

**OFFICE OF THE CITY COUNCIL**

**RESEARCH DIVISION**

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**CITY COUNCIL SPECIAL INVESTIGATORY COMMITTEE ON JEA**

**MEETING MINUTES**

**Hybrid in-person/virtual (via Zoom platform) meeting**

 **November 30, 2020**

**5:00 p.m.**

**Location:** City Council Chamber/virtual via Zoom platform

**In attendance:** Council Members Brenda Priestly Jackson (Chair), Randy DeFoor, Tommy Hazouri

**Also**: Council Member Ron Salem; Cheryl Brown – Council Secretary/Director; Jason Gabriel, Peggy Sidman, Paige Johnston, Sean Granat, Jon Phillips – Office of General Counsel; Phillip Peterson and Jeff Rodda – Council Auditor’s Office; Steve Cassada, Eric Grantham and Melanie Wilkes – Council Support Services; Jeff Clements and Yvonne Mitchell – Council Research Division; Steve Busey – Smith, Hulsey and Busey law firm; Sandra Homrighouse – Ethics Office; Kurtis Wilson - JEA

**Meeting Convened**: 5:05 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.

Outside counsel report

Steve Busey reported that his firm’s report preparation process is on time and under budget and should be complete by the end of December. The final report will consist of approximately 100 pages, plus an approximately 350-page chronology of events and hyperlinks to background documentation. He still has a few witnesses to interview and anticipates that the final product will be both printed and placed in electronic format on a web site by early January. In response to a question from the Chair about who remains to be interviewed, Mr. Busey said he wants to do final interviews with Jody Brooks, Paul McElroy, Mike Hightower and possibly a few others. The Chair asked for an update on the subpoenas authorized at the last meeting. Mr. Busey said that Tim Baker and his 5 affiliated corporate entities have been subpoenaed and have refused to comply. The Special Committee and City Council need to decide how to proceed. He said he thinks it is not worth the time and expense to pursue compliance and he thinks his firm can finish the report successfully without it and can make requisite inferences about Mr. Baker’s involvement in the process. He believes appropriate conclusions about the process can be drawn without additional information from Mr. Baker. In response to a question from Council Member Hazouri about how inferences about Mr. Baker’s participation would be drawn without his testimony, Mr. Busey said the existing documentary record of when he participated in meetings and with whom allows inferences to be made about his role. Council Member DeFoor said she thinks the special counsel has gathered enough information to allow for a fair report to be produced. Chairwoman Priestly Jackson said that since the role of this Special Committee is to propose Ordinance Code and City Charter changes, she thinks there’s enough information available to recommend appropriate changes.

Office of General Counsel report

General Counsel Jason Gabriel said his office is continuing to work with Mr. Busey to bring the report to a conclusion. He is still working on the Office of General Counsel’s disclosure index of all memos and legal guidance issued on the subject of JEA over the years; it will be finalized this week and distributed to the special committee members. In response to a question from Council Member Defoor about whether there is anything the special committee has missed or other topics that need to be addressed before the special committee finishes its work, Mr. Gabriel said he did not think so. All relevant information is included and the index will be a good reference document.

Witnesses/subpoenas/documents

The Chair asked when the special committee will know who has retained outside attorneys for committee-related legal work. Mr. Gabriel said he would report on what has been submitted to date. Five written requests for reimbursement have been received so far this year totaling $61,000, of which an invoice for $14,000 is completely unrelated to JEA or the special committee’s work. Mr. Gabriel asked for clarification on the extent of the Chair’s request, whether she is looking for a report on reimbursement requests that just apply to the work related to the special committee’s inquiries or to all outside attorneys related to any aspect of JEA privatization. Ms. Priestly Jackson said there has been a mischaracterization of the work of the special committee that makes it sound like the committee is the reason so many people have hired outside counsel. She said her request is for information on counsel retained for all JEA-related investigations and inquiries. Mr. Gabriel noted that JEA officials and employees get their counsel at JEA’s expense, not the City’s. The Chair reiterated that she wants to know about all attorneys hired for any JEA-related reason. Council Member DeFoor asked for confirmation that the budget transfer ordinance the Council passed last week regarding funding for outside counsel dealt only with attorney expenses for City employees, not JEA employees. Mr. Gabriel confirmed that was the case, but clarified that that appropriation would be used for reimbursement of any attorney fee requests, not just those related to JEA matters.

The Chair asked for confirmation that the ordinance just passed was a normal replenishment of an existing line item for outside counsel expenses in general. Mr. Gabriel confirmed that was correct; the OGC anticipated there would be more fee reimbursement requests than usual this year, so thought it prudent to add a reasonable amount to meet whatever need arises for outside counsel. Council Member DeFoor stated that one of the individuals requesting outside counsel reimbursement was former Chief Administrative Officer Sam Mousa and asked how his reimbursement request would be handled if it covered both time periods he was employed by the City and also following his retirement. Mr. Gabriel said that to the extent that the questions posed to him related to activities during his time as a City employee, he could be reimbursed for that part of his attorney costs after careful review and assuming the expenses were incurred for proper, reasonable attorney fees under state and common law and that he was cleared of wrongdoing. Ms. DeFoor said she wants to be sure that he is not reimbursed for any expenses relating to his non-City time or activities. Deputy General Counsel Jon Phillips said that an analysis of Mr. Mousa’s fee reimbursement request has not been completed yet, but will be before any bills are reimbursed. The Chair asked for information on when persons submitting outside counsel bills for reimbursement first hired counsel – whether it was when they were contacted by Mr. Busey to be interviewed or after subpoenas were served to them.

Outside counsel budget extension

**Motion** (DeFoor) – extend the outside counsel budget authorization to $1.8 million

In response to a question from Council Member Hazouri about how much has been expended to date, Mr. Busey said that his firm’s invoices through October brought the total billings to $1.45 million and he anticipates that the November and December invoices will bring the total close to the $1.85 million the Council has allocated, although he intends to be under budget. Deputy General Counsel Peggy Sidman asked for clarification of the motion being considered. She stated that the City Council has already appropriated $1.85 million for the Special Committee’s use, and the Council has used some of that appropriation for court reporters and other related costs (approximately $5,000) so the full $1.85 million is not available solely for the outside counsel. In response to a question from the Chair about whether the proposed $1.8 million in the motion will be sufficient to cover the costs to bring the final report to a conclusion, Mr. Busey said there will still be some miscellaneous costs to cover (i.e. printing and a web site), so he prefers the full $1.85 million be appropriated.

**Motion** (DeFoor) – amend the previous motion to extend the outside counsel authorization to $1.85 million – **approved 3-0**.

Council Member Hazouri asked Mr. Busey for a step-by-step outline of how the process will be completed. Mr. Busey said he will consult with special committee members individually this week to get any final comments and suggestions; he will conduct final interviews over the next week; he will finalize his report by mid-December; and that report will be printed and uploaded to a web site by early January. In response to a question from Mr. Hazouri about whether anything learned in the final interviews might change the report from where it currently stands, Mr. Busey said that was unlikely; he is just doing some final fact checking.

Public Comment

None

Council Member DeFoor said the special committee is open to any public comments or suggestions because one never knows what fact may be important or where a useful lead may come from. The Chair said that public comment is welcome at the next meeting.

President Hazouri thanked the special committee members for doing a great job and for not politicizing the process.

Next meeting – December 7th, 5:00 p.m.

**Meeting adjourned:** 5:46 p.m.

Minutes: Jeff Clements, Council Research Division

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12.7.20 Posted 6:00 p.m.