review only looks at tertiary data such as financial status. The review does not look at whether or not the small business can actually do the work of the contract. The certification process should be adjusted to include benchmarks or parameters to determine whether or not the small business is capable of completing the contract. Mr. Reed mentioned the Jax Bridges program that is offered through the Chamber of Commerce as a good reference point as to how to determine a small business’s ability to complete a contract and other helpful resources for small businesses. Following the presentation, Chair Pittman opened the floor to questions.

Chair Pittman asked about the mentoring portion of the program and any related successes. Mr. Reed spoke about mentoring and said that it can be very beneficial if done correctly and spoke about the biggest problem with mentor/protégé programs. The problem arises when small businesses are partnered with much larger prime businesses in the same industry. The bigger mentor business is essentially tasked with grooming and sharing trade secrets with a potential future rival. This type of situation can be remedied by matching small businesses with larger successful businesses in other industries based on the particular needs of the small business, such as marketing, contract administration, etc. Mr. Reed provided multiple examples to illustrate the point.

Chair Pittman asked about the make up of the Procurement Department in regard to the JSEB Program and asked if it is recommended to have the JSEB Program as a standalone Department of the City. Mr. Reed said that in regard to the structure, it is important to have independence. Currently, the work of the JSEB Program appears to be autonomous within the Procurement Department, but the level of independence depends on the person that is at the head of the program. Mr. Reed said that regardless of the structure, there needs to be at least a “dotted-line” connecting the program, and EBO, to the Mayoral Administration. If an issue occurs between the Chief of Procurement and the EBO or JSEB Program, there needs to be an avenue for the EBO or JSEB Program to go directly to the Administration to resolve the conflict. Mr. Reed said that the JSEB Program works well within the Procurement Department because of the intertwined nature of the work.

Council Member Dennis spoke about a recent bill that establishes a 20% minority business goal for construction contracts, the history leading up to the bill, and about the importance of having all of the City’s Departments onboard with the JSEB Program. Council Member Dennis asked about potential ways of getting the different department heads invested in the goals of the JSEB Program. Mr. Reed said that the best way to get everyone onboard is to tie the program, and the success of the program, directly to all of the department heads and their contract administrators. One method is to tie the success of the program to the Department’s performance evaluations which will behoove the department Heads to adhere to the goals of the Program.

Council Member Freeman asked about the level of participation from the JSEB small businesses over the years and about the methods that were used to market contracts to the small businesses and promote interest in the Program. Mr. Reed said that the City set up “legal fairs” at the community college for businesses to come to and get advice on legal issues such as contract negotiations. These legal fairs also served the purpose of attracting businesses to the JSEB Program. Mr. Reed spoke about capacity issues. There were small businesses that applied and were allowed into the JSEB Program, but did not have the capacity to complete the work of, or compete for, any potential contracts. The point was made that small businesses cannot compete effectively by just simply being the lowest bid. The capacity of the small business needs to be equally considered alongside the bid for any contract. Mr. Reed said that it is also important to remember that the program is designed for established small businesses and not business start-ups. There are other agencies and programs within the City that cater specifically to start-up businesses. There were approximately 700 businesses in the JSEB Program during Mr. Reed’s tenure and only a small percentage of those businesses actually won contracts. This highlights the importance of managing expectations of the small businesses that are applying to the JSEB Program. Mr. Reed provided multiple examples of small businesses that made it into the JSEB program, but their particular services (fruit punch, beauty products, etc.) are ones that are rarely, if ever, contracted out for by the City. One way to remedy this is by engaging small businesses and providing them with a list of goods and services that the City will be contracting for in the near future.

In reference to Council Member Dennis’ previous question, Mr. Reed said that it is important that in any legislation that the word “goal” is stressed because there will be different areas for certain contracts where the small business pool does not include enough minority businesses to make up 20%, or whatever the particular goal may be. It is also encouraged to include “good-faith” language in the legislation that says that a serious effort was made to meet the prescribed goals in case the goal is not met.

Chair Pittman asked about the potential benefits of having a tiered or graduated program structure. Mr. reed highly recommends having a tiered program structure that allows businesses to graduate out of the JSEB Program into a higher-level program. Once a small business reaches certain benchmarks, they can graduate into the next program that is designed to help small businesses better compete with larger prime businesses.

