



Task Force on Consolidated Government

Jacksonville City Council
Council Member Lori Boyer, Chair

October 10, 2013

HIGHLIGHTS OF THE OCTOBER 3RD MEETING

Task Force Comments

- Betty Holzendorf wants to explore if the City is losing benefits it could be eligible for because of our unique status as both a city and county; does our status as both make us ineligible for some grant programs?
 - Can the City Council declare Jacksonville to be one or the other as necessary to apply for particular kinds of grants?
- Giselle Carson stated that our consolidated status is helpful in hosting big events like the Super Bowl and potential college football national championship game; promoters only have to deal with one entity

Office of General Counsel – Historical Perspective

- There were 15 boards and bodies of the city and county government hired independent counsel and lawsuits between the bodies were both common and expensive
- A unified general counsel for everyone was a fundamental concept of consolidation
- General Counsel would assign an attorney to each client, if there was a conflict those attorneys would argue the issue to the General Counsel, and a binding legal opinion would be issued that had the effect of a court ruling to decide the issue within the consolidated government
- Costs of outside bond counsel were excessive and considered a political plum
- Legal costs were reduced dramatically from the pre-consolidation era but workload increased
- The General Counsel is the attorney for everyone in the city government
- The General Counsel's job is not to tell a client they can't do something, but to offer avenues to legally achieve what they want to accomplish and then let the policymakers decide what they're willing to pursue

Office of General Counsel Panel Discussion

Harry Shorstein

- The job is bigger than just being the lawyer for the city and its citizens
- He used very few outside attorneys despite having a relatively small staff of attorneys

- The General Counsel is both chief attorney and chief judge for adjudicating internal City issues
- The availability of a large City pension provides an incentive to strongly consider the interests of the Mayor who has the power to remove a General Counsel from office
- Shorstein offered the following examples of situations where the OGC should have acted more independently in requiring compliance with the City Charter & ordinance code
 - the Auchter Company contract for the new county courthouse
 - the Trail Ridge Landfill no-bid contract extension
 - these were legally irresponsible and should have been identified as such at the time

Fred Franklin

- He sees nothing wrong with the powers of the office or the current selection process as set out in the City Charter
- Problems that have arisen have been particular to personalities
- General Counsel should be very judicious about injecting him/herself into decisions unnecessarily
- A binding opinion from the General Council is the mechanism to force legal accountability for recommendations
 - General Counsel should reserve the power of the binding legal opinion for only the weightiest matters
- He made very little use of outside counsel, preferring to build up the capabilities of the office to do work in-house by removing those not performing well and replacing them as needed
- He agrees the General Counsel is the third branch of government to act as the ultimate judicial arbiter of all disputes in an unbiased manner
- The removal process provides protection for the general counsel to make rulings that might displease a mayor but would be in the best interests of the City as a whole

Chuck Arnold

- Charter used to have a provision requiring the General Counsel to certify that the OGC could not provide a service in-house before hiring outside counsel
 - provision is no longer there, but might need to be reinstated
- He has seen the size of the General Counsel's office decline in recent years and the use of outside counsel increase
- The General Counsel represents the entire corporate entity of the City all its citizens, not the mayor who makes the appointment
- Perhaps a term limit on general counsels is something to be considered
- He noted that the OGC is currently budgeting over \$1 million for pension costs for its employees, and he does not think that the General Counsel should get a City pension
- A strong general counsel can be a help to a mayor by making tough decisions and taking the heat for saying no to something that an elected mayor may have a hard time opposing.

Task Force Questions/Comments

- Lad Daniels expressed concern about the potential for over-involvement of general counsels in policy and political issues that exceed purely legal questions
 - All of the panelists agreed that it's a difficult problem to address and the general counsel has to keep the legal/political distinction clearly in mind and separate the two
- Mr. Arnold and Mr. Franklin were open to exploring the idea of allowing City Council removal power but recommended caution in making the change because of the possibility that council members might not be entirely clear on the structure and roles of the various officers and how the government is supposed to operate
- Chuck Arnold and Fred Franklin echoed Sam Mousa's comments that a general counsel shouldn't attend mayoral staff meetings – they never did that
- Harry Shorstein agreed that the current appointment process is not set up to produce the best candidates
 - Some candidates won't subject themselves to public scrutiny and the potential of not being selected under the current process
- Mr. Franklin stated that the current selection process should not be abandoned if it isn't being fully utilized first
- Ms. Boyer pointed out that the City currently has outside counsel for bond issues, which per Mr. Rinaman was formerly was done in-house
- Steve Rohan stated that during his 30-plus years with the OGC, the use of outside counsel was relatively small and was always strongly debated in-house.

