



**OFFICE OF THE CITY COUNCIL  
RESEARCH DIVISION**

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**CITY COUNCIL SPECIAL INVESTIGATORY COMMITTEE ON JEA  
MEETING MINUTES**

**February 8, 2023  
8:30 a.m.**

**Location:** City Council Chamber

**In attendance:** Council Members Rory Diamond (Chair), Nick Howland, Sam Newby, Michael Boylan

**Also:** Council Member Ron Salem; Jon Phillips and Mary Staffopoulos – Office of General Counsel; Phillip Peterson – Council Auditor’s Office; Merriane Lahmeur and Sharonda Davis – Legislative Services Division; Jeff Clements – Council Research Division; Eric Grantham and Steve Cassada – Public Information Division

**Meeting Convened:** 8:32 a.m.

Chairman Diamond convened the meeting and led the Pledge of Allegiance, and the attendees were introduced for the record. The chairman briefly reviewed the meeting agenda. He said that Council Member Howland will be assuming the chairmanship of the special committee in a few weeks when Mr. Diamond will be leaving for 3 months of military duty.

Chairman Diamond reviewed the history of the proposed JEA privatization process that led to the appointment of the Council’s Special Investigatory Committee on JEA Matters in 2019 and outlined the work of that committee in 2019-20. He noted that City Council members were asked in September of 2020 to submit disclosures of any conflicts of interest or personal connections they had with any of the parties involved in the JEA privatization process. Recent information has come to light that raises questions about whether Council Member Cumber’s disclosure, made in March 2021, was entirely accurate and truthful which has led to the reactivation of the special committee to investigate further. Council Member Howland said he believes the information recently disclosed in the media rises to the level of requiring an investigation into the circumstances of Ms. Cumber’s disclosure so that the full truth can be disclosed and that the City Council and the general public can have confidence in the transparency of the disclosure. Council Member Newby said that reaching the truth is the only goal of the special committee.

Council Member Boylan recounted his understanding of the proposed JEA privatization process and the history of the City Council's efforts to understand what was happening, first via a Special Committee on JEA Issues and then with the subsequent appointment of a Special Investigatory Committee on JEA. He expressed concern about the authority of this committee to undertake the task described in the committee charge and is also very concerned about the optics of council members investigating and judging other members in the context of ongoing current political campaigns.

Chairman Diamond asked Jon Phillips of the Office of General Counsel to explain the special committee's authority to undertake the task as charged by the Council President. Mr. Phillips said that the City Charter does authorize fairly broad authority for the Council to investigate matters relating to the affairs of the consolidated government, quoting Sec. 5.09 of the Charter as follows: "The council or any duly appointed committee of the council may make investigations into the affairs of the consolidated government and the conduct of any department, office, or agency of the consolidated government..." The Office of General Counsel found no issue with the work of the original Special Investigatory Committee and does not see anything in the extended charge of the reactivated committee that deviates substantially from the original committee's charge. The Council Rules (Rule 2.207) also authorize the Council to conduct investigations and to solicit information from parties relating to the affairs of the City government. In sum, the Council or a designated committee may legally conduct the investigation as proposed. Whether conducting such an investigation in the midst of political campaigns is a good idea is a policy call for the Council to make. When asked if the issuance of a subpoena to a council member is authorized, Mr. Phillips said that the Council Rules do not specifically address the authority of the Council or a committee to issue subpoenas to individual council members. That issue becomes very problematic for the General Counsel's Office because all council members and the council as a whole are clients of the OGC and that could present a conflict for the OGC and its staff. He suggested that hiring outside counsel might be preferable if that option is selected and the matter becomes seriously adversarial between the parties. He said that in his experience, a general rule is that it is always better to ask for cooperation first before seeking to compel action via a subpoena.

In response to a question from Council Member Boylan, Mr. Phillips said it's questionable whether Council has the power to investigate individuals in a stand-alone capacity, but since this is a matter relating to the affairs of the consolidated government then it would not be a legal prohibition against doing it. Mr. Boylan suggested that the Council's interest in the investigation should be aimed at determining what legislative action may be necessary to deal with the findings. In response to a question from Council Member Boylan, Mr. Phillips agreed that either the Ethics Commission or the City Inspector General are independent agencies that could conduct such an investigation and make findings of fact without having council members investigating the actions of other council members. Mr. Boylan said he hoped that the special committee's work could avoid the stigma of characterization that a council member is "under investigation" in the midst of a political campaign.

Chairman Diamond said the staff of the committee will be Jon Phillips and Mary Staffopoulos of the General Counsel's Office and the Council Auditor's Office to advise on financial matters that may be involved (i.e. finding resources to hire outside counsel if needed).

Chairman Diamond recommended that the committee interpret its charge narrowly to avoid the perception of "opening a can of worms" and suggested sending a letter to JEA Public Power Partners (a Louisiana corporation) requesting them to voluntarily update their response to the Special Committee's original subpoena.

**Motion** (Howland) – the Special Committee requests the Council Secretary and Office of General counsel to draft a letter JEA Public Power Partners and its various affiliated corporate entities requesting them to

voluntarily update their response to the Special Committee and provide further information as to why they responded in the way that they did.

In response to a question from Council Member Newby about the value of asking for an updated response from the company, Chairman Diamond said it would provide the company with an opportunity to voluntarily improve its response which it may wish to do to avoid any adverse publicity. Mr. Newby cautioned that the request might be seen by some as a “witch hunt” or as politically motivated, which it is not intended to be. Council Member Boylan said his preference would be for the response, if any, received from the company to be directed to the Ethics Commission or Inspector General rather than the Special Committee. He would prefer that the committee make a decision on how the investigation will proceed and by whom it will be conducted before taking action on other motions.

