

# **Background Materials on Utility Governance**

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### **1. Governance Models:**

Governance Alternatives White Paper, Colorado Springs Utilities, 2011

Managing Public Utilities: The American Way, Public Utility Research Center, University of Florida, 2011

Chapter 4: Other Governance Models for Municipal Utilities, Governance in a Changing Market: Alternative Governance Structures – The Los Angeles Department of Water and Power, RAND, 2001

Electric Utility Department Competitive Performance Review, Price Waterhouse, 1996

### **2. Surveys**

Texas and Large Municipally Owned Utilities, Austin Energy, 2012

Testimony of the Texas Public Power Association, Senate Business & Commerce Committee, 2012

2010 Governance Survey, American Public Power Association, 2010

Preliminary Information Regarding Governance and Late Fees from Large Public Power Council (LPPC) Member Utilities, 2008

General Utility Information (of Municipally Owned Electric Utilities), Navigant, 2011

Governance Structures of Municipally Owned Electric Utilities, Texas Public Power Association, 2011

### **3. Other Utilities: CPS Energy (San Antonio, Texas); Colorado Springs Utilities (Colorado); Jacksonville Energy Authority (Florida)**

CPS Energy Presentation to the Senate Committee on Business and Commerce, 2012

CPS Energy Governance Structure presentation to the Electric Utility Commission, Austin Energy, 2008

Governance Structure of CPS Energy

CPS Energy Board of Trustees Role & Accountabilities Statement and Invitation to Apply for CPS Trustee, 2012

Governance Structure Review Assignment, presentation to Colorado Springs Utilities Board by the Utilities Policy Advisory Committee, 2012

Jacksonville Energy Authority (JEA) Board Policy Manual, Bylaws and Charter, 2010

**4. State Government Code and Austin City Council Resolutions**

Texas Government Code Section 1502.070. Management and Control of Utility System

Local Government Code Subchapter G. Management of Certain Encumbered Municipal Electric Utility Systems

Austin City Council Resolution establishing guidelines and financial targets for enhancing the competitive position of Austin Energy, 1999

Austin City Council Resolution directing a Study of Governance Models, 2012

**5. Historical and other materials from EUC Member Shudde Fath**

Memos and Letters from the EUC and Commissioner Fath, including EUC recommendations on governance in 1996 and 2002

Board Governance of Austin's Electric Utility, Additional Information requested by the EUC Finance Committee, 1996

Transcripts and Notes from EUC Public Forums on Utility Governance, 1996; including historical City of San Antonio documentation regarding purchase of CPS

News articles and excerpts

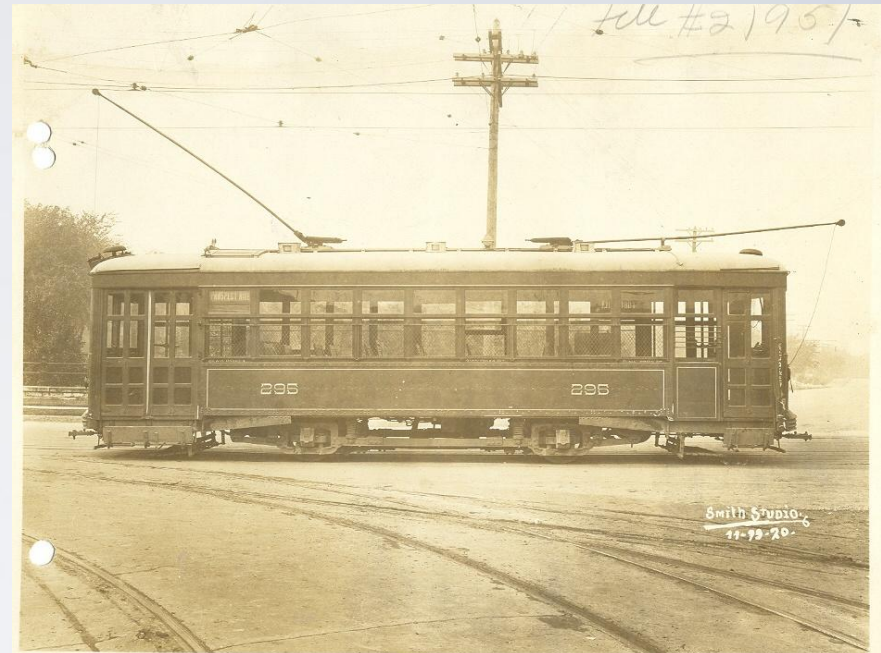
# **Senate Committee on Business and Commerce**

**July 10, 2012**

**Doyle N. Beneby, President & CEO**

# Early History

- **Forerunner of CPS Energy began as San Antonio Public Service Co. (SAPSCo) in 1917**
  - Owned by American Light and Traction Co.
  - Ran city's power plants, gas network and streetcar lines
- **Purchased by City of San Antonio (COSA) in 1942**
  - \$34 million sale price
  - Financed by revenue bonds
  - Sold transportation division
  - Became City Public Service Board of San Antonio
  - Became CPS Energy in 2003
- **Texas' oldest utility company**
  - Gas system originated in 1860



# Who We Are Today

- **Nation's largest municipally owned energy company providing both**
  - Electricity
  - Natural gas
- **We serve over 1 million customers in Bexar County and seven adjoining counties**
  - Over 1,500-square-mile service area
  - 728,000 electric customers
  - 328,000 natural gas customers
- **\$2.3 billion in revenue; \$10 billion in total assets**
  - High revenue bond ratings
- **Approximately 3,600 employees**
  - Payroll for FY 2012 = \$247.5 million



## System Statistics

### CPS Energy Electrical System

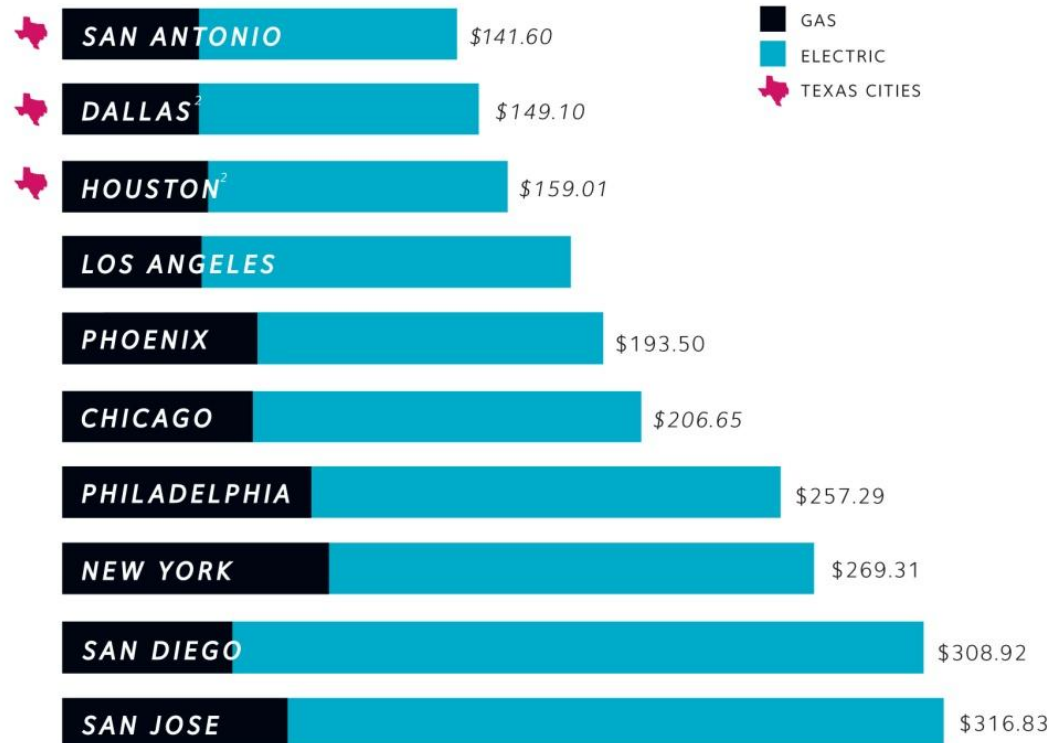
- Overhead lines = 7,682 miles
- Underground lines = 4,593 miles
- Transmission lines = 1,489 miles

### CPS Energy Gas System

- Distribution mains = 5,140 miles
- Transmission mains = 86 miles

# 10 Largest Cities Comparison

## of Average Residential Electric and Gas Bills



<sup>1</sup> Monthly average for 12 months ended January 2012 based on 1,000 kWh and 5 mcf.

<sup>2</sup> The electric amounts used for Dallas and Houston are an average of all REPS in their area.

# Governance

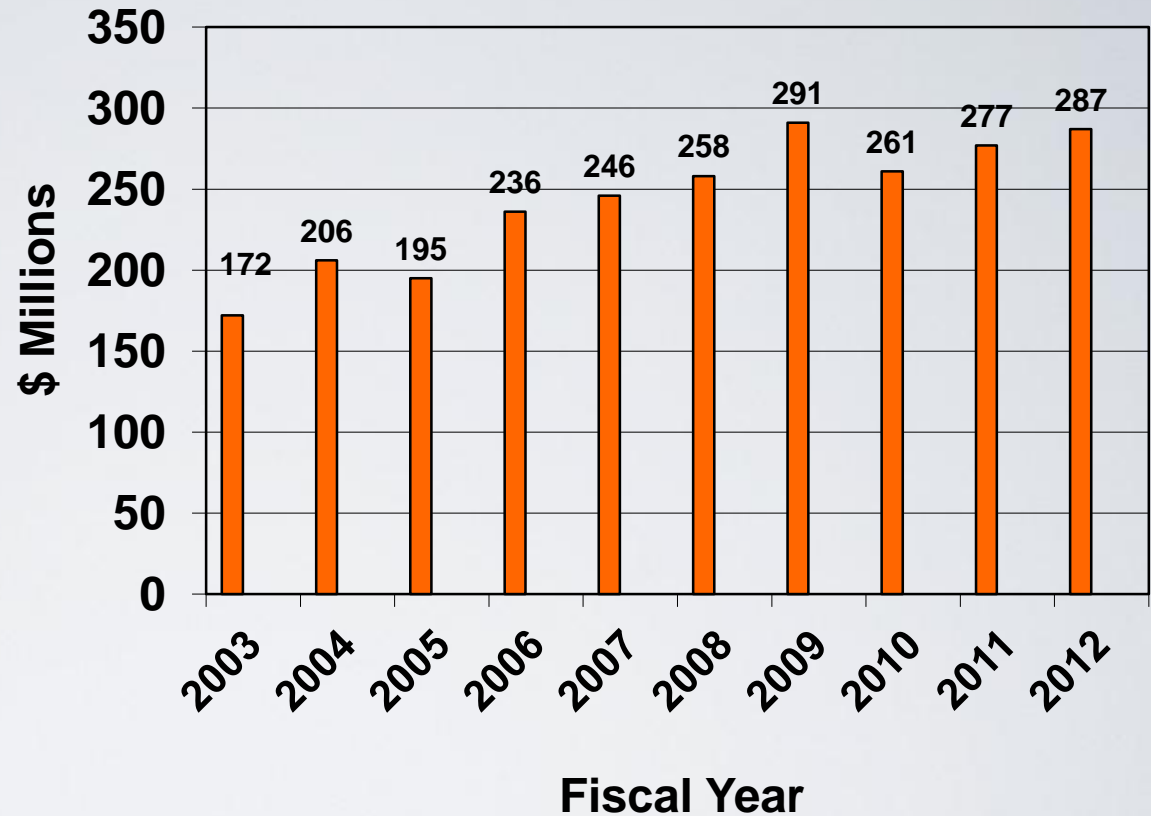
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- **Independent Board of Trustees**
  - Four members representing each quadrant of the utility's service area
  - New members are selected and ratified by existing members of the Board and approved by Council
  - Mayor serves as ex-officio fifth member
  - Trustees must reside within the CPS Energy quadrant that they represent
  - Trustees serve a term of five years and are eligible to serve an additional term
  - Trustees receive an annual stipend of \$2,000; Chair receives \$2,500
- **Per CPS Energy's Bond Ordinance, the City Council must approve the following types of actions:**
  - Issuance of Debt
  - Eminent Domain
  - Rates (set locally)
  - Ratification of Board Nominees, as applicable
- **Citizens Advisory Committee established in 1997**
  - 15 members, one from each San Antonio City Council district and five at-large
  - Liaison between CPS Energy and its customers
  - Provides input to CPS Energy Board and staff