City Council Member Panel Discussion

Eric Smith

- The independent authorities have become more “silo-like” than they used to be, and that they are almost all employing some form of “shadow counsel”, having an attorney on staff who is not the authority's official attorney, but reviews legal issues before the official OGC attorney does so
- He advocated for a return to the practice he started of convening monthly meetings of the CEOs of the independent authorities with the Council President so that ideas can be shared and relationships can be developed
- Florida has experienced a huge growth in the number of special purpose districts to provide services and maybe Jacksonville should consider these
- He also stated that the aviation authority used to make a financial contribution to the city but no longer does; don't rely on the JAA's statement that they can't make a contribution due to FAA regulations without checking that factually.

Suzanne Jenkins

- Lack of utilities hurts neighborhood development and City revenues, so some parts of town will continue to suffer
- Suggested that consideration be given to whether 19 council members is still sufficient given the city's population growth, maybe more are needed, or the at-large seats need to be converted to districts

Warren Jones

- The City still gives the Port Authority the same \$800,000 per year that was giving at the time of consolidation, which was the equivalent of 1 mill then but is far from it now
 - Without adequate funding, the port can't compete with ports in other states
- A restoration of the services, such as Human Resources and IT, that have spun off over the years would help save the City money by reducing the costs of duplication
- The promise of consolidation has not been met with regard to installation of public utilities in under-served communities
- There is little or no new development in the old core city communities to provide for private installation of utilities, and no plan for the City or JEA to do it
- The old core city carried the financial load for decades has been decimated since consolidation as interest and money has moved to the suburbs
- A tremendous investment will be needed to install expensive infrastructure and there is no ready source of funding

Jack Webb

- The general movement of population into St. Johns and Clay counties because of
 - the perceived quality of public education and Jacksonville's seemingly limited ability to get major initiatives accomplished
- Public political battles between the mayor and council don't help with the perception of unity and common vision toward a goal
- The City lacks a dedicated funding source for addressing its infrastructure problems and there is no long-term community vision or political will, in large part because of term limits
- The current ad valorem tax system is completely dysfunctional because of the constraints imposed by the legislature in recent years, and nothing is going to change as long as the general public is completely tax-averse and untrusting of its political representatives.

Bill Gulliford

- Suggested challenging common perceptions and perceived wisdom – look at
 - the council/ manager form of government
 - eliminating the at-large city council districts
 - Beaches and Baldwin issues and the Interlocal Agreements
 - central services
 - particularly the aspects of private competition and the need for competitive pressures to produce efficiency
 - procurement bid review by City Council
 - the General Counsel's office and the Council's inability to initiate removal action
- Mr. Gulliford challenged the City's recent concentration on cutting taxes rather than investing in the sufficiency of public services
- He believes that the practice of borrowing through the Banking Fund rather than budgeting on a pay-as-you-go basis hides the true cost of providing fundamental services
- The inherent problems with getting public utilities into un-served neighborhoods - can those residents afford to pay the tap-in fees and then the monthly service charges thereafter? Is there enough political will to impose those costs on neighborhoods when some residents may not want it?

- Jacksonville is one of the least-taxed cities in the nation, and we're getting what we pay for

Alberta Hipps Email

- The City may have been better off retaining the water and sewer system than turning it over to the JEA
- Sam Mousa stated that only an infusion of public capital is going to solve the infrastructure problems in neighborhoods where there is no new development taking place.
- Efforts like the Mayor's Intensive Care Neighborhoods program come and go from mayor to mayor but are designed to help with the under-delivery of promises from consolidation

Task Force Comments

- Jim Rinaman echoed the importance of the Council Auditor as a vital cog in city government both for institutional knowledge and for independence
- He urged the task force to consider the failure of the promises of consolidation as a have/have not issue, not a black/white issues, that applies all over the city, not just in the old core city
- Ms. Boyer pointed out that the City has made some investments in infrastructure in older areas, but only where economic development projects were involved (i.e. Riverside Avenue in Brooklyn)

Term Limits Discussion

- Lad Daniels asked if the size of council, term limits and the Sunshine Law are impediments to getting things done.
- Warren Jones feels that councils prior to term limits turned over on a regular basis without it
 - He also noted that since term limits there has never been a black Council President
- Mr. Gulliford pointed out that term limits may cause 14 of the 19 council members to turn over after the next election, and that would leave the council with very little institutional knowledge and experience
- Suzanne Jenkins believes limit continuity of leadership and vision
- Eric Smith doesn't believe they have had the intended effect but rather have had the effect of sending council members to constitutional offices or the state legislature, and then back to council again

Sunshine Laws Discussion

- Warren Jones feels that the Sunshine Law is too broad and has hurt the City in economic development matters
- Bill Bulliford believes they have a negative effect on getting good nominees for appointment to key positions and are an overly intrusive imposition on appointed advisory boards and commissions.