

**OFFICE OF THE CITY COUNCIL**

**RESEARCH DIVISION**

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**COMMITTEE OF THE WHOLE**

**LOT J PROJECT**

**Meeting Minutes**

 **November 19, 2020**

**5:00 p.m.**

**Location:** Hybrid in-person (City Council Chamber) and virtual (via Zoom platform) meeting

**In attendance:** Committee members Tommy Hazouri (President), Danny Becton, Aaron Bowman, Michael Boylan, Matt Carlucci (virtually via Zoom), Kevin Carrico, LeAnna Cumber, Randy DeFoor, Garrett Dennis, Rory Diamond, Al Ferraro, Reggie Gaffney, Joyce Morgan (virtually via Zoom), Sam Newby, Ju’Coby Pittman, Brenda Priestly Jackson, Ron Salem, Randy White (virtually via Zoom)

**Excused**: Committee Member Terrance Freeman

**Also**: Kim Taylor and Phillip Peterson – Council Auditor’s Office; Jeff Clements and Yvonne Mitchell – Council Research Division; Cheryl Brown – Council Director/Secretary; Jessica Matthews – Legislative Services Division; Peggy Sidman, John Sawyer and Lawsikia Hodges – Office of General Counsel; Brian Hughes, Leeann Krieg, Rachel Zimmer – Mayor’s Office; Kirk Wendland – Office of Economic Development; Sandra Homrighouse – Ethics Office; Lori Boyer – Downtown Investment Authority

**Meeting Convened**: 5:01 p.m.

President Hazouri convened the meeting and called on Council Member DeFoor to lead the Pledge of Allegiance. Roll call was taken and a quorum was present.

President Hazouri asked if the document at the council members’ places is the last and final version for consideration. John Sawyer of the Office of General Counsel said that nothing has been changed in the documents since the bill was filed. The parking agreement has been under negotiation and the parties have recently reached agreement, but it has not yet been reduced to writing. The President cautioned that no votes can be taken unless a quorum of the Council is present in the Council Chamber. Public comment will be taken tonight from 7:15 to 8:00 p.m.

Council Member Becton said he understood that other changes have been negotiated to the development agreement aside from the parking agreement and asked for clarification of Mr. Sawyer’s earlier comment. Mr. Sawyer said that language refinement has gone on in the documents, but those changes have not yet been shared with the Council until all changes are made and presented to the Council Auditor for review before coming to the Council so as to avoid confusion. The business terms are not changing but some of the technical language is being refined. Mr. Hazouri asked that Mr. Sawyer alert the Council when a topic is discussed that may be affected by the ongoing refinements.

Council Auditor Comments

Kim Taylor said she and her staff met with the City administration, the OGC, the Jaguars and Cordish Companies (via telephone) yesterday and reviewed the answers to many of their previously posed questions. Some issues are apparently still under negotiation among the parties and her staff has not reviewed whatever changes may have resulted. They will do a thorough review when a new set of documents is received that reflects the latest agreement among the parties. She hopes that will be available in time for thorough review and full understanding before the scheduled December 3rd meeting, at which she plans to present a list of all the amendments and any remaining questions and concerns for the Council’s consideration and policy decisions.

Mr. Hazouri asked who negotiated this contract from the outset on behalf of the City. Chief Administrative Brian Hughes said it was primarily himself (and former CAO Sam Mousa at the beginning last year before his retirement), along with Chief Operating Officer Stephanie Burch and Mayor’s Chief of Staff Jordan Elsbury. Mr. Hughes said that the changes still being negotiated are as a result of the many questions and issues posed by the Council in the last few weeks.

Ms. Taylor said that she understands that many of her office’s questions/concerns are being addressed in the continued negotiations but will not know exactly what changes have been made until she sees the final revised documents. Council Member Carlucci said the normal practice when dealing with proposals of this size and scope is for the lead negotiator for the City to deal directly with the Council Auditor to explain the deal and answer questions; it appears to him that has not been the case on this project.