# General Fund Transfer

- Up to 14% of gross revenues (electric & gas) conveyed to COSA monthly
  - \$5.2 billion since 1942
- Provides 25-30% of the City's general operating budget
  - Police & Fire
  - Infrastructure
  - Libraries
  - Streets
  - Parks

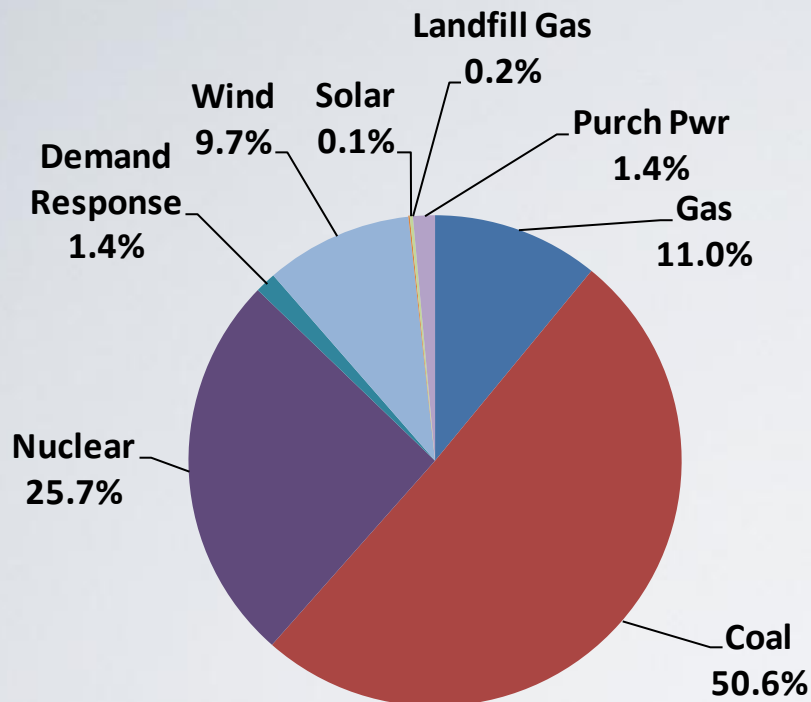


Annual Payments to the City  
of San Antonio



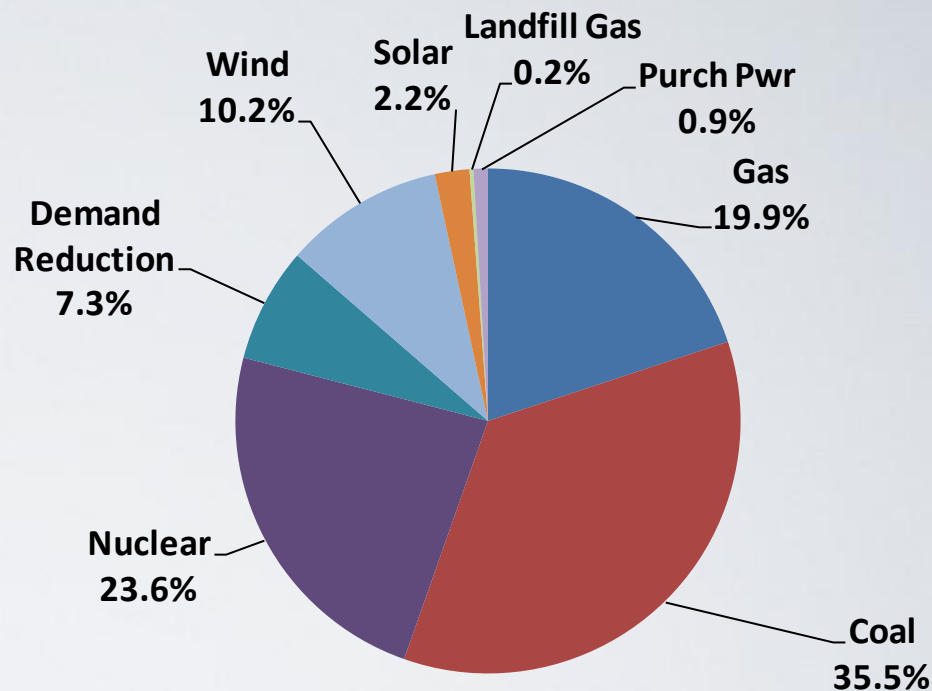
# Generation Portfolio

2011 Generation



Traditional sources = 87.2%  
Renewable sources = 10.0%  
Demand Reduction, Purchases = 2.8%

Projected Generation 2020



Traditional sources = 79.0%  
Renewable sources = 12.7%  
Demand Reduction, Purchases = 8.3%

# Renewable Projects

## Projects in Commercial Operation

Wind	859.0 MW
Landfill Gas	9.6 MW
Solar	34.2 MW
<b>Total</b>	<b>902.8 MW</b>

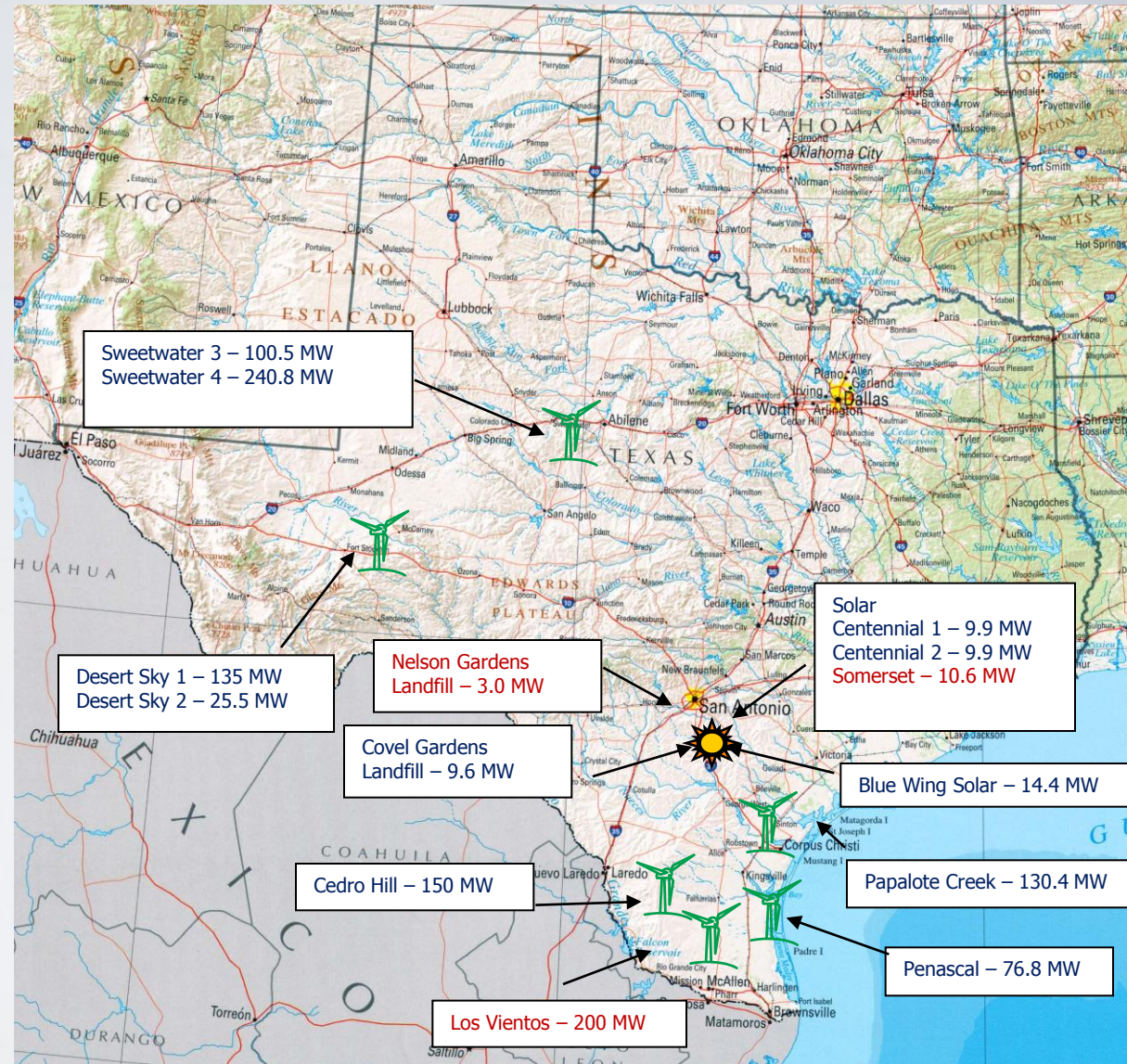
## Renewable Projects Under Contract

Wind	1,059.0 MW
Landfill Gas	12.6 MW
Solar	44.8 MW
<b>Total</b>	<b>1,116.4 MW</b>

**1,100 MW under Power Purchase Agreements**

## Projects in Development

Somerset (solar)	10.6 MW
Nelson Gardens (landfill gas)	3.0 MW
Los Vientos (wind)	200.0 MW
<b>Total</b>	<b>213.6 MW</b>



# CPS Energy Initiatives

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- CPS Energy's Vision 2020 goals are driving specific business decisions that enable CPS Energy to leverage affordable, clean energy development and energy efficiency initiatives to create economic opportunity in San Antonio
- The New Energy Economy supports the plans of SA 2020 to stimulate economic development
  - Demand reduction: 200MW of peak demand reduced by Energy Guard (headquarters relocated to San Antonio, up to 150 Jobs)
  - Clean coal: Signed agreement to purchase 200MW of clean coal (IGCC); project on line in 2015 (regional office will relocate to San Antonio)
  - Natural gas: Rio Nogales acquisition, 800MW NGCC plant
  - LED Lighting: Signed agreement for 25,000 lights (headquarters and manufacturing facility relocated to San Antonio)
  - Solar: 34MW existing, 10MW online in 2014 (regional offices will be in San Antonio), negotiating with OCI for up to 400MW (800 jobs)
  - Nuclear: Remain a partner in STP 3&4; 8% equity owner

# CPS Energy Contacts

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# Doyle N. Beneby - Bio

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Doyle Beneby joined CPS Energy in August of 2010 as the President and Chief Executive Officer. Doyle's background includes senior level positions in power generation, electric power distribution, customer service and labor relations. His most recent position, prior to joining CPS Energy, was as President of Exelon Power.

Under Doyle's leadership CPS Energy has made recent improvements in operational performance and has established partnerships with clean technology companies that will help CPS Energy achieve its goal of becoming a major player in the New Energy Economy.