**The Howland motion was approved unanimously.**

Chairman Diamond asked for a motion to invite Council Member Cumber to clarify her disclosure form. Council Member Boylan said that the letter received from Ms. Cumber’s attorney seems to make very clear that she has no intention of offering further information. Chairman Diamond said that offering the opportunity is an important gesture.

**Motion** (Howland) – the Special Committee directs the Council Secretary to request of Council Member Cumber that she voluntarily update her 2021 JEA disclosure form and to appear before the committee to present any additional information.

Chairman Diamond suggested that the motion be amended to have the Special Committee, rather than the Council Secretary, make the request to Ms. Cumber to voluntarily update her disclosure and appear before the special committee to make any comments she may wish to make.

**Motion** (Howland) – amend the previous motion to provide that the Special Investigatory Committee, rather than the Council Secretary, will make the request – **approved unanimously.**

**The Howland motion as amended was approved unanimously.**

After brief discussion the committee determined that asking for production of documents by Ms. Cumber was not needed at this time.

**Motion** (Howland) – the Special Committee invites anyone with information relevant to the committee’s charge to submit comments via a dedicated email box available through the City Council website ([2023InvestigatoryofJEA@coj.net](mailto:2023InvestigatoryofJEA@coj.net)).

In response to a request for clarification of the special committee’s first motion from OGC attorney Mary Staffopoulos, Chairman Diamond stated that the intent of the motion was for the special committee rather than the Council Secretary to issue the letter requesting the voluntary update from JEA Public Power Partners.

Council Member Newby emphasized that submission of information by interested parties or the general public must be relevant to the work of the committee and not simply politicking related to the mayoral campaigns. Council Member Boylan noted that any email received by the City is a public record regardless of what the committee’s intent might be, but perhaps the responses could be filtered and only relevant responses presented to the special committee. Chairman Diamond asked if it’s possible for the

Office of General Counsel to review the email submissions as they are received and present only those deemed relevant to the work of the Special Committee. Mr. Phillips said the OGC may be able to perform that function, but he will need to consult with the General Counsel for his guidance. Chairman Diamond asked that Mr. Phillips consult with Mr. Teal and inform the committee of the result.

**Motion** (Boylan) – amend the previous motion to have the OGC provide a screening function of the email submissions received – **approved unanimously**.

Chairman Diamond suggested sending public records requests to the City and to JEA requesting any documents relating to Hussein Cumber and the JEA ITN (invitation to negotiate) process from the period of July 2019 through March 2021 that are relevant to the work of the special committee.

**Motion** (Howland) – the Special Committee will send public records requests to the City and to JEA requesting documents relating to Hussein Cumber and the JEA ITN (invitation to negotiate) process from the period of July 2019 through March 2021 that are relevant to the work of the special committee.

The **Howland motion was withdrawn** with approval of the committee members.

**Motion** (Howland) – the Special Committee will make public information requests to the City of Jacksonville and JEA requesting any new or additional documentation relevant to committee’s investigation from the period July 2019 to March 2021 - **unanimously approved**.

Referring to earlier comments by Council Member Boylan, Chairman Diamond said consideration should be given to the purpose and ultimate end goal of the committee so the public can be assured that it has a specific purpose. He suggested that possibilities include the special committee referring its findings to the State or City Ethics Commissions or to the City Inspector General’s Office. Council Member Boylan said the role of the special committee should be to propose legislation as necessary to ensure that a similar controversy does not arise in the future.

**Motion** (Boylan) – the Special Committee refers this investigation to the City Ethics Commission along with the actions already approved by committee vote today (requesting voluntary updating of disclosures by Council Member Cumber and JEA Public Power Partners, public records requests to the City and JEA, screening of email submissions from the public by the OGC for relevance) for the commission to pursue and report back to the special committee with any recommendations for legislative actions that need to be taken to address the findings of the investigation.

Council Member Howland said that reference of the investigation will likely be the end game after all information the special committee is requesting is received back and reviewed, after which a referral to another agency could be made as appropriate. The committee could choose to refer some portions of its charge to another agency and retain others. Council Member Newby agreed that referral to another agency may be a future step, but only after the special committee has done more work on its own.

**Motion** (Boylan) – amend the previous motion to say that if the special committee determines in the future that anything it has received indicates the need for further investigation, then that further investigation will be done by the Ethics Commission.

Chairman Diamond said the Boylan motion seems premature; the decision about referral to another investigatory agency can be made later if and when relevant information is received. Mr. Boylan said he prefers clarity in advance that any future investigation will be done by an appropriate entity other than a

council committee. Council Member Newby agreed that the final result will likely be a referral to the Ethics Commission, but argued against making that decision prematurely.

**Boylan amendment failed 1-3** (Boylan in favor).

**Boylan original motion failed 1-3** (Boylan in favor).

Council Members Newby, Howland and Diamond agreed that an end game for the resolution of the special committee's work needs to be decided, but it is not yet time to make that decision.

Mary Staffopoulos asked for clarification from the committee about a deadline for responses to the various inquiries to be submitted.

**Motion** (Howland) – establish a deadline of February 20 at close of business for submission of the requested documents– **approved unanimously**.

Council Member Boylan asked what the committee vote will need to be to take action at future meetings when Chairman Diamond is not present – will it be a majority of the members present (2 of 3) or a majority of the full body (3 of 4)? Staff will consult with the General Counsel for an answer.

Public Comment

None

**Meeting adjourned:** 9:41 a.m.

Minutes: Jeff Clements, Council Research Division

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