Chair Pittman asked about the previous marketing efforts to attract small businesses to the JSEB Program. Mr. Reed said that the main effort was to include all of the different Chambers of Commerce within Jacksonville, including the Chamber of Commerce, the Black Chamber, the Latina Chamber, etc. and to be able to reach out to their members to let them know about the JSEB Program and to provide them with a list of future City contract opportunities. Mr. Reed said that telephone calls are a very effective way to network for the benefit of the Program. At JAA, they employ an “old-fashioned calling campaign” that is designed to reach out by telephone to small businesses as compatible contracts come through and encourage them to make a bid. Mr. Reed suggested having, or to continue to have if it has been implemented already, monthly informative “meet and greets” that allow small businesses to come in and see upcoming contracts and to start a relationship between the City and the small business.

As a closing comment, Mr. Reed referred to the committee’s desire to update the disparity study. It is his belief that the work that has been done in the 2013 disparity study is sufficient to be used for the work of this committee and for the current JSEB Program. He agreed that the most current information is always nice to have, but the costs and effort involved in updating the study will be very high and work can already be done to update the current JSEB Program based on the 2013 study and the work previously done by the City to meet the Supreme Court’s benchmarks for updating to a race-based set aside program.

Chair Pittman asked one final question asking for recommendations on how to keep the Council updated and informed about the work of the JSEB Program. Mr. Reed suggested to continue conducting the aforementioned formal and informal JSEB updates to the Council. Additionally, it was suggested to include a JSEB Program training session in the initial onboarding of incoming Council Members.

Presentation by Council President Tommy Hazouri – Council President Hazouri thanked the committee for their work and Mr. Reed for his expertise and presentation. Pres. Hazouri opined on the state of the JSEB program during his time as Mayor noting that program lacked meaning and definition. An example was provided where businesses would put their wives on the payroll of a small business to reach the eligibility benchmark to obtain benefits of the program or hire women and/or minorities with little to no relevant experience for the same gain. Pres. Hazouri opined on other shortcomings of the program during his tenure as Mayor including the lack of businesses in the program that actually had the capacity to compete for bids or complete the work of the contract.

Pres. Hazouri talked about the need at the time for a disparity study and said that he likes the idea of tweaking the current study. There were multiple disparity studies conducted at that time including one conducted by the University of North Florida. Pres. Hazouri spoke about the importance of having accountability in regard to the businesses within the JSEB Program. It is important to know which businesses were successful and which ones did not have the capacity to complete the contract.

Pres. Hazouri opined on possible challenges to the JSEB Program noting that big businesses may see this type of program as an infringement on their right to obtain City contracts. Another issue is the need for a successful mentorship program that can help lead the small businesses through the JSEB process.

Pres. Hazouri said that he is very supportive of this committee and is encouraged by each Council Member’s perspective and expertise. He encouraged the committee to put “teeth” into any proposed legislation. He closed by sharing the importance of retaining small businesses and helping them work their way through the program.

Review of Potential Speakers – Chair Pittman opened the floor to a discussion about potential future speakers. The Chair suggested including the different Chambers of Commerce. Council Member Dennis suggested having small business owners that are currently in the JSEB program come and speak for 3-5 minutes about successes and challenges that they are facing in the current program. He also noted that not all of the small businesses are owned by a member of a minority group and it would be beneficial to have business owners from different demographic and racial backgrounds to come and present to show that JSEB is not a minority-only program. Council Member Freeman agreed with all of the aforementioned speakers and suggested having the Northeast Florida Builders Association (NEFBA) to come and speak about their apprenticeship program and how it can be beneficial to the JSEB Program members. He also suggested having someone from the School Board to come and talk about the different professional training programs that they have available within the school system. Additionally, Council Member Freeman suggested having CEOs from private companies come in for a discussion since the private sector makes up 80% of the biddable contract jobs within the City.

Other Business / Housekeeping – Council Member Dennis addressed the issue of capacity that was referenced by Mr. Reed. He acknowledged that having the capacity to compete for contracts and complete the work of the contract is an issue, but it should not be used as a deterrent or barrier for the inclusion of small businesses into the program. He added that if the opportunity is there, the small businesses will present themselves. Council Member Freeman commented on the issue of capacity and said that he feels that the issue might be better served under the prevue of a subcommittee to be able to give more direct focus on the issue. He added that the disparity study should lead the way. Capacity should be considered, but not the prime focus.

Public Comment (if time permits) – No public comment requests were made.

With no further comments from the committee, Chair Pittman adjourned the meeting.

**Meeting adjourned:** 12:11 p.m.

Minutes: Anthony J. Baltiero, Council Research Division

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Posted 9.16.20 4:00 p.m.