Council Member Cumber posed questions about the possibility of imposing a hotel surcharge to recoup a portion of the City’s investment in the project and whether there is a standard amount for such surcharges. Ms. Taylor said she had not but is willing to do a surcharge revenue calculation based on projected average room occupancy. She noted that the City has been levying a surcharge on stays at the Hyatt Regency (formerly Adams Mark) hotel downtown to recoup a portion of the City’s loan to that project. Council Member Becton said the Council had recently received a response to numerous questions from the Jaguars and the administration and asked if the Auditor’s Office had reviewed that. Ms. Taylor said she had and that was largely the subject of yesterday’s meeting. She reiterated the need to see the final negotiated documents before being able to opine on whether all the concerns and questions have been fully addressed or not. Council Member Becton suggested that the Auditor review and comment on what she knows thus far and not wait until receiving final versions of the document in the interest of at least getting some of the policy issues before the Council for discussion.

Ms. Taylor reviewed her concerns with regard to a response document provided to her yesterday at the meeting with the development team and the City administration:

1. City funding/market feasibility study: a study done in 2017 on the feasibility of a downtown convention center noted the need for more dining and entertainment assets, but was not specific as to type or location and does not specifically reference the Lot J location.
2. Ownership of facilities: City ownership of the Live! development and the parking garages means lost property tax revenue on those parcels; the parking agreement is still being negotiated which may result in some increased revenue opportunities for the City.
3. Timing of City funding: a large amount of City funding is proposed to go into the project on the front end.
4. Project completion guarantee: still trying to solidify understanding of the guarantees so that City is protected; need to know that the guarantor is sufficient – documentation on financial capability has been provided to the City Finance Department to review.
5. Pro forma for Live! and parking garage operations: still waiting on what the City fiscal impact is expected to be; debt service has been estimated but still need to know the expected operational costs.
6. Detail for project cost estimates: estimates were provided at yesterday’s meeting, excluding environmental remediation costs, which are being reviewed by the Public Works Department and JEA.
7. Reallocation of City funds: language is being updated regarding approved uses of loan proceeds.
8. Cost savings: language is being updated about the required developer investment and the calculation method for a City credit for under-investment.
9. Manager/trustee of the “bread box” loan: City CFO Joey Greive and Treasurer Randall Barnes have talked to the trust manager about reasonable fees, will be included in revised documents.
10. Modifications to master development plan: the agreement provides substantial freedom for changes to be made by the developer to the project scope; appropriate levels of City approval for differing scopes of change need to be nailed down.
11. Design standards: there do not appear to be any special provisions for flood prevention; the developer and the administration are comfortable with the existing language.
12. Parking agreement – the agreement is apparently being revised and a number of changes are anticipated to be coming.
13. Live! lease: has no performance or occupancy agreements for the City to have any leverage before the 55 years renewal option; there will be a change regrading City revenue sharing in Florida/Georgia game weekend activities.
14. Performance time periods: the development agreement allows for 11-12 years for completion; the developer may be agreeing to something closer to 7 years.
15. Specific default/clawback provisions: the developer has agreed to a no-sale provision to unaffiliated third parties in the first five years so that revision will be coming; there is no indication of a change to add reversion rights to the City should the project not proceed; there no specific penalties except to call on the guarantee if the project is not completed within the required time frame, and there no penalties if the scope of the buildings as built is less than originally projected.
16. REV grant for mixed-use and hotel completion grant: there is no minimum investment required for the hotel component to quality for the grant; that may be adjusted.
17. Disbursement requests: there is a question about the level of detail the City gets to see up-front when asked to make a reimbursement payment, with much less information being provided on the shared cost elements than on the City-owned Live! and infrastructure expenditures.
18. Lost revenue opportunities/City costs: provisions of the agreement are not changing with regard to policy issues suggested by the Auditor’s Office for Council to decide such as changing up-front costs to REV grants on the back end of construction, property reversion rights, etc.
19. Radio antenna relocation: that issue will be pulled out of the agreement now and will come back as a as a separate bill, likely with the City paying the cost of the relocation.

