



CHARTER REVISION COMMISSION

Wyman Duggan, Chair
Mary O'Brien, Vice Chair

Suite 425, City Hall
117 W. Duval Street
Jacksonville FL 32202
904-630-1405
904-630-3403 (fax)

August 7, 2009
5:00 p.m.

Meeting Minutes
July 30, 2009
City Council Chamber
1st floor, City Hall

Attendance: Commissioners Wyman Duggan (Chair), Mary O'Brien (Vice Chair), Ed Austin (arr. 9:06), Martha Barrett, Jim Catlett (arr. 9:12), Bill Catlin, Teresa Eichner (arr. 9:22), Robert Flowers, Sr., Mechelle Herrington (arr. 9:31), Ali Korman (dep. 11:47), Gary Oliveras, Curtis Thompson, Geoffrey Youngblood, Jeanne Miller

Absent: Beverly Garvin

Invited speakers: Sheriff John Rutherford; General Counsel Rick Mullaney; School Board Chair Tommy Hazouri, School Board Member Brenda Priestly-Jackson, School Superintendent Ed Pratt-Dannals; Jacksonville Transportation Authority Executive Director Mike Blaylock

Jeff Clements – City Council Research Division, Steve Rohan – Office of General Counsel

The meeting was called to order by Chairman Duggan at 9:00 a.m. with a quorum present, followed by the Pledge of Allegiance and a moment of silence.

Staff reviewed the handouts at each commissioner's seat which included an agenda, a copy of the verbatim transcript of the July 16, 2009 meeting, a printout of the comments received by e-mail to date on the Commission's charterrevision@coj.net e-mail address, and a letter to the commission from interested citizen Joseph Andrews.

Sheriff John Rutherford presentation

Sheriff Rutherford thanked the commission for the opportunity to make a presentation on his office and charter-related issues. He noted that the framers of the City Charter used a "separation of powers" model more commonly associated with the federal government in designing the city's government structure, which he thinks was a wise choice. That separation of powers extended to the election rather than the appointment of the chief law enforcement officer, which he thinks is an important feature to maintain. The Sheriff stated that the chief law enforcement officer needs to be independent enough to argue forcefully and publicly for the adequacy of the public safety function regardless of the mayor's conflicting budget pressures. He agrees that the participation of the Sheriff's Office in the central services system of the city is generally a good thing, allowing for economies of scale.

The Sheriff suggested several issues that bear investigation by the Commission:

- The Office of General Counsel sometimes has a conflict of interest in the representation of multiple parts of the consolidated government at the same time. He used the example of a wrongful death charge against a jail officer over a jail inmate's death – there was an inherent

conflict in the OGC trying to defend the City in a lawsuit by the inmate's family by claiming the officer did no wrong while at the same time representing the Sheriff in proceedings to have the officer fired.

- The JSO needs to have its own in-house legal advisor, not assigned by the General Counsel, to handle the department's need for criminal legal advice and training, public records issues, etc. that are specifically law enforcement-related and therefore very specialized. The Sheriff is fine with having the OGC handle personnel issues, contracts, and other non-law enforcement issues.
- The Sheriff does have some reservations about some of the City's central service practices such as the amount of the fuel markup on fleet fuels and the inability of the JSO to experiment with outsourcing fleet maintenance to save money. He also strongly believes that the JSO needs to keep its own information technology staff and not be forced to combine those personnel with the City's ITD operation. The JSO is highly data-driven and he needs control over those personnel and their complete dedication to law enforcement operations, not to mention the classified data that must be stored and processed by trained and trustworthy employees.
- The Sheriff believes he could save money by doing his own procurement versus participating in City Procurement.

Commissioner Barrett noted that the election process requires a sheriff candidate to visit and campaign in all parts of the community and therefore possibly to have a better feel for the people and issues of the community than an appointed police chief. In answer to a question from Commissioner Austin, the Sheriff stated that approximately four or five large cities in America (including Las Vegas and Charlotte) elect their police chief or equivalent; it is not the norm. In response to a question from Commissioner Korman about the degree of mayoral control over the sheriff's budget, Sheriff Rutherford stated that each year is a negotiating process between the mayor and sheriff and then the city council and the sheriff over resources. He reiterated his belief that the election of the Sheriff and therefore his ability to make the case for adequately funding public safety in a public and forceful manner.