# CPS Energy Governance Structure

Presentation to Electric  
Utility Commission  
August 18, 2008  
Patricia Tierney Alofsin





# CPS Energy Board of Trustees

- **CPS Energy governed by Board of Trustees since City purchased electric and gas utility in 1942**
- **CPS Energy Board of Trustees Composition**
  - **Five member board**
    - **Four San Antonio citizens from geographical quadrants of city**
    - **San Antonio City Mayor – ex officio member**
      - **Mayor is a voting member of the Board**
      - **Represents the City Council and is responsible for keeping it fully advised and informed of all Board actions.**





# CPS Energy Board of Trustees

- **Terms**
  - Serve five year staggered terms
  - May be reappointed for one term only (maximum 10 years)
  - Member (other than Mayor) may be removed by unanimous vote of remaining board members
- **Board vacancies**
  - Vacancy is filled by majority vote of remaining board members
  - City Council approves new board appointees



# CPS Energy Board of Trustee Qualifications

- **Board member qualifications**
  - City ordinance specifies only that public board members come from four quadrants of City
- **Board suggested job qualifications**
  - Business/management experience (15-20 years)
  - Finance/risk management experience Strategic planning/decision-making abilities
  - Leadership skills: public speaking, political acumen, negotiating



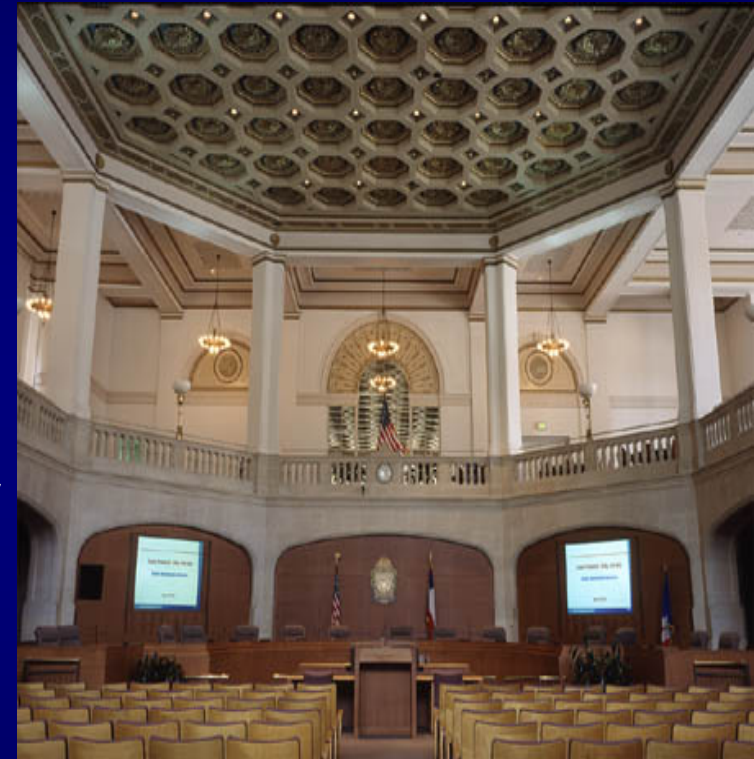
# CPS Energy Board of Trustees Responsibilities

- **Board Authority**
  - Ordinance gives Board “absolute and complete authority and power” to control, manage and operate CPS Energy – electric and natural gas utility
- **General Board responsibilities**
  - Develop company vision (with CEO/General Manager)
  - Renew and approve management strategic and business plans
  - Establish policies for effective stewardship of company resources
  - Ensure management succession plan
  - Develop performance standards for CEO
  - Set and monitor company performance standards
  - Review and approve large transactions
  - Serve the customer first among the various stakeholders
  - Appoint Advisory Board members



# San Antonio City Council

- **City Council Authority over CPS Energy**
  - Rate adjustments
  - Condemnation proceedings
  - Issuance of bonds, notes or commercial paper
- **Appointing board members**
  - City Council appoints board members selected by a majority of CPS Board of Trustees



# CPS Energy Citizens Advisory Committee

- **15-member Citizens Advisory Committee established in 1997 to allow for community involvement with CPS Energy operations.**
- **The advisory committee represents a broad range of customer groups in order to identify their concerns and understand their issues.**
- **City of San Antonio City Council members nominate ten of the 15 members, one representing each district. The other five members are at-large and are nominated by the CPS Citizens Advisory Committee.**
- **CPS Board of Trustees appoints all members to the advisory committee.**
- **Advisory board members serve up to three two-year terms.**



### **Governance Structure of CPS Energy**

The City of San Antonio acquired its electric and gas utilities in 1942 from the American Light and Traction Company, which had been ordered by the federal government to sell properties under provisions of the Holding Company Act of 1935. Complete management and control of the utility was vested in the Board in 1942. The bond ordinances authorizing the issuance of the currently outstanding Senior Lien Obligations, Junior Lien Obligations and Commercial Paper Notes establish management requirements and provide that the complete management and control of the Systems is vested in the Board of Trustees. The Mayor of the City is a voting member of the Board, represents the City Council, and is charged with the duty and responsibility of keeping the City Council fully advised and informed at all times of any actions, deliberations, and decisions of the Board and its conduct of the management of the Systems.

The CPS Energy Board of Trustees, in accordance with bond ordinances, governs the natural gas and electric utility. The Board consists of four citizens representing the four geographical quadrants of the city of San Antonio and the mayor of San Antonio who serves as an ex-officio member. Trustees must reside within the CPS Energy quadrant that they represent. Board members serve for a term of five years and are eligible to serve an additional term.

The Board has full power and authority to make rules and regulations governing the furnishing of electric and gas service and full authority with reference to making extensions, improvements and additions to the Systems, and to adopt rules for the orderly handling of CPS Energy affairs. While the Board serves as the governance authority over CPS Energy, the utility must go to the City Council for the following:

- Rate adjustments
- Condemnation proceedings
- Issuance of bonds, notes, or commercial paper
- Appointing Board members.

Vacancies in membership on the Board are filled by majority vote of the remaining members. New Board appointees must be approved by a majority vote of the City Council. A vacancy in certain cases may be filled by the City Council. The members of the Board are eligible for re-appointment at the expiration of their first five-year term of office to one additional term.

In 1997, CPS Energy established a 15-member Citizens Advisory Committee (“CAC”) to enhance its relationship with the community and to address the City Council’s goals regarding broader community involvement with CPS Energy. The CAC meets monthly and the primary goal of the CAC is to provide recommendations from the community on the operations of CPS Energy for use by the Board and CPS Energy staff. Representing the various sectors of CPS Energy service area, the CAC encompasses a broad range of customer groups in order to identify their concerns and understand their issues. City of San Antonio City Council members nominate ten of the 15 members, one representing

each district. The other five members are at-large candidates interviewed and nominated by the CPS Energy Citizens Advisory Committee from those submitting applications and resumes. The CPS Energy Board of Trustees appoints all members to the committee. Members can serve up to three two-year terms.



Below is the formal text relating to CPS Energy's Governance Structure from the most recent city ordinance that authorized the revenue bond issue for electric and gas systems.

The Mayor of the City shall be a voting member of the Board, shall represent the City Council thereon, and shall be charged with the duty and responsibility of keeping the City Council fully advised and informed at all times of any actions, deliberations and decisions of the Board and its conduct of the management of the Systems.

All vacancies in membership on the Board (excluding the Mayor of the City), whether occasioned by failure or refusal of any person previously named to accept appointment or by expiration of term of office or otherwise, shall be filled in the following manner: a nominee to fill such vacancy shall be elected by the majority vote of the remaining members of the Board of Trustees, such majority vote to include the vote of the Mayor. The name of such nominee shall then be submitted by the Mayor to the vote of the City Council, which by a majority vote of the members thereof then in office shall, as evidenced by ordinance or resolution, either confirm or reject such nominee; provided, however, if the City Council fails to act upon such nominee, such failure to do so shall be considered as a rejection of such nominee and another nominee shall be selected by the Board. If a vacancy occurs and the remaining members of the Board (including the Mayor) fail to elect a nominee to fill such vacancy within sixty (60) days after the vacancy occurs (or fail to select another nominee within sixty (60) days after rejection of a nominee by the City Council), the City Council, by a majority vote of the members thereof then in office, shall elect a person to fill such vacancy and shall appoint such Trustee by resolution or ordinance. In the event the City rejects or fails to confirm three (3) consecutive nominees of the Board to fill a vacancy on the Board, the City Council shall, within thirty (30) days after the third rejection, appoint a temporary Trustee to fill such vacancy pending the appointment of a permanent Trustee to fill such vacancy. The appointment of a temporary Trustee by the City Council shall constitute the nomination of such appointee as the permanent Trustee to fill such vacancy. Unless the remaining members of the Board, by a majority vote, reject the nominee selected by the City Council within thirty (30) days after his appointment as a temporary Trustee, the appointment shall become final and the temporary Trustee shall automatically become the permanent Trustee to fill such vacancy. In such vote, the vote of the Mayor shall automatically be cast as a vote in favor of the confirmation of such Trustee, whether cast by the Mayor or not.

If the nominee of the City Council is rejected by a majority vote of the remaining Trustees, the remaining Trustees shall within thirty (30) days after such rejection elect another nominee to fill such vacancy. Such nominee shall be considered by the City Council and if approved shall become the permanent Trustee. If such nominee is rejected by a majority vote of the members of the City Council then in office, or in the event the City Council fails to act upon such nomination within thirty (30) days after the nomination is presented to the City Council, the temporary Trustee theretofore appointed by the City Council shall automatically become the permanent Trustee to fill such vacancy. The term of office of each member appointed to the Board shall be five (5) years. A person who has served as an appointed member of the Board for a single five-

year term shall be eligible for reappointment for one additional five-year term and one only. A member who is appointed to the Board to serve out an unexpired portion of a retired member's term shall not be considered to have served a "term" unless the unexpired portion of the term so served is three (3) years or more. Permanent removal of residence from Bexar County by any appointed member of the Board shall vacate his office as a member of the Board, or any member (other than the Mayor of the City) who shall be continuously absent from all meetings held by the Board for a period of four (4) consecutive months shall, unless he shall have been granted leave of absence by the unanimous vote of the remaining members of the Board, be considered to have vacated his office as a member of the Board. Any member of the Board, other than the Mayor of the City, may, by unanimous vote of the remaining members of the Board, be removed from office, but only for adequate cause.

Except as otherwise specifically provided in this Ordinance, the Board of Trustees shall have absolute and complete authority and power with reference to the control, management, and operation of the Systems and the expenditure and application of the revenues of the Systems subject to the provisions contained in this Ordinance, all of which shall be binding upon and shall govern the Board of Trustees. In connection with the management and operation of the Systems and the expenditure and application of the revenues therefrom, the Board of Trustees shall be vested with all of the powers of the City with respect thereto, including all powers necessary or appropriate for the performance of all of the covenants, undertakings, and agreements of the City contained in this Ordinance, and shall have full power and authority to make rules and regulations governing the furnishing of electric and gas service to customers and for the payment of the same, and for the discontinuance of such services upon failure of customers to pay therefor, and, to the extent authorized by law, shall have full authority with reference to making of extensions, improvements, and additions to the Systems and the acquiring by purchase or condemnation of properties of every kind in connection therewith.

The Board of Trustees, in exercising the management powers granted herein, will ensure that policies adopted affecting research, development, and corporate planning will be consistent with City Council policy, and policies adopted by the Board of Trustees pertaining to such matters will be subject to City Council review.

The Board of Trustees shall elect one of its members as Chairman and one as Vice Chairman of the Board and shall appoint a Secretary and a Treasurer, or a Secretary-Treasurer, who may, but need not be, a member or members of the Board. If a member of the Board of Trustees is not appointed as Secretary or Treasurer, or Secretary-Treasurer, then an employee or employees of the Board whose duties in the operation of the Systems require performance of similar duties may be appointed as Secretary or Treasurer or Secretary-Treasurer. The Board of Trustees may follow and adopt such rules for the orderly handling of its affairs as it may see fit and may manage and conduct the affairs of the Systems with the same freedom and in the same manner ordinarily employed by the board of directors of private corporations operating properties of a similar nature. No member of the Board of Trustees, however, shall ever vote by proxy in the exercise of his duties as a Trustee.

The Board of Trustees shall appoint and employ all officers, employees, and professional consultants which it may deem desirable, including without limitation, a General Manager and CEO of the Systems, attorneys, engineers, architects, and other advisors. No officer or employee of the Board of Trustees may be employed who shall be related within the second degree of consanguinity or affinity to any member of the Board of Trustees.

The Board of Trustees shall obtain and keep continually in force an employees' fidelity and indemnity bond of the so-called "blanket" type, written by a solvent and recognized indemnity company authorized to do business in the State of Texas and covering losses to the amount of not less than One Hundred Thousand Dollars (\$100,000). The members of the Board of Trustees, other than the Mayor of the City, shall receive annual compensation in the minimum amount of Two Thousand Dollars (\$2,000.00), except that the Chairman of the Board shall receive annual compensation in the minimum amount of TwoThousand Five Hundred Dollars (\$2,500.00). Such compensation may be increased from time to time by the majority vote of the City Council then in office.

The members of the Board of Trustees and administrative officers shall not be personally liable, either individually or collectively, for any act or omission not willfully fraudulent or in bad faith.



