



**OFFICE OF THE CITY COUNCIL  
RESEARCH DIVISION**

117 WEST DUVAL STREET, SUITE 425  
4<sup>TH</sup> FLOOR, CITY HALL  
JACKSONVILLE, FLORIDA 32202  
904-255-5200

**WORKSHOP re: OFFICE OF GENERAL COUNSEL LEGAL MEMORANDUM  
ON REMOVAL OF MEMORIAL TO THE WOMEN OF THE SOUTHLAND  
Meeting Minutes**

**January 25, 2024  
10:00 a.m.**

**Location:** City Council Chamber, 1<sup>st</sup> floor, City Hall – St. James Building, 117 West Duval Street

**In attendance:** Council Members Ron Salem (President), Randy White, Matt Carlucci, Nick Howland, Kevin Carrico, Mike Gay, Michael Boylan, Joe Carlucci, Raul Arias, Ken Amaro

**Excused:** Council Members Rory Diamond, Chris Miller, Terrance Freeman, Tyrona Clark-Murray, Will Lahnen, Rahman Johnson, Ju’Coby Pittman, Reggie Gaffney Jr.,

**Also in attendance:** Kim Taylor, Brian Parks – Council Auditor’s Office; Jeff Clements – Council Research Division; Merriane Lahmeur, Maritza Sanchez - Legislative Services Division; Steve Cassada – Public Information Division; Michael Fackler, John Sawyer, Jason Teal, Lawsikia Hodges, Craig Feiser, Mary Staffopoulos – General Counsel’s Office; Karen Bowling, Scott Wilson – Mayor’s Office; Anna Lopez Brosche – Finance and Administration Department; Daryl Joseph – Parks, Recreation and Community Services Department; Nina Sackler – Public Works Department; Sheriff T.K Waters

**Meeting Convened:** 10:02 a.m.

President Salem convened the meeting and the council members introduced themselves for the record. Mr. Salem reviewed the order of business for the meeting and said he would allocate speaking time for the council members based on the number of requests to speak and the time available. He noted that documents were distributed representing previous legal memoranda/advice issued by the Office of General Counsel over a number of years. He stated that the intent is not to litigate the question of the removal of the monument but to discuss the process by which the removal occurred.

Council Auditor Kim Taylor reviewed two contracts that were involved in the City accomplishing the monument’s removal. She said the administrative award for the statue removal work was dated January 3, 2024 but the work actually took place on December 27, 2023. She got a memo on January 16<sup>th</sup> from Procurement Chief Dustin Freeman acknowledging that it was an improper contract because work was

performed prior to it being signed. The contract was then signed by Chief Administrative Officer Karen Bowling on January 17<sup>th</sup> in order to ratify the action pursuant to a cure provision in Sec. 126.109 of the Procurement Code. The City already has a standing contract with a private security guard company to provide guards for numerous locations around the city, including Springfield Park. On December 27<sup>th</sup> there were 7 private security officers on site of the memorial, relocated from other City duties, for varying periods of time instead of the normal 1 officer in the park during normal operating hours. The invoice for just over \$900 for those guards has not yet been paid.

President Salem said he understood that there was one JSO officer at the site that day under contract to ACON Constructors to provide off-duty security. Sheriff Waters said he was unaware in advance that the monument was being removed and the application for the hiring of the off-duty JSO officer only mentioned security for a construction project in the park. He said that had he known that the monument removal was the project in question, he would have assigned additional officers given the contentious nature of that project. President Salem asked Chief Administrative Officer Karen Bowling to address the security issues and the fact that the Sheriff and City Council were unaware that the action was going to be taken. Ms. Bowling said the goal in withholding an announcement of the work was to provide for calm and let the contractors do their work without trouble. The Parks and Recreation Park shifted some resources to provide for the private security guards and they knew the JSO's District 1 substation was close-by if they were needed and could be summoned by a call to 9-1-1.

President Salem asked General Counsel Michael Fackler about the OGC's obligation to be truthful to the City Council in his and his staff's testimony. Mr. Fackler said the office has an absolute obligation to be truthful to its clients, including the Council. Mr. Salem asked if he was covered by attorney/client privilege regarding the memorandum he had requested Mr. Fackler develop for the January 16<sup>th</sup> Rules Committee meeting; Mr. Fackler said Mr. Salem was covered by that privilege and he did not discuss the particulars of the memo with anyone. Mr. Salem said he requested a meeting with Mr. Fackler to discuss the memo and whether any changes were being made from the original, which never occurred. Mr. Fackler said he had made no changes in the substance of the memo and so didn't see any need to meet. President Salem asked for a timeline of when Mr. Fackler first started working on the memo; he said November 8<sup>th</sup> after a meeting with Karen Bowling. On January 12<sup>th</sup> he met with Ms. Bowling and Mayor Deegan about the process and the mayor's authority to remove the monument. Mr. Salem said he felt like that discussion violated his attorney/client privilege given that he had requested an opinion on that subject.