In response to a question from Commissioner Oliveras, the Sheriff indicated that he would be open to the JSO taking over operation of the law enforcement functions at Jacksonville International Airport and in the public schools if the Jacksonville Aviation Authority and the School Board wanted to explore that option. In response to a question from Chairman Duggan, the Sheriff stated that he could see an argument for the equivalence of the Sheriff and the Fire Chief regarding ability to forcefully advocate for public safety services, and perhaps public safety is somewhat compromised by having an appointed fire chief. In response to a question from Commissioner Youngblood the Sheriff indicated that his comments about potential savings from vehicle fleet maintenance outsourcing come from the JEA's experience. The same company that demonstrated actual savings to JEA has made the same offer to the Sheriff, but the City is not interested in pursuing that option. In response to a question from Commissioner Flowers, the Sheriff indicated that he has been advised by the General Counsel that he has no authority over the activities of the police union or its leadership, so he does not generally involve himself in or comment on their activities. Nor does he have any authority over or responsibility for the Police and Fire Pension Fund, how it operates or what benefits it provides.

City Chief Administrative Officer Alan Mosley made a brief statement in response to the Sheriff's comments about fleet maintenance outsourcing. He stated that the City does not discourage or punish employees who make suggestions about potential cost savings – they reward them. He also stated that the administration is very much in favor of managed competition and has used the mechanism in various areas of service provision to save money and improve performance. Finally, he stated that the \$1.5 million savings referred to by the Sheriff is a flawed number. The administration and the Council Auditor have both gone over the figures and agree that the comparisons with the City's current costs are not entirely valid, and don't represent an "apples to apples" comparison.

Rick Mullaney presentation

General Counsel Rick Mullaney gave an overview of the history of the consolidated government charter, which derives from a 1934 amendment to the Florida Constitution permitting Jacksonville and Duval County to consolidate and to wield the most extensive home rule powers in Florida. That amendment, resulting from a period of local government corruption exacerbated by a very unusual government structure that diffused responsibility and authority to the point of no accountability, was not acted upon at the time. In the 1960s a second wave of public corruption, combined with a polluted river and discredited high schools, led to the 1967 vote that approved consolidation, effective October 1, 1968.

The new City Charter adopted a federal government-like structure with separate executive, legislative and judicial branches and a system of checks and balances of power. As a matter of political compromise from the plan originally submitted by the consolidation study commission, the five constitutional officers remained as elected officials rather than being appointed department heads within the executive branch of government. Those constitutional officers have historically not wanted to be too closely tied into the city government, preferring to see themselves as elected state officials as their counterparts in the other 66 counties. The consolidated city's total budget (including the constitutional officers and independent authorities, but excluding the School Board budget which is not subject to City Council approval) is \$4.5 to \$5 billion, larger than the state budgets of six states. The charter gives the General Counsel tremendous power to provide legal representation to all branches of the consolidated government and to resolve all legal disputes and interpretations internally.

In his opinion the consolidated form of government has been an outstanding success, providing a number of benefits over other forms of local government in Florida. 1) Jacksonville has the lowest property tax millage rate of any large city in Florida. 2) Jacksonville is less regulatory and less bureaucratic than most other places – streamlined economic development structure, no duplication of services, centralized and accountable authority. 3) No intra-governmental litigation; the City speaks with one voice to the outside world. 4) Pinpointed accountability in the office of the Mayor. 5) The structure allows public policy debate and creation on a county-wide basis – little or no competition among independent cities. 6) Clout, or a seat at the table. Jacksonville can leverage almost a million residents, \$4.5 to \$5 billion in budgetary expenditures, and unified civic and community assets to do great things.

In Mr. Mullaney's view there are four defining characteristics of consolidation: 1) centralized financial authority; 2) centralized legal authority; 3) separation of powers and a system of checks and balances; and 4) everyone has to give up some autonomy to the consolidated government (mayor, council, independent authorities, constitutional officers). In response to a question from Commissioner Austin, Mr. Mullaney stated that he did not believe the General Counsel should be elected. He noted that there are differing opinions on whether the current constitutional officers should be elected or appointed. To the extent that their election causes "silos" to exist in the consolidated city that create separation and an inability of the entire entity to speak with one voice, then that is problematic.

Duval County Schools presentation

School Board Chairman and former Mayor Tommy Hazouri introduced himself, School Board member Brenda Priestly-Jackson and School Superintendent Ed Pratt-Dannals. Having seen consolidation from many angles as a mayor, state legislator and now School Board member, he can see the need for some "tweaking" of consolidation after 40 years of experience. He urged the commission not to look at the experience of any single school district as the measure of whether mayoral control of a school system is the panacea that solves all the problems. Situations differ greatly from one city to the next and what works in one place may not work in another. Mr. Hazouri does not agree with the suggestion made several weeks ago by Jim Rinaman to split up the school system into several smaller districts. He believes that would increase administrative costs and has the very real potential of dividing the city's

schools into “have” and “have not” districts that would make existing divisions in the community even worse.