## Board Role & Accountabilities Statement

### CPS Energy Board of Trustees—Overview

The CPS Energy Board of Trustees is vested with full authority and accountability for the short- and long-term performance of San Antonio’s municipally-owned electric and natural gas utility system. The role of a Trustee serving on the CPS Energy Board is to work in a collegial environment with other peers with a commitment to ensure the organization’s future viability and effectiveness in serving the Greater San Antonio community<sup>1</sup>.

Generally, the following are activities that the Board undertakes to fulfill its responsibilities, as outlined in the CPS Energy Board of Trustee Agenda and Focus Document:

- Lead in partnership with the General Manager/CEO in developing and articulating the company’s vision.
- Review and approve management strategic and business plans to achieve the vision.
- Establish and affirm policies that promote effective stewardship and allocation of company resources.
- Ensure management succession planning.
- Select, support and develop performance standards for the CEO.
- Understand, provide oversight and monitor the performance of CPS Energy.
- Review and approve large transactions.
- Set the tone for ethical behavior and act in a manner that instills public confidence.
- Serve the customer first among the various stakeholders.
- Follow all applicable laws.
- Promote trust within and among stakeholders.

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<sup>1</sup> See Appendix



## Board Role & Accountabilities Statement

### CPS Energy Board of Trustees—Job Duties

The more specific accountabilities of the Board are defined in the following key strategy and managerial roles:

The Board's strategic role is to:

- Evaluate and approve CPS Energy's long-term business strategy to ensure that its business model is and remains sustainable over the next 5-10 years.
- Contemplate and affirm the organizational structure required to enable long-term strategy development.
- Provide oversight and monitoring of strategy implementation.

In its role as the *manager* of the CEO, the Board:

- Defines the nature and levels of work for which the CEO and his direct reports are accountable.
- Determines appropriate delegation of authority to the CEO role.
- Is the owner for the CEO succession process and has direct authority over CEO selection or de-selection.
- Designs and implements performance metrics and compensation structure for the CEO role, and ensures alignment with the rest of the enterprise.
- Evaluates the leadership effectiveness and performance of the CEO role.
- Exercises decision authority over the CEO employment contract, including its terms and conditions.

The Board, acting as the *Manager Once Removed (MOR)* of the CEO direct reports, is responsible for:

- Overseeing the framework to identify and develop CEO direct reports as possible CEO successors.
- Providing input towards the assignment or removal of CEO's direct reports.
- Periodically reviewing talent management efforts focused at building a "leadership pipeline" that among other things is focused on creating future generations of CEO successors.
- Overseeing talent development for top senior leadership positions.

The Board, acting in its *fiduciary oversight capacity* is accountable for:

- Financial control oversight as executed through the audit function. The Board will ensure that appropriate systems and controls are in place to provide accurate and timely financial reporting.
- Fiscal oversight regarding any material changes to the capital structure of the organization, including major financing transactions such as large asset sales or bonds issues.
- General enterprise oversight.



## Board Role & Accountabilities Statement

### **CPS Energy Board of Trustees—Job Qualifications**

Given the nature of the work of the CPS Board, the following lists the attributes, such as desired experience, knowledge and skills, for future nominees, determined through Board consensus.

#### **Experience:**

- College degree and/or equivalent business experience, i.e. owner or operator of small business or military background.
- Management and/or business background with a minimum of 10 years (preferred 15-20 years) of experience.
- Understanding of enterprise risk management and financial reporting in regulated environments, i.e. knowledge of Sarbanes-Oxley Act.
- Understanding the transformation from regulated to unregulated business environments.
- Understanding of public policy in a proprietary governmental entity.
- Demonstrated (effective) communication skills in a public setting.

#### **Knowledge:**

- Financial Acumen: Knowledgeable regarding complex financial transactions; experienced with capital budgeting; understanding of business ratios as they pertain to financial statements; developing and managing a budget or program.
- Strategic Planning: Understanding of the economic drivers of a business; able to scan environment and evaluate innovative strategies and new business models; able to manage diverse community and economic interests.
- Corporate Governance: Demonstrated knowledge of the difference between corporate governance and management.

#### **Leadership Skills:**

- Business Acumen
- Decision Quality
- Ethics and Values
- Integrity and Trust
- Negotiating
- Peer Relationships
- Political Savvy
- Standing Alone/Independence
- Strategic Agility
- Ability to learn



## Board Role & Accountabilities Statement

### **Time Requirements:**

- 10-20 hours per month including preparation and attendance at monthly board meetings, attendance at work sessions as needed
- Travel to conferences
- Ability to serve up to 10 years (based on two 5-year terms)
- Serve as Board Chair every 4 years via the Board's rotating chairmanship position





## Board Role & Accountabilities Statement

### APPENDIX

The job description is generally described in Section 24 (Management of the Systems) of the Bond Ordinance adopted by the City Council of the City of San Antonio. According to paragraph 5 (and further defined in paragraphs 7 and 8 of Section 24 of the Ordinance),

*“the Board of Trustees shall have absolute and complete authority and power with reference to the control, management, and operation of the System and the expenditure and application of the revenues of the Systems subject to the provisions contained in this Ordinance, all of which shall be binding upon and shall govern the Board of Trustees.”*

The ordinance that establishes the Board of Trustees as the legitimate authority, however, does not speak to the segregation of duties between the Board of Trustees and those officers and employees it appoints and employs. Simply said, the job description of the Board is generally stated to:

1. Ensure the future viability and prosperity of City Public Service (CPS Energy);  
and
2. Ensure proper performance oversight of City Public Service (CPS Energy).

## **INVITATION**

As our city faces important decisions regarding our energy future, we invite you to consider applying for a soon-to-be-vacant position on the CPS Energy Board of Trustees. Our Board is a civic-minded group of five individuals committed to the oversight and well-being of CPS Energy, whose mission is to produce and deliver competitive energy products and services to meet the changing expectations of our customers in Greater San Antonio. As the nation's largest municipally owned utility with both natural gas and electric service, CPS Energy serves customers who are also the owners, and the utility daily strives to meet our Core Purpose: Benefiting our community by improving the quality of life of the people we serve.”

The Vision of the CPS Energy Board of Trustees is as follows:

*“To serve our community, we are a Board with a collective voice that, through our diverse experiences, continuous building of trust, leadership, ethics and respect for each Trustee’s valued perspective, creates an environment of governance that fosters public trust.”*

To be effective in governing the CPS Energy organization, we abide by a set of Core Values:

- Seek consensus.
- Promote different perspectives from diversity of thought and experience.
- Have respect for the individual.
- Foster relationships with others.
- Demonstrate competency.
- Make decisions based upon common and shared values.
- Be responsible to the community.
- Foster public confidence in the utility and the Board.
- Be visionary.
- Ensure environmental stewardship.

We invite all interested candidates who have a similar mindset to serve their community to apply.

Item V-C  
Discussion/Action Item

## Utilities Policy Advisory Committee

### Governance Structure Review Assignment

Presented to  
Colorado Springs Utilities Board  
February 22, 2012

1

Item V-C  
Discussion/Action Item

## Committee Members

- Terri Carver, Chair
- Jerry Novak, Vice Chair
- Prince Dunn II
- Tom Taylor
- Janna Blanter
- Anthony Elia
- Balu Bhayani
- Allen Bray - alternate

2

Item V-C  
Discussion/Action Item

## Presentation Overview

- Assignment Scope
- Background
- Research, Review and Input
- Advantages and Disadvantages
- Governance Deliberations
- Governance Structure Recommendation
- Discussion

3

Item V-C  
Discussion/Action Item

## Assignment Scope

- Identify governance options with pros and cons
- Make recommendation on governance structure

4

Item V-C  
Discussion/Action Item

## Research, Review and Input

- Governance Alternatives White Paper, January 2011
- Industry Peers
  - Bud Para, JEA, Jacksonville Utilities
  - Patti Wells, Denver Water
  - Mike Gianunzio, multiple utilities
  - Edward Easterlin, Omaha Public Power District
  - Mike Cafasso, Pueblo Board of Waterworks

5

Item V-C  
Discussion/Action Item

## Research, Review and Input

- Governance experts
  - Dr. Jeff Tarbert, American Public Power Association
  - Kimberley Sherwood, Third Sector Group
- Other input
  - Former Mayor, Lionel Rivera
  - Citizen comment

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Item V-C  
Discussion/Action Item

## Governance Options Considered:

**City Council  
or  
Independent Board**

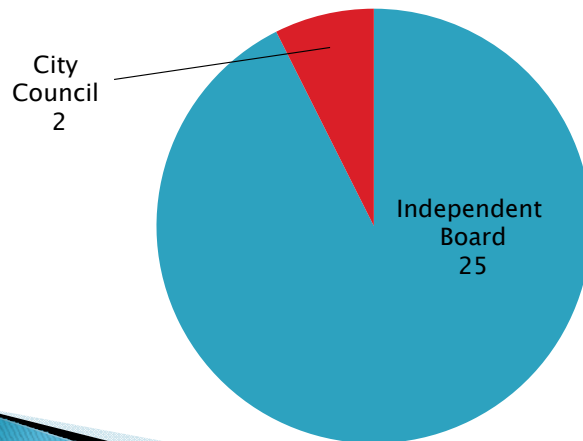
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Item V-C  
Discussion/Action Item

## Governance Best Practices

### Governing Body

### Primary Research of 27 Peer Utilities



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Item V-C  
Discussion/Action Item

## Advantages of an Independent Board

- Aligns with best practice at successful large public utilities
  - \*Ability to focus on one organization
  - \*More time to become knowledgeable about the complex utilities industry and organization
  - Recommended by previous commissions and UPAC assignments
- Sole interest is utility customers
  - More time to interact with utilities customers
  - Ability to select members based on qualifications to govern utilities
  - Closer alignment between board, utilities management and staff

\*Considerations with the most weight

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Item V-C  
Discussion/Action Item

## Advantages of an Independent Board

- Rating agencies look for Boards that minimize political impact
  - Less political and special interest group influence
  - More efficient and streamlined approval process
  - Aligns with Sarbanes-Oxley Act
  - More continuity of leadership

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Item V-C  
Discussion/Action Item

## Disadvantages of an Independent Board

- ▶ Potentially less aligned with municipal government goals
  - Potentially less responsive to greater stakeholder and citizen needs
- ▶ Governance transition challenges
  - Requires change to City Charter and Code
  - Additional resources may be required to establish and maintain new board
  - May be difficult to recruit and retain qualified board members

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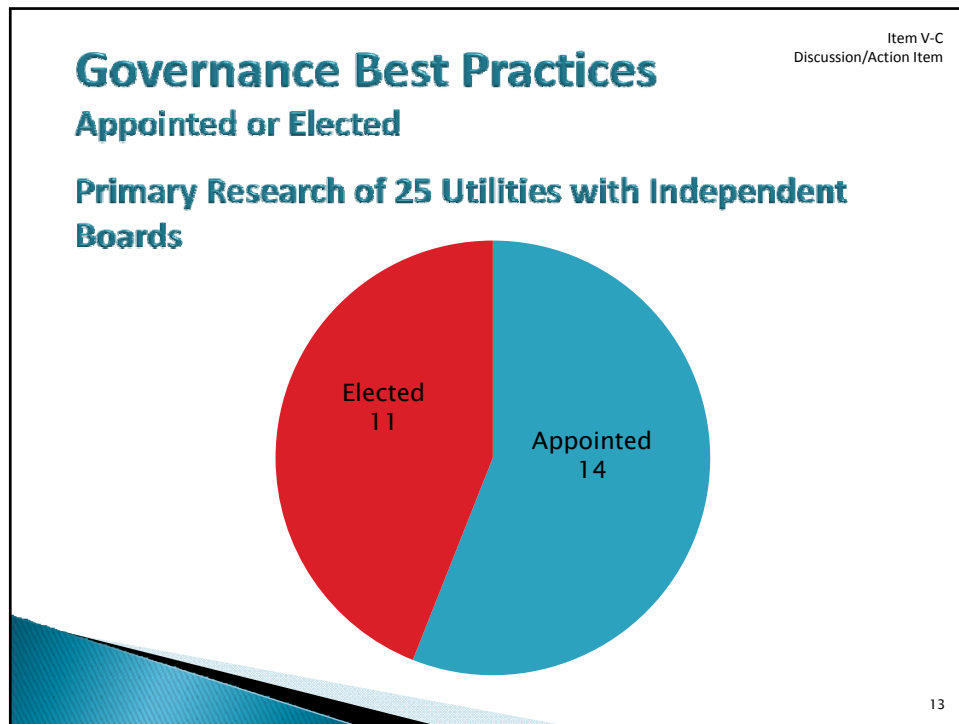
Item V-C  
Discussion/Action Item