In general the main terms of the agreement have not changed. Some points are still being negotiated and her office awaits the completed documents so that the final wording can be reviewed.

Council Member Cumber passed out a proposed amendment to the bill that would refer the development proposal to the DIA for review and a recommendation.

President Hazouri asked CAO Brian Hughes why the bill includes waivers of DIA and Downtown Design Review Board review of the project. Mr. Hughes said the City and the development team already have a contractual relationship on the Lot J site via the Jaguars stadium lease and disposition of that site is already part of that lease agreement. It is therefore unlike other parts of downtown that don’t have a similar type of pre-existing agreement. Mr. Hazouri said believes the DIA should have thoroughly studied the project first. Mr. Hughes said DIA is dealing with what it needs to deal with and the board voted yesterday to approve the requested incentive that is under its control.

Council Member DeFoor asked for an explanation of the difference between Council Member Carlucci’s proposed substitute to 2020-648 and Council Member Cumber’s proposed amendment to the bill. Deputy General Counsel Peggy Sidman said the Cumber amendment provides that the DIA shall review the Lot J project and make recommendations and the project development agreement will not become effective until DIA reports to the Council on its recommended actions. This would have the effect of deferring 2020-648 until DIA reports back to the Council. The Carlucci substitute removes all Ordinance Code waivers from the bill and instructs DIA to review all documents and come back with a report and a new legislative proposal on the project. If 2020-648 passed as substituted, new legislation to approve the agreement, as potentially modified by the DIA, would need to be introduced. Lori Boyer, CEO of the Downtown Investment Authority, said that in simple terms the Cumber amendment puts a hold on the current bill, sends all project documents to DIA to study, and then DIA sends back a recommendation as to how to proceed with 2020-648. The Carlucci substitute would get rid of all the Ordinance Code waivers (some of which might be better kept) and could delay the project’s timing by restarting the negotiation process at the DIA. Council Member Dennis said he doesn’t like waiving the Code and would prefer to let the DIA tell Council which provisions need to be waived and which don’t. In response to a question from President Hazouri about whether DDRB review would be included in the Cumber proposal, Ms. Boyer said DIA would review everything the City has received thus far and make recommendations.

Council Member Becton questioned how Ordinance 2020-648 could come back to council if it has already been amended and acted on by Council to refer the project to the DIA. Deputy General Counsel Sidman said approval of the amendment to send the project to DIA would trigger a deferral of the bill while DIA does its work, then the Council can take it back up when DIA reports and take further action later. Mr. Becton said he would have preferred that Council Member Cumber had offered a separate resolution to refer the project to DIA so there would be no confusion that 2020-648 passed even though it was voted on by the Committee of the Whole. Ms. Cumber said she envisions voting on the amendment to send the project to DIA but not taking any other action on the bill until DIA responds; nothing can become effective until DIA reviews and reports, even if Council subsequently passed the bill.

Council Member Dennis raised a point of order, questioning whether an amendment has any effect unless the bill to which it is attached is approved, which means the process as described by Ms. Cumber wouldn’t work. He asked for an explanation of the Council Rules on the procedure for making amendments. Peggy Sidman said it appears the intent of the Cumber amendment is that the amendment will state the Council’s intention and trigger DIA review of the project by virtue of mutual agreement, but the bill won’t be passed until after DIA reports back to the Council. Council Member Carlucci said he thinks his substitute goes further than the Cumber amendment in getting the DIA involved as he believes it should have been to start. He objects to all of the waivers but would listen to DIA’s recommendations on what should and shouldn’t be waived. Council Member Salem asked Ms. Boyer if there are any significant differences between the Cumber and Carlucci proposals and what DIA would do under each. Ms. Boyer said the difference is the starting point for the process. The Cumber amendment would have DIA start from the proposal that is pending before the Council now. The Carlucci substitute eliminates the waivers and would require DIA to do appraisals, property disposition proposals, etc. as if starting the process from scratch, potentially adding months to the process. DIA could do the Cumber review process in a matter of weeks, depending on how much the existing documents are still in flux.