Mr. Hazouri noted that the school district gets almost half of the property tax millage levied in Jacksonville, but receives none of the annual contribution the JEA pays to the City. He believes they deserve a share of that revenue, which the district would receive in the form of additional property tax revenue if the JEA was an investor-owned utility paying property taxes. He also stated that the Jacksonville Journey is a good example of how the community at large can rally around and support the educational system. Finally, Mr. Hazouri stated that he does not believe that the mayor would be interested in taking on the responsibilities of running the schools in addition to the huge responsibilities he already has in running the city.

School Superintendent Ed Pratt-Dannals reported that, while by no means perfect yet, the school system has gotten dramatically better in recent years, citing substantial improvements in FCAT scores and state school district ratings. The number of A and B schools has increased from 17 to 102 in the past 10 years, the graduation rate is up 7.2% and the dropout rate down 2%, the district is accredited, numerous financial process and performance management improvements have been made, and the district is the most privatized school district in Florida.

On the subject of elected versus appointed school boards, national research has shown that what is important is what a school board does, not how they came to be seated. The Broad (pronounced “brode”) Prize is given annually to the best urban school district, with five nominees competing for the top honor each year. Only three of the 25 finalists over past five years have been districts with appointed school boards, so that method does not seem to be producing vastly better results than districts with elected boards. Mr. Pratt-Dannals noted that the Florida Constitution requires that school boards be elected, so any change is going to require a constitutional amendment. In his opinion, school boards are different than other independent authorities in that they deal with children’s and families’ lives in a very direct way. The electorate is very much more interested in how the schools operate and how the district leadership is held accountable to the voters than they would be about the transportation or port authority. He believes that combining the school system into city government would be a huge job and require massive time and effort to implement.

School Board Vice-Chair Brenda Priestly-Jackson stated that Florida has a very strong educational mandate in the State Constitution – it is a permanent priority of the state. Six members of the current school board are graduates of the system, so they know it intimately and care about it deeply. The elected board hears directly from concerned parents every day and in every venue, from School Board meetings to the grocery store, and they couldn’t be more in tune with the concerns and desires of the public. Election means accountability and that is fundamentally important. A focus on student achievement will produce better graduates who will get into college or get good jobs and will become productive citizens and not turn to crime. Jacksonville is an extremely diverse community - urban, suburban and rural, rich and poor, black and white and Latino and other ethnicities. Success here would be a model for success anywhere in America.

In answer to a question about paid versus unpaid school boards, Mr. Hazouri stated that what is important is the product produced and the quality of the work that goes into that product. It takes a lot of time and effort and personal expense to be a school board member and that deserves some compensation, but that’s not why school board members do the job. In answer to another question Mr. Hazouri stated that this school board is not involved in day-to-day administrative matters and personal interventions on behalf of constituents – those issues are left to the superintendent and his staff. The board is responsive to its constituents by taking their calls and forwarding the issue/request to the superintendent for a proper response. In response to a question about how the Charter Revision Commission could be of assistance to

the school system, Mr. Hazouri state that securing a portion of the JEA annual contribution for the school system would be a big help. Also, provision could be made for shared multi-use facilities between the city and school system (libraries, playgrounds, etc.).

In response to a question about the proper size of the school board, Mr. Priestly-Jackson stated that seven is a good manageable size and not so big as to be unwieldy or make obtaining a consensus difficult. In her opinion dividing the district into multiple smaller districts would be very undesirable and would ruin the success of the magnet school program. How would the resources be divided up? Mr. Pratt-Dannals stated that educational research shows that district size doesn't matter much in terms of district success; what matters most is quality teachers and the level of poverty the district has to deal with. In response to a question about the percentage of county students not attending public schools, Ms. Priestly-Jackson stated that Jacksonville has a relatively high percentage of students in private schools and being home schooled compared to other Florida districts. In response to a question about the relationship between the district and the teachers' union, Mr. Pratt-Dannals stated that our district has a more flexible and cooperative arrangement than many places. The current union contract allows for merit pay (one of only six such contracts in Florida), and we have one of only two or three districts with civil service protections.