## Options Considered:

**Appointed  
or  
Elected**

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Item V-C  
Discussion/Action Item

**Advantages of an Appointed Board**

- ▶ \*Members appointed based on their qualifications to govern a complex utility
- ▶ \*Potentially less political influence by special interests in an election
- ▶ Cost effective and timely process to appoint, remove and replace board members to ensure accountability to citizen-owners
- ▶ More focus and continuity in utility oversight

\*Considerations with the most weight

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Item V-C  
Discussion/Action Item

## Disadvantages of an Appointed Board

- ▶ May be unduly influenced by City elected officials
- ▶ City elected officials may appoint members based on special interest representation

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Item V-C  
Discussion/Action Item

## Advantages of an Elected Board

- ▶ \*More directly accountable to citizen-owners
- ▶ Minimizes influence by possible special interest appointments
- ▶ Independent perspective on utility operations without regard to other political interests

\*Consideration with the most weight

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Item V-C  
Discussion/Action Item

## Disadvantages of an Elected Board

- ▶ Time needed for reelection may take away from Board duties
- ▶ No assurance of qualifications
- ▶ Can only be replaced in the next election
- ▶ More likely to be influenced by special interest groups
- ▶ May be more difficult to raise rates to cover cost of service
- ▶ May emphasize public input over best business practices

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Item V-C  
Discussion/Action Item

## Governance Deliberation

- ▶ Principal decision-making responsibilities
  - Policy-setting
  - Legislative
  - Regulatory
- ▶ Appropriate governance roles
  - Independent Board, City Council, Mayor
- ▶ Structure components
- ▶ Member qualities, composition
- ▶ Method to select

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Item V-C  
Discussion/Action Item

## Governance Structure Recommendation

- ▶ Independent Board of Directors
- ▶ Nominated by Mayor, confirmed by City Council
- ▶ Seven board members
- ▶ Four-year staggered terms
- ▶ Maximum of three terms
- ▶ Reasonable compensation

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Item V-C  
Discussion/Action Item

## Governance Structure Recommendation

- ▶ Independent board sole authorities
  - Set strategic direction and policies
  - Approve annual operating plan and budget
  - Establish tariffs
  - Approve rate changes
  - Set and approve changes to rules and regulations
  - Approve revenue bond issuances
  - Hiring and reporting authority for the chief executive officer
  - Monitor organizational performance
  - Approve execution of contracts to implement decisions made

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Item V-C  
Discussion/Action Item

## Other Considerations

- ▶ Independent legal counsel
- ▶ Transfer payments from the utility to the municipal government
  - Transfer payments issue needs further consideration
  - Predictability of transfer payments critical to operations and stability of utility and the Board
  - Predictability is key factor considered by rating agencies
- ▶ Robust public and stakeholder input necessary to implement governance change

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Discussion/Action Item

## Discussion

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# JEA Board Policy Manual



# ***JEA Board Policy Manual***

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## ***JEA Board Policy Manual***

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- A1 Executive Core Competencies
- A2 JEA Charter (Article 21 of City of Jacksonville Ordinance Code)
- A3 By-Laws of JEA

# ***JEA Board Policy Manual***

**Record of Amendments:**

[illegible]

# ***JEA Board Policy Manual***

## **POLICY TYPE: ENDS**

### **POLICY 1.0**

### **POLICY TITLE: *GLOBAL ENDS***

---

*JEA exists to provide clean, safe, reliable, and reasonably priced electric, water and sewer services to the citizens of Jacksonville and portions of surrounding counties while remaining environmentally sound and financially strong while providing revenue for the City of Jacksonville.*

- 1.1 **Quality of Electric Service:** Provide clean, safe and reliable electric service to all prescribed consumers.
- 1.2 **Quality of Water Service:** Provide clean, safe and reliable water service to all prescribed consumers.
- 1.3 **Quality of Sewer Services:** Provide clean, safe and reliable sewer services to all prescribed consumers.
- 1.4 **Cost of Service:** Provide all utility services at a reasonable and accurate cost.
- 1.5 **Environmentally Sound:** Provide all utility services in a manner that is environmentally sound and sustainable.
- 1.6 **Informative Communication:** Effectively communicate with consumers and other stakeholders.

## ***JEA Board Policy Manual***

### **POLICY TYPE: ENDS**

#### **POLICY 1.1**

#### **POLICY TITLE: *QUALITY OF ELECTRIC SERVICE***

---

*Provide clean, safe and reliable electric service to all prescribed consumers.*

- 1.1.1 Annually update an Electric Integrated Resource Supply Plan (IRP) to ensure consumers' future electricity supply needs are met at the lowest evaluated total lifecycle cost while maintaining fuel diversity.
  - a. Develop resources or agreements to ensure that JEA's electric energy supply is 10% nuclear by 2017.
- 1.1.2 Minimize the frequency of electric distribution system outages and report status through the System Average Interruption Frequency Index (SAIFI-2).
- 1.1.3 Minimize the frequency of electric distribution system voltage sags and report status through the System Average Root Mean Square Frequency Index (SARFI-80).
- 1.1.4 Minimize the duration of electric distribution system outages and report status through the System Average Interruption Duration Index (SAIDI).

## ***JEA Board Policy Manual***

### **POLICY TYPE: ENDS**

#### **POLICY 1.2**

#### **POLICY TITLE: *QUALITY OF WATER SERVICE***

---

*Provide clean, safe and reliable water service to all prescribed consumers.*

- 1.2.1 Annually update a Total Water Management Plan (TWMP) to ensure consumers' future water supply needs are met at the lowest evaluated cost while also ensuring water resources are available for future generations.
  - a. The TWMP is to include evaluation of water supply alternatives.
- 1.2.2 Minimize the duration of water distribution system low pressure events and report status of the number of cumulative minutes water pressure drops below 30 pounds per square inch (psi) for all existing water distribution system pressure monitoring points.
- 1.2.3 Conduct water testing in accordance with the standards of the Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA) and report testing results to all water consumers and stakeholders.



## ***JEA Board Policy Manual***

### **POLICY TYPE: ENDS**

#### **POLICY 1.3**

#### **POLICY TITLE: *QUALITY OF SEWER SERVICE***

---

*Provide clean, safe and reliable sewer service to all prescribed consumers.*

- 1.3.1 Minimize the frequency of sewer back-ups and overflows and report status by
  - a. the number of Sanitary Sewer Overflows (SSO's) per 100 miles of existing sewer pipe
  - b. the total number of sewer system cave-ins
- 1.3.2 Limit the total amount of nutrients discharged into the St. John's River from all wastewater treatment facilities.
  - a. Reduce the total nutrient discharge into the St. John's River to meet JEA's Florida Department of Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) allocation.
  - b. Increase the amount of reclaimed water produced and distributed.

## ***JEA Board Policy Manual***

**POLICY TYPE: ENDS**

**POLICY 1.4**

**POLICY TITLE: *COST OF SERVICE***

---

*Provide all utility services at a reasonable and accurate cost.*

- 1.4.1 All utility services are to be reasonably priced.
  - a. Pricing for all utility services is to be frequently benchmarked against other state and regional utilities to demonstrate competitiveness.
  - b. Pricing for each utility service for all classes of consumers is to be based on the cost to serve each consumer class. Cost of service studies are to be conducted in no more than five year intervals.
- 1.4.2 Minimize the number of consumer bills that are inaccurate, are estimated due to the lack of a current meter reading, or are untimely. The expectation is 99.9% accurate and timely.

## ***JEA Board Policy Manual***

### **POLICY TYPE: ENDS**

#### **POLICY 1.5**

#### **POLICY TITLE: ENVIRONMENTALLY SOUND**

---

*Provide all utility services in a manner that is environmentally sound and sustainable.*

- 1.5.1 The CEO is expected to comply with all existing environmental regulations that apply.
- 1.5.2 Conservation: Pursue all options to communicate and incentivize customer conservation and efficiency while avoiding excessive customer cost.
  - a. Electric System: Establish an electric conservation fund by collecting an additional one cent per kwh for every kwh over 2750 on monthly residential consumption and by allocating 50 cents per mwh of base rate revenues (a total of approximately 0.5% of electric gross revenues.) The funds are to be spent for customer conservation initiatives and incentives only.
- 1.5.3 Renewable Energy Supply: Explore all options for renewable electric energy supply while avoiding excessive customer cost since a state or federal Renewable Electricity Standard (RES) is yet to be established and the timing for setting a standard remains uncertain.

## ***JEA Board Policy Manual***

**POLICY TYPE: ENDS**

**POLICY 1.6**

**POLICY TITLE: INFORMATIVE COMMUNICATION**

---

*Effectively communicate with consumers and other stakeholders.*

- 1.6.1 To influence consumer paradigms of utility expectations.
- 1.6.2 To influence public dialogue on local, state and national energy and water and sewer issues.
- 1.6.3 To inform consumers of as well as the reasons for significant potential or pending changes to utility services or charges.
- 1.6.4 To inform consumers of conservation incentives and other activities that if implemented would reduce their consumption and, therefore, result in higher or lower utility cost than if the incentives or activities were not employed.

# **JEA Board Policy Manual**

## **POLICY TYPE: EXECUTIVE LIMITATIONS**

### **POLICY 2.0**

### **POLICY TITLE: GENERAL EXECUTIVE CONSTRAINT**

*The CEO shall not cause or allow any organizational practice, activity, decision, or circumstance that is either unlawful, imprudent, or in violation of commonly accepted business and professional ethics and practices.*

- 2.1     **Treatment of Consumers:** With respect to interactions with consumers or those applying to be consumers, the CEO shall not cause or allow conditions, procedures, or decisions that are unsafe, untimely, undignified, or unnecessarily intrusive.
- 2.2     **Treatment of Staff:** With respect to the treatment of staff, the CEO may not cause or allow conditions that are unfair, unsafe, undignified, disorganized, or unclear.
- 2.3     **Financial Planning/Budgeting:** The CEO shall not cause or allow financial planning for any fiscal year or the remaining part of any fiscal year to deviate materially from the Board's Ends priorities, risk financial jeopardy, or fail to be derived from a multiyear plan.
- 2.4     **Financial Condition and Activities:** With respect to the actual, ongoing financial conditions and activities, the CEO shall not cause or allow the development of financial jeopardy or material deviation of actual expenditures from Board priorities established in Ends policies.
- 2.5     **Workforce Readiness and Succession Planning:** The CEO shall not allow the workforce to be unprepared to meet current or future business demands.
- 2.6     **Asset Protection:** The CEO shall not cause or allow corporate assets to be unprotected, inadequately maintained, or unnecessarily risked.
- 2.7     **Compensation and Benefits:** With respect to employment, compensation, and benefits to employees, consultants, contract workers, and volunteers, the CEO shall not cause or allow jeopardy to financial integrity or to public image.
- 2.8     **Communication and Support to Board:** The CEO shall not cause or allow the Board to be uninformed or unsupported in its work.
- 2.9     **Regulatory/Legislative Requirements:** The CEO will not fail to effect regulatory and legislative action favorable to the organization.
- 2.10    **Enterprise Risk Management:** The CEO shall not cause or allow conditions, procedures or decisions which fail to identify, measure, monitor and manage, within established risk tolerances, potential events that may affect achievement of the Ends.
- 2.11    **Procurement Activities:** The CEO shall not fail to develop procurement policies and procedures that adhere to all applicable federal, state and local laws and ordinances and provide for increased public confidence in the procurement activities of JEA.