In response to a question from Council Member Bowman about whether she had worked with Council Member Carlucci on his proposed substituted, Ms. Boyer said that he had told her what he was preparing but didn’t ask for DIA’s help. Council Member Bowman asked Ms. Boyer what DIA’s role should be in this process and which process she would prefer. Ms. Boyer said she feels comfortable that the Council could get the advice it wants via the Cumber amendment method. DIA would comment on how Lot J fits into the overall downtown development plan and would get started with project review immediately. Mr. Bowman said that he has asked the Northeast Florida Regional Council to run a REMI (Regional Economic Models, Inc.) impact analysis on the Lot J project and the results are looking very interesting and should be helpful to DIA in its review.

Council Member Gaffney said he seconded the Cumber amendment so DIA can do a much needed project review in a timely manner. He asked Jacksonville Jaguars President Mark Lamping what a substantial delay would mean for the deal. Mr. Lamping said it has been a pleasure dealing with all of the council members to date on their questions and he thought everyone was on the same page about the future of downtown. He said consideration needs to be given to the balance of strengths and weakness in the deal which was first proposed in 2018. The developers dealt with the City administration rather than DIA on this project because that’s how the Daily’s Place approval process worked; the Jaguars have lease rights to those properties so it made sense to deal directly with City. The developers have been negotiating through 2 years of give and take to reach the deal before the Council today. The negotiations from the original term sheet in 2018 to September 2020 were favorable to the City: the City’s infrastructure investment was reduced from $93 million to $77.7 million (pending determination of actual contamination on the site) and the developers will pay any infrastructure cost overruns; elimination of the provision allowing the developer to reallocate City infrastructure funding to the private hotel or residences; elimination of the developer’s ability to reallocate any of the City’s investment of up to $50 million in the Live! district; the loan structure was reformulated to reduce its value to the developer from $65.5 million to $52 million but the City will receive full reimbursement of the $65 million loan amount; and the City retains the development rights to the surface pond.

In the last two month, as a result of questions and concerns posed by council members and the Council Auditor’s Office, the developers have agreed to additional concessions that are currently being incorporated into a revised development agreement: a significant acceleration of the project completion timeline, down to 3 years after state approval to begin building; operating costs for the parking garages will be split 50/50, rather than 100% on the City; the City will retain parking revenue from transient daily parkers on the new surface lot and in the garages while the developer retains revenue from resident parking; the developer will operate the residential garages for no fees the loan proceeds will only go to the mixed use and hotel components; City infrastructure funding can only go to infrastructure uses; any change over 10% in any line item in the Live! or infrastructure budget will be subject to City approval;

50% of Live! district revenue from Florida/Georgia game weekend ticketed events goes to City; the developer agrees to no sale of the project for 5 years after substantial completion; and all references to antenna relocation and new surface lot development have been removed from the agreement. Mr. Lamping said the Jaguars have no interest in going back to square one on this project.

Council Member Priestly Jackson said it is hard to act without finalized documents, and the Council can’t amend or substitute what is not properly before it because of a lack of complete legislative documents. She thought this meeting was to be about getting information, not taking action. She felt Ms. Boyer was put in an uncomfortable position by asking her to opine on motions that aren’t proper. President Hazouri asked Deputy General Counsel Sidman what the Council can properly do tonight – is there a complete bill in front of the council that could be referred to DIA? Ms. Sidman said the Cumber amendment provides that 2020-648 as it exists now is referred to the DIA; it could be changed later as more information becomes available and DIA could review the changes based on modifications to the documents. Council Member Cumber said her goal is to get the DIA involved as soon as possible in analyzing the deal, which does not go back to square one. That review will provide another perspective from experts in the area on how to evaluate what’s best.