President Salem asked for an explanation of the City's ability to accept private donations. Mr. Fackler said there is a provision in the Ordinance Code with broad authority for the mayor to accept donations subject to 5 specific limitations. Mr. Salem asked about 4 documents previously produced by the Office of General Counsel regarding Confederate monuments that were obtained recently through a public records request by a reporter and asked Mr. Fackler if he had read them. He said he had, and they did not impact on his legal opinion.

CM Howland said the Council is dealing with an incident of executive branch overreach and undue influence over the General Counsel. The legislative branch has to protect its legitimate prerogatives. Mr. Howland said decades of OGC opinions have found that the monument was a contributing structure to a historic district and was therefore protected from action being taken without a Certificate of

Appropriateness having been issued. Mr. Fackler pointed out the distinction between Hogan's Creek Improvements (e.g. balustrades and bridges) which are specifically listed and therefore covered, and the Women of the Southland monument which is not specifically listed. He acknowledged his error in failing to read the Code closely enough to determine the monument's status. Mr. Howland posed questions to Jason Teal of the General Counsel's Office about his participation in the drafting of the previous legal memoranda noted by the Council President. Mr. Teal said he had no involvement in the drafting of Mr. Fackler's legal opinion until after the first Rules Committee meeting at which it was discussed and questions were posed regarding the initial unsigned draft opinion. He said that several OGC attorneys met and reviewed the draft in order to help refine the opinion into its final form. CM Howland asked Mr. Teal when and how his opinion about the historic nature of the monument changed. Mr. Teal talked about his history of involvement with historic preservation issues and how the City has treated the assets in Springfield Park. He said he has provided the best research he could to previous General Counsels and in his own term as General Counsel, but the current General Counsel is the ultimate authority to make the final call. He said the only knowledge he had of any meeting between Mr. Fackler and the Mayor was that it was mentioned to him by Mr. Fackler after the meeting in the context of the instruction to take another look at the memo to clarify the language regarding the historic status of the monument and its coverage under the terms of the historic designation of Springfield.

CM Gay asked Mr. Fackler why his response to a late December email posing questions was copied to another attorney in the office; Mr. Fackler said it was because Craig Feiser had researched answers to those questions and he wanted to keep him in the loop as he responded to the council member. Mr. Gay said he had sent another email to Mr. Fackler on December 29<sup>th</sup> with more questions and had yet to receive a response. Mr. Fackler said he believed that the memo he was developing at the time would answer the questions Mr. Gay was posing. Mr. Gay asked about the ownership of the monument. Mr. Fackler said it was gifted to the City in 1915, although it does not appear that there was a deed of gift or other paperwork regarding the donation. Mr. Gay asked about the relationship among the City, 904ward and ACON Constructors in the donation of funds and removal of the statue. He contended that ACON should not have entered into a contract with 904ward to remove property it did not own. He also noted that no permits were issued and no commencement notification was given before the work was done, which he sees as evidence that established laws and procedures were being circumvented. The City is ultimately responsible for making sure that project subcontractors were paid, that environmental laws were complied with, etc. The City Building Official should have been consulted and should have given authorization for the work before it took place.

CM Matt Carlucci thanked Mr. Fackler for his honesty in answering the council's questions today and admitting that mistakes had been made in the process. He said that he has had a long discussion with Mr. Fackler and is satisfied with the opinion he has issued. Mr. Carlucci said he was on the Council in 1992 when the Springfield area was designated as a historic district and does not recall any discussion of the park or this monument at that time; the major concern among residents was what was happening to the historic homes and how they were being inappropriately altered. He said he has asked the Planning Department if the monument is designated as a contributing structure to the historic district and was told that it was not. It may have been included in the historic designation application but is not named in the Ordinance Code. He credited the Office of General Counsel and the administration for their contrition over the way this issue has played out and their pledge to do better in the future. He urged that the Council not pursue political agendas and move on to more productive work.

