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**CITY COUNCIL WORKSHOP
CURRENT STATUS AND FUTURE NEEDS OF THE OFFICE OF GENERAL COUNSEL**

Meeting Minutes

**May 12, 2023
9:00 a.m.**

Location: Lynwood Roberts Room, 1st floor, City Hall

In attendance: Workshop Members Brenda Priestly Jackson and Terrance Freeman

Also: Council Member Randy DeFoor; Maritza Sanchez – Legislative Services Division; Jeff Clements – Council Research Division; Eric Grantham – Council Public Information Division; Jason Teal and Mary Staffopoulos - Office of General Counsel; Kim Taylor – Council Auditor’s Office; Markelo Spivey, Brooks Dame, Gerrie Ford-Harden – ECAs

Meeting Convened: 9:22 a.m.

Chairwoman Priestly Jackson convened the meeting and the attendees introduced themselves for the record.

Council Auditor Kim Taylor provided information on the Office of General Counsel’s staffing levels for the past 10 years and the legal services budgets (both internal OGC attorneys and external legal counsel) of the City’s independent authorities over the past 5 fiscal years. The OGC’s employee cap has increased from 61 positions in FY13-14 to 76 in FY22-23, with 10 of the 15 additional positions being attorneys. The legal services payments by the School Board and independent authorities vary widely from agency to agency, and in some cases from year to year per agency depending on extenuating circumstances. Total legal service payments (both internally to OGC and to outside counsel) ranged from \$18,689,842 on the high end in FY19/20 to \$14,961,117 on the low end in FY21-22.

Council Member Priestly Jackson asked why some of the authorities have such widely varying legal budgets and whether that is due in part to some of them hiring of persons with legal degrees as part of their staff. General Counsel Jason Teal said the differences are due in part to the regulatory environment in which the authorities operate – some are very heavily regulated by state and federal governments. Another reason is the amount of litigation in which the agencies engage, such as JEA with its Plant

Vogtle nuclear power plant litigation in Georgia which has extended for years. As conflicts of interest and needs for specialized knowledge arise, there is always a need to retain outside counsel on occasion.

Ms. Priestly Jackson asked how the School Board and independent authorities are billed for OGC services. Mr. Teal said all users are billed in units of tenths of an hour for services provided at the providing attorney's billing rate. The Risk Management Division pays OGC a fixed monthly amount to deal with personal injury cases; that monthly amount will need to be increased in the next fiscal year because the attorney costs are exceeding that flat monthly rate. OGC attorneys must bill 1,750 hours per year to clients to cover OGC's revenue needs. OGC's internal billing rates are significantly less than in private sector firms and have just recently been after having not been adjusted in many years. The source of revenue from internal clients is the legal account of each agency which comes from the General Fund budget. The School Board and JEA are clients with independent revenue sources that generate revenue to OGC through its billings. There is a budget for outside legal services within OGC for things like litigation support (i.e. accident scene reconstruction for a trial), but agencies are billed for their other litigation-related costs.

Mr. Teal distributed a list of outside counsel the OGC has hired in calendar year 2022 and a tabulation of the legal billings by City agency in calendar year 2022. He said the usage and billing amounts are discussed with the using agencies to identify trends in workload, identify any problem areas, discuss opportunities for improvement and cost savings, etc. Council Member DeFoor noted the JEA's legal costs are less than 1% of the authority's \$122 million annual contribution to the City General Fund and that argues for increasing their allocation of attorneys. She said the OGC with its 46 attorneys is a very small firm to represent the City, School Board, constitutional officers and independent authorities that collectively employ huge numbers of employees and have multi-billion-dollar budgets.

Mr. Teal said that when developing a budget the office never knows when an issue will suddenly arise that takes a lot of time and effort, such as the tort reform legislation considered by the Florida Legislature in the just-completed session that caused an explosion of lawsuit filings that will take a tremendous amount of time to deal with.