A quorum call was taken at 7:01 p.m. – only 12 council members were present in the Council Chamber so a quorum (14 members) was not present and no votes could be taken.

Council Member Becton said neither the Cumber amendment nor the Carlucci substitute would have the force of law because they would not have been signed by the mayor to become effective. He recommended taking a straw vote to get the sense of Council and moving on from there. President Hazouri said he will ask the General Counsel’s Office to draft a resolution for introduction next Tuesday to refer the bill to DIA. Mr. Becton said that he had just been informed by the administration that they are asking the DIA to study the proposal. Council Member Ferraro said it seemed to him like the meeting had devolved into a stalling tactic. He objects to some members of the Council not being given the opportunity to speak while others have had lots of time. He had hoped to delve into the details of the proposal and learn something, and that’s not what has happened. The Council is not getting answers to important questions and the general public is not learning anything tonight. President Hazouri said 2 council members had made proposals to amend/substitute the bill and he thought it was important to try and act on those. He’s disappointed that the Council Auditor’s questions have not been answered in a timely manner by the administration. He advocated for a third party review by a consultant or the DIA.

Chief Administrative Officer Brian Hughes objected to the President disparaging his staff and the Mayor and to mischaracterizing what’s been happening in this process.

Council Member Morgan said the answers that have been received to date on council members’ questions are insufficient and the Council needs a fully developed proposal to debate, amend and vote on. Council Member Pittman said she was very disappointed that tonight’s meeting didn’t provide any useful information to help to move the process forward. Things might have turned out better if the agenda was followed and everyone had the chance to make their presentations and then council members could ask questions about what they heard.

Public Comment

Terry Bork said it seems the administration is not providing what the Council needs, reminiscent of the lack of transparency in the JEA affair. Please insist on an independent third party review, not by the DIA or anyone affiliated with the City.

Carnell Oliver said Mayor Curry is working against democracy. This project is not the best investment of the City’s dollars. The needs of the citizens should outweigh the desires of the developers and their campaign contributions. The Council needs to exert its legislative authority.

Paul Harden representing the Jaguars asked for clarity about the plan is to convert the Cumber amendment into a resolution and introduce it next Tuesday night. The development team has no objection to the referral to the DIA and is glad to hear that they are ready to start their review. He feels that the negotiating team has been responsive to the Council Auditor’s and council members’ questions and concerns and more than 30 changes have been made to the development agreement as a result. He and the team are happy to answer any questions and address any concerns at any time.

Council Auditor Kim Taylor said that she has gotten verbal responses to all of her questions but needs to see the finalized documents to do a final detailed review of the changes.

Mr. Harden said that he is hopeful the revised development agreement and attachments will be ready by next Tuesday, but that depends on the drafter in the Office of General Counsel. The development team will provide all documents as they are completed to the Council, the Council Auditor and the DIA. In response to a question from Mr. Harden about future meetings, President Hazouri confirmed that he is still planning on holding the December 3rd meeting as previously scheduled. Mr. Harden said he will provide the Council with 3 lists of changes to the development agreement – changes made from the original agreement negotiated in 2018 until the bill was filed, changes made in the last few weeks in response to the Council Auditor’s questions and concerns, and changes made in response to suggestions made by individual council members. He said that time is of the essence in this project and hoped that Council would move expeditiously when all information is provided.

Council Member Ferraro asked that the development team be first on the agenda for the next meeting to provide their information and answer questions.

Council Member Priestly Jackson said she came expecting a workshop and was disappointed that substantive motions were offered which got the meeting off track so that no information was provided and few questions were answered. The public deserves better to enable them to understand what the project is really about.

President Hazouri asked if a quorum of the membership is needed to hold a workshop rather than a Committee of the Whole. Peggy Sidman said a quorum is needed to take action in any meeting format.

Mr. Hazouri welcomed new Council Member Kevin Carrico to his first council meeting.

**Meeting adjourned:** 7:44 p.m.

Minutes: Jeff Clements, Council Research Division

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11.25.20 Posted 12:00 p.m.