CM Joe Carlucci asked Mr. Fackler for his interpretation of “at no cost to the City” since that was an important factor in whether the action was legal or not. It now appears the City did, in fact, incur a small cost for the provision of private security guards. Mr. Fackler said he was unaware until this meeting that a cost had been occurred on the part of the City. Mr. Carlucci asked that the Office of General Counsel reconsider its opinion in light of the revelation of the cost incurred and report its findings to him.

CM Carrico asked Sheriff Waters how many officers he would have detailed to the park when the work was being done had he known in advance what was about to take place. The Sheriff said he would have met with his management team to discuss the situation and would have had at least several officers on-site to deal with any potential incidents, particularly given the volatile nature of the issue. Mr. Carrico asked Kim Taylor how often her office gets notification from the administration about improper procurements; she said that they happen occasionally but are not frequent. Mr. Carrico said that mistakes were made, public safety was put in jeopardy, and the Council’s trust in the General Counsel has been compromised by this process.

CM Amaro asked for clarification about the lack of necessity for a COA for the removal of the statue. Jason Teal said the COA process exists to protect the historic fabric of a designated structure or district and drew a distinction between irrevocable complete destruction and alteration, which is reversible.

CM Arias said the process lacked transparency and the public’s safety could have been compromised by the Sheriff’s Office not knowing what was about to happen. Mr. Arias asked about the differences in the training of JSO officers versus private security officers. Sheriff Waters said private security officers are not as highly trained as his officers to deal with serious incidents such as might have occurred in relation to the removal of the monument. Mr. Arias said pending Ordinance 2023-871 is intended to increase transparency and ensure that rules and protocols are followed. When dealing with public safety and the public’s trust in their government, mistakes are not an option. The combination of the monument removal process and the Mayor’s Office’s sole-source hiring of a lobbying company have damaged the Council’s confidence in and relationship with the Mayor’s Office.

CM Boylan said the Council dealt with the similarly controversial proposed JEA sale issue in a two-step process – first an investigation of the circumstances of the proposed sale to determine a set of facts, and then the appointment of a special committee to consider legislative changes to the Ordinance Code to prevent future reoccurrences of the problems identified. He urged focusing on the future and not the past.

President Salem asked Mary Staffopoulos of the General Counsel’s Office about a discussion she had with Mr. Fackler regarding changes in the draft legal memo before it was finalized. Ms. Staffopoulos said she shared her experience and perspective with Mr. Fackler about dealing with the City Council and the general public in the context of explaining controversial and complicated issues.

President Salem told Mr. Fackler that he felt it was unfair for him to have been placed in a very difficult position in his first few months on the job. Mr. Fackler said he has attempted to be fair and impartial throughout the process and readily acknowledges that he has made mistakes which he regrets. He referred to his earlier comments about the timeline of events and said he recalled an additional conversation with the Mayor’s office in which he conveyed to them that he needed to reexamine the draft opinion in light of further research. Ultimately the substance of the opinion did not change but some of the rationale did. Mr. Fackler said he intends to rebuild the Council’s trust in him.

## Public Comment

Rick Robinson with the Northside Coalition said the root of this issue is the City Council's failure to act on removal of the monument. If the Council had been more responsive and dealt with the issue, then we wouldn't have this problem.

John Reynolds said procurement procedures need to be complied with and the sole source award is troubling because it avoided those procedures.

Pat Geer said the General Counsel should be fair to all its clients. The fact that a council member and the general public were present at the monument removal indicates that word had gotten out. The city government looks bad as a result of this process. He wants the monument restored.

Denise Scott said the Council is responsible for the problem because it refused to act. It's time to quit debating the process and arguing about what the monument really stood for and move on to more important issues.

Kate Dobbins of Take Em Down Jax said attendees at the Jazz Festival should be required to go through metal detectors. Keeping Confederate monuments makes Jacksonville a national laughingstock.

Joanne Brooks of the Northside Coalition said the group supports the Mayor's removal of the monument. She advocated for community charrettes to discuss the removal of other monuments to racism and oppression still present in the community.

Seber Newsome said the City doesn't own the monument – it was paid for by the Sons of Confederate Veterans and the State of Florida and there is no deed transferring it to the City. The Planning Department has always recognized that the monument was a contributing structure to the historic district. The City Council did act on this matter by previously voting 13-6 not to take the monument down.

**Meeting adjourned:** 11:56 a.m.

Minutes: Jeff Clements, Council Research Division  
904-255-5137 [jeffc@coj.ent](mailto:jeffc@coj.ent)  
1.26.24 Posted 1:20 p.m.