# ***JEA Board Policy Manual***

## **POLICY TYPE: EXECUTIVE LIMITATIONS**

### **POLICY 2.1**

### **POLICY TITLE: *TREATMENT OF CONSUMERS***

---

*With respect to interactions with consumers or those applying to be consumers, the CEO shall not cause or allow conditions, procedures, or decisions that are unsafe, untimely, undignified, or unnecessarily intrusive.*

Accordingly, the CEO will not:

- 2.1.1 Elicit information for which there is no clear necessity.
- 2.1.2 Use methods of collecting, reviewing, transmitting, or storing client information that fail to protect against improper access.
- 2.1.3 Fail to operate facilities with appropriate accessibility and privacy.
- 2.1.4 Fail to establish with consumers a clear understanding of what may be expected and what may not be expected from service offered.
- 2.1.5 Fail to operate without clearly established and updated Customer Service procedures and published rules and regulations for service.
- 2.1.6 Fail to operate without mechanisms for collecting consumer complaints that provide for resolution at the lowest staff level and also include prompt response when warranted.



# ***JEA Board Policy Manual***

**POLICY TYPE: EXECUTIVE LIMITATIONS****POLICY 2.2****POLICY TITLE: *TREATMENT OF STAFF***

---

*With respect to the treatment of paid and volunteer staff, the CEO may not cause or allow conditions that are unfair, unsafe, undignified, disorganized, or unclear.*

Accordingly, the CEO will not:

- 2.2.1 Operate without written personnel rules and regulations that
  - a. clarify rules for staff
  - b. provide for effective handling of grievances
  - c. protect against wrongful conditions such as nepotism and grossly preferential treatment for personal reasons.
  - d. allow for volunteerism in the community
  - e. require high ethical standards
  - f. recognize the need for work/life balance
- 2.2.2 Operate without written job descriptions and performance requirements and reviews that
  - a. characterize the nature of work to be performed
  - b. identify technical, behavioral and physical skills required
  - c. identify clear standards of accountability
- 2.2.3 Fail to provide a safe work environment.
- 2.2.4 Fail to identify and provide training necessary to accomplish the quality of work expected.
- 2.2.5 Allow discrimination or retaliation against any staff member for non-disruptive expression of dissent.
- 2.2.6 Fail to acquaint staff with the CEO's interpretation of their protections under this policy.
- 2.2.7 Allow staff to be under prepared to deal with emergency situations.
- 2.2.8 Fail to insure that the company's Core Values are routinely communicated and reinforced to all employees.

## ***JEA Board Policy Manual***

### **POLICY TYPE: EXECUTIVE LIMITATIONS**

#### **POLICY 2.3**

#### **POLICY TITLE: *FINANCIAL PLANNING/BUDGETING***

---

*The CEO shall not cause or allow financial planning for any fiscal year or the remaining part of any fiscal year to deviate materially from the Board's Ends priorities, risk financial jeopardy, or fail to be derived from a multiyear plan.*

Accordingly, the CEO will not:

- 2.3.1 Risk incurring those situations or conditions described as unacceptable in the Board policy "Financial Condition and Activities."
- 2.3.2 Fail to include credible projection of revenues and expenses, separation of capital and operational items, cash flow, and disclosure of planning and budgeting assumptions.
- 2.3.3 Fail to identify the source for capital expenditures (e.g. internally generated cash, new debt, carry over funds from previous fiscal year).
- 2.3.4 Fail to adhere to approved tariff rates and fees.
- 2.3.5 Fail to set and follow an annual budgeting process that results in a final budget submittal to City Council by July 1 proceeding the budgeted fiscal year.
- 2.3.6 Provide less for Board prerogatives during the year than is set forth in the "Cost of Governance" policy.

# ***JEA Board Policy Manual***

**POLICY TYPE: EXECUTIVE LIMITATIONS****POLICY 2.4****POLICY TITLE: *FINANCIAL CONDITION AND ACTIVITIES***

---

*With respect to the actual, ongoing financial conditions and activities, the CEO shall not cause or allow the development of financial jeopardy or material deviation of actual expenditures from Board priorities established in Ends policies.*

Accordingly, the CEO will not:

- 2.4.1 Fail to operate within the budget established for the fiscal year.
- 2.4.2 Make budget transfers in excess of \$5,000,000 without Board approval.
- 2.4.3 Fail to inform the Board in monitoring reports when reserves are required to meet current expenditures.
- 2.4.4 Fail to maintain financial and accounting separation between electric, water and wastewater, and District Energy funds as required by regulatory agencies and bond covenants.
- 2.4.5 Fail to operate within established financial parameters nor fail to engage the board when established parameters are considered inadequate to affect a desired bond rating.

Current financial parameters:

- a. Debt Service Coverage
  - b. Fixed Charge coverage
  - c. Cash on Hand
  - d. Working Capital
  - e. Line of Credit
  - f. Fuel Rate Reserve
- 2.4.6 Operate in violation of JEA's Debt Management Policies.
  - 2.4.7 Fail to settle payroll and debts in a timely manner.
  - 2.4.8 Allow tax payments or other government-ordered payments or filings to be overdue or inaccurately filed.
  - 2.4.9 Fail to establish reasonable security measures to protect against loss of receivables.
  - 2.4.10 Fail to aggressively pursue receivables after a reasonable grace period.

## ***JEA Board Policy Manual***

### **POLICY TYPE: EXECUTIVE LIMITATIONS**

#### **POLICY 2.5**

#### **POLICY TITLE: *WORKFORCE READINESS AND SUCCESSION PLANNING***

---

*The CEO shall not allow the workforce to be unprepared to meet current or future business demands.*

Accordingly, the CEO will not

- 2.5.1 Permit there to be fewer than two other executives sufficiently familiar with Board and CEO issues and processes to enable either to take over with reasonable proficiency as an interim successor to protect the Board from sudden loss of CEO services.
- 2.5.2 Fail to prepare for long term CEO succession.
- 2.5.3 Fail to prepare for Executive Team succession.
- 2.5.4 Operate without strategic and tactical plans to have and maintain the right people, in the right place, with the right talent, skills and knowledge.
- 2.5.5 Fail to develop a workforce that recognizes the value of cultural diversity in internal operations and in serving customers.

## ***JEA Board Policy Manual***

### **POLICY TYPE: EXECUTIVE LIMITATIONS**

#### **POLICY 2.6**

#### **POLICY TITLE: ASSET PROTECTION**

---

*The CEO shall not cause or allow corporate assets to be unprotected, inadequately maintained, or unnecessarily risked.*

Accordingly, the CEO will not:

- 2.6.1 Fail to insure adequately against theft and casualty and against liability and losses to Board members, staff, and the organization itself.
- 2.6.2 Allow unbonded personnel access to material amounts of funds.
- 2.6.3 Subject facilities and equipment to improper wear and tear or insufficient maintenance.
- 2.6.4 Unnecessarily expose the organization, the Board, or its staff to claims of liability.
- 2.6.5 Operate without written claims policies that address fair treatment of claimants, legal liability, ratepayer costs and sound business practices.
- 2.6.6 Fail to protect corporate assets including, but not limited to, property rights, corporate image, physical assets, intangible assets, intellectual property, information, and files from loss or significant damage.
- 2.6.7 Receive, process, or disburse funds without sufficient controls.
- 2.6.8 Invest funds in violation of JEA's Investment Policies.
- 2.6.9 Fail to ensure that all employees and outsourced contract service providers understand their responsibility to comply with all applicable laws and regulations and JEA's Code of Ethics.

## ***JEA Board Policy Manual***

### **POLICY TYPE: EXECUTIVE LIMITATIONS**

#### **POLICY 2.7**

#### **POLICY TITLE: *COMPENSATION AND BENEFITS***

---

*With respect to employment, compensation, and benefits to employees, consultants, contract workers, and volunteers, the CEO shall not cause or allow jeopardy to financial integrity or to public image.*

Accordingly, the CEO will not:

- 2.7.1 Change the CEO's own compensation and benefits, except as those benefits are consistent with a package for other appointed employees.
- 2.7.2 Promise or imply unconditional permanent or guaranteed employment.
- 2.7.3 Administer compensation and benefits that fail to address individual accountability, motivate and reward for knowledge and skills, encourage organizational flexibility and responsiveness or are inconsistent with the geographic and professional market for the skills employed.

# ***JEA Board Policy Manual***

## **POLICY TYPE: EXECUTIVE LIMITATIONS**

### **POLICY 2.8**

### **POLICY TITLE: *COMMUNICATION AND SUPPORT TO BOARD***

---

*The CEO shall not cause or allow the Board to be uninformed or unsupported in its work.*

Accordingly, the CEO will not:

- 2.8.1 Neglect to submit monitoring data required by the Board in Board-Management Delegation policy "Monitoring CEO Performance" in a timely, accurate, and understandable fashion, directly addressing provisions of Board policies being monitored, and including CEO interpretations consistent with Board-Management Delegation policy "Delegation to the CEO," as well as relevant data.
- 2.8.2 Allow the Board to be unaware of any actual or anticipated noncompliance with any Ends or Executive Limitations policy of the Board regardless of the Board's monitoring schedule.
- 2.8.3 Allow the Board to be without decision information required periodically by the Board or let the Board be unaware of relevant trends.
- 2.8.4 Let the Board be unaware of any significant incidental information it requires including anticipated media coverage, threatened or pending lawsuits, and material internal and external changes.
- 2.8.5 Allow the Board to be unaware that, in the CEO's opinion, the Board is not in compliance with its own policies on Governance Process and Board-Management Delegation, particularly in the case of Board behavior that is detrimental to the work relationship between the Board and the CEO.
- 2.8.6 Present information in unnecessarily complex or lengthy form or in a form that fails to differentiate among information of three types: monitoring, decision preparation, and other.
- 2.8.7 Allow the Board to be without a workable mechanism for official Board, officer, or committee communications.
- 2.8.8 Deal with the Board in a way that favors or privileges certain Board members over others, except when (a) fulfilling individual requests for information or (b) responding to officers or committees duly charged by the Board.
- 2.8.9 Fail to submit to the Board a consent agenda containing items delegated to the CEO yet required by law, regulation, or contract to be Board-approved, along with applicable monitoring information.
- 2.8.10 Fail to provide a process to retain relevant background information on previous Board policy decisions.

## ***JEA Board Policy Manual***

**POLICY TYPE: EXECUTIVE LIMITATIONS**

**POLICY 2.9**

**POLICY TITLE: *REGULATORY/LEGISLATIVE REQUIREMENTS***

---

*The CEO will not fail to effect regulatory and legislative action favorable to the organization.*



## ***JEA Board Policy Manual***

### **POLICY TYPE: EXECUTIVE LIMITATIONS**

#### **POLICY 2.10**

#### **POLICY TITLE: *ENTERPRISE RISK MANAGEMENT***

---

*The CEO shall not cause or allow conditions, procedures or decisions which fail to identify, measure, monitor and manage, within established risk tolerances, potential events that may affect achievement of the Ends.*

Accordingly, the CEO will not

- 2.10.1 Fail to establish and maintain a written Enterprise Risk Management (ERM) Plan and an ERM program that includes management-level policies, procedures and process controls to help ensure that the enterprise-wide business risk exposures are properly identified, managed and, when appropriate, reported to the Board.

## ***JEA Board Policy Manual***

### **POLICY TYPE: EXECUTIVE LIMITATIONS**

#### **POLICY 2.11**

#### **POLICY TITLE: *PROCUREMENT ACTIVITIES***

---

*The CEO shall not fail to develop procurement policies and procedures that adhere to all applicable federal, state and local laws and ordinances and provide for increased public confidence in the procurement activities of JEA.*

Accordingly, the CEO will not

- 2.11.1 Fail to develop and disseminate simple, clear and up-to-date rules for all procurement.
- 2.11.2 Fail to ensure the fair and equitable treatment of all persons who deal with the JEA procurement system.
- 2.11.3 Fail to provide increased economy in all procurement activities and to maximize to the fullest extent practicable the purchasing value of JEA funds.
- 2.11.4 Fail to foster effective, broad-based competition within the free enterprise system
- 2.11.5 Fail to provide safeguards for the maintenance of the procurement system quality and integrity.
- 2.11.6 Fail to provide a clear and timely administrative remedy process to all those aggrieved during any phase of the procurement process.
- 2.11.7 Fail to provide effective access for Small and Emerging Local Businesses

# ***JEA Board Policy Manual***

**POLICY TYPE: BOARD MANAGEMENT DELEGATION****POLICY 3.0****POLICY TITLE: GLOBAL BOARD-MANAGEMENT DELEGATION**

---

*The Board's sole official connection to the operational organization, its achievements, and conduct will be through a chief executive officer titled Managing Director / CEO, referred to within this document simply as CEO.*

- 3.1 **Unity of Control:** Only officially passed motions of the Board are binding on the CEO.
- 3.2 **Accountability of the CEO:** The CEO is the Board's only link to operational achievement and conduct, so that all authority and accountability of staff, as far as the Board is concerned, is considered the authority and accountability of the CEO.
- 3.3 **Delegation to the CEO:** The Board will instruct the CEO through written policies that prescribe the organizational Ends to be achieved and describe organizational situations and actions to be avoided, allowing the CEO to use any reasonable interpretation of these policies.
- 3.4 **Monitoring CEO Performance:** Systematic monitoring of CEO job performance will be solely against the only expected CEO job achievements: organizational accomplishment of Board policies on Ends and organizational operation within the boundaries established in Board policies on Executive Limitations.
- 3.5 **CEO Remuneration:** Salary and benefits and other terms of employment for the CEO will be determined by contract.
- 3.6 **Core Competencies:** Executive Core Competencies are included in the Appendix.

