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RESEARCH DIVISION**

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

**February 23, 2023
8:30 a.m.**

Location: City Council Chamber

In attendance: Council Members Nick Howland (Vice Chair), Sam Newby, Michael Boylan

Excused: Council Member Rory Diamond

Also: Council Members Terrance Freeman and Ron Salem; Jon Phillips and Mary Staffopoulos – Office of General Counsel; Kim Taylor – Council Auditor’s Office; Merriane Lahmeur and Sharonda Davis – Legislative Services Division; Jeff Clements – Council Research Division; Steve Cassada – Public Information Division

Meeting Convened: 8:32 a.m.

Vice Chair Howland convened the meeting and the attendees introduced themselves for the record.

Mr. Howland read the Special Investigatory Committee’s charge from the Council President for the record.

Office of General Counsel Report on Newly Disclosed Information

Jon Phillips of the Office of General Counsel reported that his office received public records documents from the City in response to the Special Committee’s request authorized at the last meeting (approximately 200 pages of largely email correspondence) which he determined to be mainly transitory in nature and not relevant to the Special Committee’s charge. Mr. Phillips indicated that those documents are available should the Committee members wish to review them. The JEA reported that it had found no new public records not already provided to the Special Committee. Cindy Laquidara, the attorney for JEA Public Power Partners (JEA-PPP), also reported the company had nothing new to provide and noted that they had previously disclosed that the company had at one time considered hiring Hussein Cumber but had not done so due to potential conflict of interest concerns. A packet of material was received from the Jimerson Birr law firm, the attorney for Erin Isaac who was part of the JEA-PPP team, which was

forwarded to the committee members upon receipt. Attorney Dan Bean representing Council Member Cumber sent a letter stating that she had nothing further to disclose.

Council Member Boylan said it seemed from his perspective that the cover memo from the Jimerson Birr law firm was aimed at disparaging Council Member Cumber, currently a mayoral candidate. CM Boylan asked Mr. Phillips what was relevant to the committee's work in the exchange of correspondence between attorneys Jimerson Birr and Dan Bean. Mr. Phillips said the statement in one letter that the packet of materials appeared to have been curated by a lawyer might be of interest, as might the response to that statement. He said he had no opinion on the content of those letters and their implications. He intended to err on the side of providing whatever information was received that he thought the committee would find relevant to its work. CM Boylan reiterated his concern that the work of the Special Committee is being taken as an opportunity by some of the parties involved to wage political attacks on current candidates for office.

Chairman Howland said the Jimerson Birr information shows him that JEA-PPP intended to win the contract to manage JEA and had assembled a private equity team to achieve that goal with the intent of running the authority. Mr. Howland said he thinks there is evidence that the City Council was misled by Ms. Cumber's disclosure since it seems clear that her husband was deeply involved in an attempt to run JEA. Mr. Howland asked Jon Phillips about the concession arrangement for a company to manage a City-owned JEA and whether that sort of deal would create a conflict of interest that would require disclosure by a council member. Mr. Phillips said he or the Ethics Commission would need to do research on the specific circumstances relating to a management contract to determine if it posed a prohibitive conflict. In response to another question from Chairman Howland about whether council members would have been "knowledge people" (a term of art in corporate acquisitions) who would have to have been disclosed in a purchase agreement, Mr. Phillips said he could not comment on a hypothetical that did not occur. Mr. Howland asked if the fact that information was received by the Special Committee from a person now working on the political campaign of one of Ms. Cumber's opponents has any relevance to its trustworthiness. Mr. Phillips replied that further investigation would be needed to determine the truthfulness and relevance of that information. He said anything can be referred to the Ethics Commission for investigation and that's an option for the Special Committee to consider for determining authenticity and relevance. Mr. Howland said that questioning other recipients copied on the submitted emails could help verify that they received by them and that they are real.

Chairman Howland noted that Council Member Cumber and her attorney have previously said that she was instructed by the FBI to not disclose some information in order to protect that agency's investigation and asked how that could be verified. Mr. Phillips said the Special Committee could ask the FBI for verification but in his experience it would be unlikely that they would comment.

Chairman Howland said it appears to him that Hussein Cumber was definitely involved in the JEA privatization process and that Council Member Cumber will not be providing any further comment, and asked where that leaves the committee. Should the Special Committee refer its findings to one or more investigative body? He thinks it may be appropriate to ask Office of General Counsel to draft a final report of the Special Committee.

Council Member Boylan said other council members have stated in public forums that Ms. Cumber should have disclosed more information earlier and more accurately. He asked Mr. Phillips if Steve Busey, the attorney hired by the Special Investigative Committee in its previous iteration to assist in its research, was aware of Hussein Cumber being involved in JEA-PPP's effort. Mr. Phillips said he will go back and review available records to see if he can find any indication. He also noted that the committee could ask Mr. Busey directly if they wished. Council Member Boylan said he favors at least asking the FBI for a statement even if they don't respond, to which Council Member Newby agreed.

Mr. Phillips said the General Counsel's office could draft a report outlining what information has been received but would not make a recommendation about what should happen thereafter.

Chairman Howland said it's very clear that Hussein Cumber was leading the charge for a JEA-PPP management agreement and that fact should have been disclosed by Council Member Cumber.

Chairman Howland said that Council Member Boylan is unavailable to meet on March 2nd so the committee will need to move its next meeting to meeting to March 9th.

Chairman Howland suggested the need for three motions on how to proceed: 1) request the Office of General Counsel to draft a report by March 6th describing what new material has been received in response to the committee's requests; 2) hold the next committee meeting on March 9th at which time the Special Committee will determine where to refer the new findings for further investigation (State Attorney, City Inspector General, City Ethics Commission, State Ethics Commission); 3) request the General Counsel's Office to ask the FBI if they advised Council Member Cumber not to disclose certain information due to their investigation. Council Member Boylan asked to amend the third motion to include a request to Steve Busey about whether he knew about Mr. Cumber's involvement with JEA-PPP.

Council President Freeman said he agrees with the committee's proposed course of action and thanked the committee for its work. The process should offer those involved the opportunity to clear the record and address the issues that have been raised for the benefit of the general public.

Motion— request the Office of General Counsel to draft a final committee report by March 6th describing what new material has been received in response to the committee's requests - **approved 3-0.**

Motion – the committee will hold its next committee meeting on March 9th at which time it will review the report and determine where to refer the new findings for further investigation – **approved 3-0.**

Motion – request the General Counsel's Office to ask the FBI if they instructed Council Member Cumber not to disclose certain information due to their investigation; ask Steve Busey about whether he knew about Mr. Cumber's involvement with JEAPPP; and ask Mike Weinstein about the authenticity of the emails to which his name is attached.

Mr. Phillips said the General Counsel may not want to insert his office into the investigatory process and asked that he be consulted about this motion. Chairman Howland said that rather than involve the General Counsel's Office, he would send those three emails himself.

Council Member Boylan asked Mr. Phillips to review the latest batch of documents submitted by the City to see if there is any indication that Mr. Busey was aware of Mr. Cumber's relationship with JEA-PPP, which he agreed to do and report back.

Chairman Howland said the Special Committee could meet subsequent to next meeting's referral of issues to the proper investigatory authorities to discuss committee charge #3 regarding the need for legislative action to prevent future problems. Council Member Boylan asked that persons requested to provide further information to the committee be instructed to leave politics out of their response and simply deal with the facts.

Public Comment

None

Meeting adjourned: 9:08 a.m.

Minutes: Jeff Clements, Council Research Division
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2.27.23 Posted 11:30 a.m.