Jacksonville Transportation Authority presentation

Michael Blaylock, Executive Director of the JTA, explained that the JTA was founded in 1955 as the Jacksonville Expressway Authority as the federal interstate highway system began to be constructed, and was expanded to include public transit in the 1970s. In 1989 by voter referendum the authority's primary funding source was changed from toll revenue to a half-cent sales tax. Paratransit (transportation services for persons with disabilities) was added to the portfolio in the last decade. The only direct City funding for JTA operations is \$1.1 million for the paratransit operation. The JTA is unique (one of six in the United States) in being a full multi-modal authority, able to provide roads, bridges, rail, bus, paratransit and Skyway services. The authority has the power to do procurement through City, state or other transit agency contracts as it deems appropriate and cost effective. The JTA can also operate outside of Jacksonville via interlocal agreements with neighboring counties. The authority's funding comes from a combination of local option sales tax, gasoline tax, and federal and state grants.

Mr. Blaylock stated that the JTA has always done a good job of future planning, investing money now in looking years into the future to see what the transportation needs will be and how to meet them. Sometimes the agency is criticized for building "roads to nowhere" (Mathews Bridge, Dames Point Bridge, J. Turner Butler Boulevard), but where would we be today without those assets? The same need exists to look 20 and 30 years into the future and to be ready to meet the needs when they inevitably arise. JTA is studying the need for a regional transportation agency that might provide travel resources from Fernandina Beach to Palm Coast. A change was recently made in the JTA charter via a state legislative bill to specifically authorize public/private partnerships with more private sector funding options. The JTA builds many facilities that then turned over the Florida Department of Transportation to own and maintain, which is a good deal for the City. Maintaining those roads and bridges would be extremely costly.

In response to a question about how the JTA fits into the scheme of consolidated government Mr. Blaylock stated that the City has some input and control by virtue of appropriating the \$1.1 million for paratransit service, the City hires JTA to build roads and bridges on its behalf, and the JTA utilizes City central services. In response to another question he stated that the JTA utilizes attorneys from the General Counsel's Office for most internal functions and for litigation; it uses outside attorneys for eminent domain work. In response to a question Mr. Blalock stated that the JTA has its own procurement system but can use the City's contracts when it is advantageous to the authority. He also indicated in response to a question that the JTA maintains its own fleet in-house, occasionally utilizing other agencies for

procurement purposes as mentioned previously. The authority needs speedy response time to keep its limited fleet up and operating at full capacity at all times.

Public comment

None

Commission discussion

- Commissioner Flowers suggested the need to hear from City HUD. The Housing Authority will be invited to the next meeting.
- Chairman Duggan requested each commissioner to compile a list of their top 3-5 priority issues within the next week and send those lists to staff to compile into one document for consideration at the next meeting.
- Commissioner Catlin requested that the General Counsel be invited back to a future meeting to discuss specific General Counsel-related issues that have been raised thus far by speakers.
- In response to a question about whether the commission had any jurisdiction over the JTA charter and whether that would take action by the Florida Legislature to amend, Chairman Duggan urged the commissioners to “think big” and not be limited to consider only those items that can be changed by local ordinance.
- Commissioner O’Brien suggested looking at Article 16 – Pensions. How do the constitutional officers and independent agencies fit into that article, if at all? What are the entitlements?
- Commissioner Youngblood requested that the Supervisor of Elections be asked for his opinion on elected versus appointed constitutional officers.
- Managing Deputy General Counsel Steve Rohan noted that the commission has heard from several speakers about their desire to have the ability to hire their own attorneys, or at least to have some input into the process by which attorneys are assigned to them by the General Counsel. He finds it interesting that when asked about the attorneys currently assigned to them, the response has been uniformly favorable or even enthusiastic. Perhaps the “problem” is more theoretical than actual. Commissioner Miller responded that when she was an employee of the General Counsel’s Office and representing the City Council and other departments, she felt there definitely were instances and issues where her ability to represent the interests of her client was subjected to influence or restriction from the management of the General Counsel’s Office. She urged the commission to take a full and fair look at all sides of this issue.
- Commissioner Catlett stated that he has felt an attitude of defensiveness or fear from several of the invited speakers, and hopes that everyone realizes that the commission is simply trying to get all of the potential issues on the table for a full and reasonable discussion. The commission has no preconceived notions about what changes may or may not need to be made – we’re just trying to gather the facts.
- Staff was requested to obtain a copy of the JEA’s mission statement and distribute it to the commissioners.

There being no further business, the meeting was adjourned at 12:05 p.m.

Jeff Clements, 630-1405
Posted 8.7.09
5:00 p.m.

c.c. cityc@coj.net

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The JEA Way: Strategic Path

Mission

To improve the quality of life in the communities we serve by being the best electric, water and sewer utility in the nation.

Strategies



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