# ***JEA Board Policy Manual***

## **POLICY TYPE: BOARD MANAGEMENT DELEGATION**

### **POLICY 3.1**

### **POLICY TITLE: *UNITY OF CONTROL***

---

*Only officially passed motions of the Board are binding on the CEO.*

Accordingly,

- 3.1.1 Decisions or instructions of individual Board members, officers, or committees are not binding on the CEO.
- 3.1.2 In the case of Board members or committees requesting information or assistance without Board authorization, the CEO can refuse such requests that require, in the CEO's opinion, a material amount of staff time or funds, or are disruptive. The CEO shall promptly inform the Board if requests from Board members or committees are refused.

## ***JEA Board Policy Manual***

### **POLICY TYPE: BOARD MANAGEMENT DELEGATION**

#### **POLICY 3.2**

#### **POLICY TITLE: *ACCOUNTABILITY OF CEO***

---

*The CEO is the Board's only link to operational achievement and conduct, so that all authority and accountability of staff, as far as the Board is concerned, is considered the authority and accountability of the CEO.*

Accordingly,

- 3.2.1 The Board as a body and individual board members will never give instructions to persons who report directly or indirectly to the CEO.
- 3.2.2 The Board will not evaluate, either formally or informally, any staff other than the CEO. However, the CEO will discuss his evaluation with the Board of the executives identified as potential interim CEO successors (refer to 2.5.1)
- 3.2.3 The Board will view CEO performance as identical to organizational performance so that organizational accomplishment of Board-stated Ends and avoidance of Board-described means will be viewed as successful CEO performance.

# ***JEA Board Policy Manual***

## **POLICY TYPE: BOARD MANAGEMENT DELEGATION**

### **POLICY 3.3**

### **POLICY TITLE: *DELEGATION TO THE CEO***

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*The Board will instruct the CEO through written policies that prescribe the organizational Ends to be achieved and describe organizational situations and actions to be avoided, allowing the CEO to use any reasonable interpretation of these policies.*

Accordingly,

- 3.3.1 The Board will develop policies instructing the CEO to achieve specified results, for specified recipients, at a specified cost. These policies will be developed systematically from the broadest, most general level to more defined levels and will be called Ends policies. All issues that are not ends issues as defined here are means issues.
- 3.3.2 The Board will develop policies that limit the latitude the CEO may exercise in choosing the organizational means. These limiting policies will describe those practices, activities, decisions and circumstances that would be unacceptable to the Board even if they were to be effective. Policies will be developed systematically from the broadest, most general level to more defined levels, and they will be called Executive Limitations policies. The Board will never prescribe organizational means delegated to the CEO.
- 3.3.3 As long as the CEO uses *any reasonable interpretation* of the Board's Ends and Executive Limitations policies, the CEO is authorized to establish all further policies, make all decisions, take all actions, establish all practices, and pursue all activities. Such decisions of the CEO shall have full force and authority as if decided by the Board.
- 3.3.4 The Board may change its Ends and Executive Limitations policies, thereby shifting the boundary between Board and CEO domains. By doing so, the Board changes the latitude of choice given to the CEO. However, as long as any particular delegation is in place, the Board will respect and support the CEO's choices.
- 3.3.5 Should the CEO violate a Board policy, he or she shall promptly inform the Board. Informing is simply to guarantee no violation may be intentionally kept from the Board, not to request approval. Board response, either approving or disapproving, does not exempt the CEO from subsequent Board judgment of the action nor does it curtail any executive decision.

# ***JEA Board Policy Manual***

## **POLICY TYPE: BOARD MANAGEMENT DELEGATION**

### **POLICY 3.4**

### **POLICY TITLE: *MONITORING CEO PERFORMANCE***

*Systematic monitoring of CEO performance will be solely against the only expected CEO job achievements: organizational accomplishment of Board policies on Ends and organizational operation within the boundaries established in Board policies on Executive Limitations.*

Accordingly,

- 3.4.1 Monitoring is simply to determine the degree to which Board policies are being met. Data or information that does not do this will not be considered to be monitoring information.
- 3.4.2 The Board will acquire monitoring information by one or more of these methods:
  - a. By internal report, in which the CEO discloses interpretations and compliance information to the Board.
  - b. By external report, in which an external, disinterested and independent third party selected by the Board assesses compliance with Board policies (e.g. external financial audit).
  - c. By direct Board inspection, in which a designated member or members of the Board assess compliance with the appropriate policy criteria.
- 3.4.3 In every case, the Board will judge (a) the reasonableness of the CEO's interpretation and (b) whether data demonstrate accomplishment of the interpretation.
- 3.4.4 The standard of compliance shall be any reasonable CEO interpretation of the Board policy being monitored. The Board is the final arbiter of reasonableness.
- 3.4.5 All policies that instruct the CEO will be monitored at a frequency and by a method chosen by the Board. The Board can monitor any policy at any time by any method, but will ordinarily depend on a routine schedule:

**[Example of monitoring schedule] – (final schedule will be set after policies are developed)**

<u>Policy</u>	<u>Method</u>	<u>Frequency</u>	<u>Schedule</u>
Ends	Internal	Annually	
Treatment of Customers	Internal	Annually	
Treatment of Staff	Internal	Annually	
Financial Planning/Budgeting	Internal	Quarterly	End of Qtr.
Financial Condition & Activities	Internal External	Quarterly Annually	End of Qtr. Close of Yr.
Asset Protection	Internal	Annually	
Emergency CEO Succession	Internal	Annually	
Communication and Support to Board	Internal	Annually	

Adopted in its entirety by the JEA Board on February 16, 2010.

***JEA Board Policy Manual***

Compensation and Benefits	Internal	Annually
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In addition to the monitoring reports above, the Board must receive the following information each month. It is understood that this data is supplemental, not monitoring:

Financial Report	Internal	Monthly	End of Month
Operating Report	Internal	Monthly	End of Month



## ***JEA Board Policy Manual***

**POLICY TYPE: BOARD MANAGEMENT DELEGATION**

**POLICY 3.5**

**POLICY TITLE: *CEO REMUNERATION***

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*Salary and benefits and others terms of employment for the CEO will be determined by contract.*

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.0**

### **POLICY TITLE: GLOBAL GOVERNANCE PROCESS**

*The purpose of the Board, on behalf of the owners of JEA, the citizens of Duval County, is to see to it that JEA (a) achieves appropriate results for appropriate persons for an appropriate cost (as specified in Board Ends policies) and (b) avoids unacceptable actions and situations (as prohibited in Board Executive Limitations policies).*

- 4.1 **Governing Style:** The Board will govern in accordance with legal requirements, observing the principles of the Policy Governance model, with an emphasis on (a) outward vision rather than internal preoccupation, (b) encouragement of diversity in viewpoints, (c) strategic leadership more than administrative detail, (d) clear distinction of Board and chief executive roles, (e) collective rather than individual decisions, (f) future more so than past or present, and (g) proactivity rather than reactivity.
- 4.2 **Board Job Description:** Specific responsibilities of the Board as an informed agent of the ownership are those that ensure appropriate organizational performance.
- 4.3 **Agenda Planning:** To accomplish its responsibilities with a governance style consistent with Board policies, the Board will follow an annual agenda that (a) completes a re-exploration of Ends policies at least annually and (b) continually improves Board performance through education and deliberation.
- 4.4 **Board Officers:** Board officers assure the integrity of the Board's process and record's. Board officers are: Chairman, Vice-Chairman, Secretary & Assistant Secretary.
- 4.5 **Rules of Order:** Board meetings will be conducted in an orderly and fair process consistent with the requirements of Florida law, Ordinances of the City of Jacksonville, the JEA Charter, Bylaws and these governance policies. Meetings will be led by the Chairman, or, in the absence of the Chairman, the Vice-Chairman, or, in the absence of both, by the Chairman's designee.
- 4.6 **Board Member's Code of Conduct:** The Board commits itself to lawful, ethical and businesslike conduct, following all requirements of Florida Law, Ordinances of the City of Jacksonville, and the JEA Charter including proper use of its authority and appropriate decorum when acting as Board members.
- 4.7 **Board Member's Individual Responsibility:** The leadership success of the Board is a direct result of the individual and collegial participation of its members.
- 4.8 **Board Committee Principles:** Board committees, when used, will be assigned so as to reinforce the wholeness of the Board's job and not to interfere with delegation from the Board to the CEO.
- 4.9 **Board Committee Structure:** A committee is a Board committee only if its existence and charge come from the Board, regardless of whether Board members sit on the committee. The only Board committees are those which are set forth in the Bylaws or in this policy. Unless otherwise stated, a committee ceases to exist as soon as its task is complete. The CEO will attend meetings of each committee, but shall not have a vote.
- 4.10 **Cost of Governance:** The Board will invest in continuous improvement of its governance capacity.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.1**

### **POLICY TITLE: GOVERNING STYLE**

*The Board will govern in accordance with legal requirements, observing the principles of the Policy Governance model, with an emphasis on (a) outward vision rather than internal preoccupation, (b) encouragement of diversity in viewpoints, (c) strategic leadership more than administrative detail, (d) clear distinction of Board and chief executive roles, (e) collective rather than individual decisions, (f) future more so than past or present, and (g) proactivity rather than reactivity.*

Accordingly,

- 4.1.1 Unique Requirements of Florida Law for Public Boards: In conducting its duties as a Board in Florida, the Board is required to comply with the Florida Sunshine Law, which prohibits any two or more members of the Board from meeting unless the meeting has been properly noticed and conducted in accordance with the legal requirements. In addition, Florida Law contains requirements regarding Public Records, conflicts of interest and voting which must be followed in the conduct of the Board's business.
- 4.1.2 The Board will cultivate a sense of group responsibility and will be a proactive Board versus a reactive Board. The Board, not the staff, will be responsible for excellence in governing. The Board will be the initiator of policy, not merely a reactor to staff initiatives. The Board will use the expertise of individual members to enhance the ability of the Board as a body rather than to substitute the individual judgments for the Board's values.
- 4.1.3 The Board will direct, control, and inspire the organization through the careful establishment of broad written policies reflecting the Board's values and perspectives. The Board's major policy focus will be on the intended long-term impacts outside the staff organization, not on the administrative or programmatic means of attaining those effects.
- 4.1.4 The Board will enforce upon itself whatever discipline is needed to govern with excellence. Discipline will apply to matters such as attendance, preparation for meetings, policymaking principles, respect of roles, and ensuring the continuance of governance capability. Although the Board can change its Governance Process policies at any time, it will diligently observe those currently in force.
- 4.1.5 Continual Board development will include orientation of new Board members in the Board's governance process and periodic Board discussion of governance process improvement.
- 4.1.6 The Board will allow no officer, individual, or committee of the Board to hinder or serve as an excuse for the Board not fulfilling its commitments.
- 4.1.7 Each member of the Board will respect the final determination of the Board concerning any particular matter, regardless of the member's personal position concerning such matter.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.2**

### **POLICY TITLE: *BOARD JOB DESCRIPTION***

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*Specific responsibilities of the Board are those that ensure appropriate organizational performance.*

Accordingly,

- 4.2.1 The Board is the authoritative link between the organization and the ownership.
- 4.2.2 The Board will provide governing policies that realistically address the broadest levels of all organizational decisions and situations:
  - a. Ends: The organizational outcomes to its recipients including the relative worth of such outcomes in cost or priority. (What good for which recipients at what cost)
  - b. Executive Limitations: Constraints on executive authority that establish the prudence and ethics boundaries within which all executive activity and decisions must take place.
  - c. Board-Management Delegation: Specification of how power is delegated and its proper use monitored; clarity on the CEO's role, authority, and accountability.
  - d. Governance Process: Specification of how the Board develops, carries out, and monitors its own responsibilities.
- 4.2.3 The Board will measure the CEO's performance against its Ends and Executive Limitations Policies.
- 4.2.4 The Board will measure its own performance against its Governance Process and Board-Management Delegation Policies quarterly.
- 4.2.5 Board members will respect their fiduciary responsibilities to protect and enhance the value of JEA as a citizen-owned enterprise with due diligence using sound business judgment consistent with JEA's legislative charter.