Chairwoman Priestly Jackson said JEA CEO Jay Stowe mentioned at the last meeting the need for hiring additional attorneys with industry expertise and asked how that process would work. The School Board made the same request, although on a smaller scale. Mr. Teal said he has spoken with Mr. Stowe about the volume and kinds of legal services JEA needs and was told that most of it is transactional or employment-related, not requiring specialized utility-related expertise. He has approved three additional attorney slots to be assigned to JEA, but they have been unable to hire any attorneys to fill those slots at the City's current pay rate. He said he has to be concerned about pay equity within the office for attorneys performing the same functions for different agencies if there was a differential pay rate. Ms. Priestly Jackson said her recollection was that Jay Stowe said JEA's need was for attorneys with specialized expertise. Mr. Teal said JEA's charter requires the authority to use the OGC for all legal services except where the General Counsel cannot or should not provide the service, in which case outside counsel is procured through the General Counsel's office. There is an Ordinance Code provision declaring any use of outside counsel not authorized by OGC to be an invalid procurement.

President Freeman said he has heard from representatives of other boards that they need more speed in processing legal matters and asked about how staff could be increased to meet the need. Mr. Teal said he doesn't have a particular number in mind as the correct number of attorneys needed and the OGC is trying to be creative in finding ways to meet every user's needs. Some functions have independent sources of revenue (such as JEA) as mentioned earlier which produce revenue for the OGC. There would need to be budgetary adjustments to achieve the staffing that agencies want. There is always an awareness of the need for accountability and attorneys embedded in authorities have to be accountable to the General

Counsel and the consolidated government and comply with public records, open meetings, Government in the Sunshine, and other specialized law that governs the operations of local governments.

The committee reviewed a list provided by Mr. Teal of the size of city and county attorney offices in other comparably sized cities around the country, some of which are consolidated city/counties like Jacksonville and others of which are not.

Mr. Teal said the 48 attorneys in the OGC (himself plus 47 others) are not specifically assigned to agencies, but they are detailed there as needed. He said it might be worthwhile to consider assigning specific slots to the independent authorities. Council Member DeFoor said she sees a management issue at work – the General Counsel needs to meet regularly with the attorneys and ensure that there is consistency of legal service across agencies and that institutional knowledge and standards are shared within the OGC. Mr. Teal indicated that he meets weekly with all the lawyers on his management team (including those assigned to the School Board and JEA) to ensure that they all feel connected to OGC and so that institutional knowledge can be shared.

Chairwoman Priestly Jackson said it may be hard for the OGC to hire attorneys with specialized industry knowledge because they may want to work directly for the independent authorities and not for an appointed General Counsel who may come or go as administrations change. The fundamental question is how to achieve flexibility, autonomy and accountability for agencies who have non-City revenue sources and can afford to pay more for legal services while staying within the context of a unified General Counsel's Office.

Regarding the School Board, Mr. Teal said he has not been requested to assign additional attorneys to the school district but he is looking at their needs. The deputy general counsel assigned there now is certified in educational law. Although JEA and the School Board work in very specialized and regulated industries, the vast majority of their legal needs are in contracts, employment, procurement, etc. and not the specialized areas of law. Specialized counsel can be hired for them as needed. Ms. Priestly Jackson said the school district pre-existed city/county consolidation and is governed by state law and that needs to be taken into account with regard to its legal services and the context of the City Charter.

The Chairwoman said she will work with Mary Staffopoulos of the OGC on crafting proposed legislation for Ordinance Code and Charter changes based on the discussions and minutes of the previous workshops. She will develop a draft and circulate it to the three council members present today. President Freeman said he agreed with that approach. Council Member DeFoor said she is supportive of developing proposals for best practices.

Public Comment

John Nooney advocated for resiliency initiatives and eco-tourism. He complimented the work and cooperation of the OGC.

Mike Weinstein of the Kids Hope Alliance said the legislation should remind everyone that the OGC is the glue that holds the consolidated government together. Try to make everything work as smoothly as possible, but within the context of unity under the OGC as provided by the City Charter.

With no further business, the Chairwoman adjourned the meeting.

Meeting adjourned: 10:33 a.m.

Minutes: Jeff Clements, Council Research Division
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5.16.23 Posted 5:00 p.m.