# ***JEA Board Policy Manual***

**POLICY TYPE: GOVERNANCE PROCESS****POLICY 4.3****POLICY TITLE: AGENDA PLANNING**

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*To accomplish its responsibilities with a governance style consistent with Board policies, the Board will follow an annual agenda that (a) completes a re-exploration of Ends policies at least annually and (b) continually improves Board performance through education and deliberation.*

Accordingly,

- 4.3.1 The Board will establish its annual agenda during an annual retreat to be scheduled around March of each year.
  - a. The Board will review and re-establish its Ends policies as often as necessary with review always taking place at least during the annual retreat.
  - b. Consultations with selected groups in the ownership, or other methods of gaining ownership input, will be scheduled as part of the annual agenda.
  - c. Governance education and education related to Ends determination (presentations by futurist, demographers, advocacy groups, staff, etc.) will be scheduled as part of the annual agenda.
- 4.3.2 The agenda for the Board's monthly meeting will be established through consultation with the Chair and the CEO.
  - a. The agenda along with supporting item documentation will be made available to Board members seven days prior to monthly Board meetings.
  - b. The Board will attend to consent agenda items as expeditiously as possible.
  - c. A Board member may bring up new business at the appropriate time on the agenda during any meeting, however, if a formal response or presentation is necessary, a request should be made to the CEO no later than two weeks before the Board meeting to allow others on the Board to receive information in advance.
  - d. CEO monitoring will be on the agenda if reports have been received since the previous meeting, if plans must be made for direct inspection monitoring, or if arrangements for third-party monitoring must be prepared.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.4**

### **POLICY TITLE: *BOARD OFFICERS***

*Board officers assure the integrity of the Board's process and record's. Board officers are: Chairman, Vice-Chairman, Secretary & Assistant Secretary.*

Accordingly,

- 4.4.1 The Chairman, a specially empowered member of the Board, ensures the integrity of the Board's process and, secondarily, occasionally represents the Board to outside parties.
- a. The Chairman's role is to see that the Board behaves consistently within its own rules and those rules and regulations imposed upon it from outside the organization.
    - (1) Meeting discussion content will consist of issues that clearly belong to the Board to decide or to monitor according to Board policy.
    - (2) Information that is neither for monitoring performance nor for Board decisions will be avoided or minimized and always noted as such.
    - (3) Deliberation will be fair, open, and thorough but also timely, orderly, and kept to the point.
  - b. The authority of the Chairman consists in making decisions that fall within topics covered by Board policies on Governance Process and Board-Management Delegation, with the exception of (a) employment or termination of the CEO and (b) areas where the Board specifically delegates portions of this authority to others. The Chairman is authorized to use any reasonable interpretation of provisions in these policies.
    - (1) The Chairman is empowered to chair Board meetings with all the commonly accepted powers of that position, such as ruling and recognizing.
    - (2) The Chairman has no authority to make decisions about policies created by the Board within Ends and Executive Limitations policy areas.
    - (3) The Chairman may represent the Board to outside parties in announcing Board-stated positions and in stating Chairman decisions and interpretations within the area delegated to that role.
    - (4) The Chairman may delegate this authority but remains accountable for its use.
    - (5) The Chairman may appoint members and a Chairman for each Board committee, unless otherwise stipulated by Board policies or the organization's Bylaws.
  - c. Expected Traits for chairman: *(Does the Board want to include some basic core traits for the chair?)*
- 4.4.2 The Vice-Chairman or, in the absence of the Vice-Chairman, the immediate Past-Chairman will serve as Chair in the absence of the Chairman.
- 4.4.3 The Board Secretary is an officer of the Board whose purpose is to ensure the integrity of the Board's documents.

## ***JEA Board Policy Manual***

- a. The Secretary's role is to see to it that all Board documents and records are accurate and timely.
    - (1) Policies will be current in their reflection of Board decisions. Decisions upon which no subsequent decisions are to be based, such as consent agenda decisions, motions to adjourn, and staff or Board member recognitions, need not be placed in policy.
    - (2) Policy Governance principles will be followed in policy development.
    - (3) Board policies and By-laws are to be consistent with the legal requirements of Florida Law, Ordinances of the City of Jacksonville and the JEA Charter and are to be known by the Board.
    - (4) Board expectations for format, brevity, and accuracy of Board minutes will be known to the CEO.
  - b. The authority of the secretary is access to and control over Board documents and records.
- 4.4.4 The Assistant Secretary will serve as Secretary in the absence of the Secretary.
- 4.4.5 All Board officers are accountable to the Chairman unless otherwise determined by Board policy.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.5**

### **POLICY TITLE: *RULES OF ORDER***

*Board meetings will be conducted in an orderly and fair process consistent with the requirements of Florida Law, Ordinances of the City of Jacksonville, the JEA Charter, Bylaws and these governance policies. Meetings will be led by the Chairman, or, in the absence of the Chairman, the Vice-Chairman, or, in the absence of both, by the Chairman's designee.*

Accordingly,

#### **4.5.1 Board meetings will be conducted with punctuality and order.**

- a. Board meetings shall be called to order at the time specified in the notice of meeting and upon satisfaction of a quorum.
- b. Meeting order shall be maintained and all members treated with dignity, respect, courtesy, and fairness during discussion and debate and in all other respects.
- c. Board members must keep their comments relevant to the issue under consideration.
- d. In order to conduct business, a quorum of four (4) board members must be present. Four affirmative votes are required to decide all motions before the Board regardless of number in attendance.

#### **4.5.2 Board meetings will be conducted at a level of informality considered appropriate by the Chairman yet with predictable discipline.**

- a. Discussion of a matter not on the previously distributed agenda may occur only after Board consent that the matter be heard.
- b. Proposals that the Board take action, or decide a particular matter, shall (unless otherwise agreed to by unanimous consent) be made by main motion of a Board member, discussed, and then voted on. Motions require a second to proceed to discussion and subsequent vote.
- c. The Chair may not make motions but can engage in debate and is required to vote.
- d. A motion to amend a main motion may be amended but third level amendments are not to be heard.
- e. A motion to refer to a committee, postpone, or table, may be made with respect to a pending main motion, shall take precedence over the pending motion and, if carried, shall set the main motion (the initial proposal) aside accordingly.
- f. Board members may speak to a pending motion on as many occasions, and at such length, as the Chair may reasonably allow.
- g. A vote on a motion shall be taken when discussion ends, but any Board member may, during the course of debate, move for an immediate vote (close debate or call the question) which, if carried, shall end discussion and the vote on the main motion shall then be taken. Votes may be made by voice vote or by roll call. All members of the Board are required to vote unless a conflict of interest is declared.



## ***JEA Board Policy Manual***

- g. A motion to adjourn a Board meeting may be offered by any Board member or, on the conclusion of all business, adjournment of the meeting may be declared by the Chair.
- 4.5.3 When further rules of order are to be developed by the Board, the Board will consider the Standard Code of Parliamentary Procedure (Robert's Rules of Order) as a resource guide. The representative from the Office of General Council may serve the Board as a resource on Parliamentary Procedure.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.6**

### **POLICY TITLE: *BOARD MEMBER'S CODE OF CONDUCT***

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*The Board commits itself to lawful, ethical and businesslike conduct, following all requirements of Florida Law, Ordinances of the City of Jacksonville, and the JEA Charter including proper use of its authority and appropriate decorum when acting as Board members.*

Accordingly,

- 4.6.1 Members are expected to represent the interests of the ownership. This accountability supersedes any conflicting loyalty such as that to advocacy or interest groups and membership on other Boards or staffs. It also supersedes the personal interest of any Board member acting as a consumer of the organization's services.
- 4.6.2 Members must avoid conflict of interest with respect to their fiduciary responsibility. Such conflicts of interest include but are not limited to the following:
  - a. There will be no self-dealing or business by a member with the organization. Members will annually disclose their involvements with other organizations or with vendors and any associations that might be reasonably seen as representing a conflict of interest.
  - b. When the Board is to decide upon an issue about which a member has an unavoidable conflict of interest, that member shall announce and declare publicly any conflict of interest and withdraw without comment not only from the vote but also from the deliberation.
  - c. Board members will not use their Board position to obtain employment in the organization for themselves, family members, or close associates. Any such existing relationship is expected to be disclosed to the Board. A Board member who applies for employment must first resign from the Board.
- 4.6.3 Members may not attempt to exercise individual authority over the organization except as explicitly set forth in Board policies.
  - a. Members' interaction with the CEO or with staff must recognize the lack of authority vested in individuals except when explicitly authorized by the Board.
  - b. Members' interaction with the public, the press, or other entities must recognize the same limitation and the inability of any Board member to speak for the Board except to repeat explicitly stated Board decisions.
  - c. Except for participation in Board deliberation about whether the CEO has achieved any reasonable interpretation of Board policy, members will not express individual judgments of negative performance of employees or the CEO.
- 4.6.4 Members will respect the confidentiality appropriate to issues of a sensitive nature.
- 4.6.5 Members will be properly prepared for Board deliberation.
- 4.6.6 Members are expected to support the legitimacy and authority of the final determination of the Board on any matter, without regard to the member's personal position on the issue.
- 4.6.7 Members who have any question about the appropriateness of their conduct should consult with the Office of General counsel or appropriate Ethics offices for information.

Adopted in its entirety by the JEA Board on February 16, 2010.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.7**

### **POLICY TITLE: *DIRECTORS' INDIVIDUAL RESPONSIBILITY***

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*The leadership success of the Board is a direct result of the individual and collegial participation of its members.*

Therefore, each Board member is expected to participate in the following ways:

- 4.7.1 Time Investment to Accomplish Board Responsibilities - As Board contemplation, deliberation and decision-making are processes which require wholeness, collaboration and participation, attendance at Board meetings is expected of Board members.
  - a. Expected Commitments:
    - (1) Monthly Board Meetings
    - (2) Annual Team Building
    - (3) Quarterly Review
    - (4) Bond Rating Agency Trip, 3 days (Board Chair is expected to attend. However, full participation is highly encouraged.)
  - b. Optional Involvement:
    - (1) Internal educational meetings with staff upon request
    - (2) Industry related seminars and conferences
    - (3) Visit other utilities and related industries
- 4.7.2 Preparation and Participation - Board members will prepare for Board and committee meetings and will participate productively in discussions, always within the boundaries of discipline established by the Board. Each member will contribute his or her own knowledge, skills and expertise to the Board's efforts to fulfill its responsibilities.
- 4.7.3 Members as Individuals - The CEO is accountable only to the Board as an organization, and not to individual Board members. Accordingly, the relationship between the CEO and individual members of the Board, including the Chairman, is collegial, not hierarchical.

## ***JEA Board Policy Manual***

### **POLICY TYPE: GOVERNANCE PROCESS**

#### **POLICY 4.8**

#### **POLICY TITLE: *BOARD COMMITTEE PRINCIPLES***

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*Board committees, when used, will be assigned so as to reinforce the wholeness of the Board's job and not to interfere with delegation from the Board to the CEO.*

Accordingly,

- 4.8.1 Board committees are to help the Board accomplish its responsibilities and are not assigned to perform staff functions. Committees ordinarily will assist the Board by preparing policy alternatives and implications for Board deliberation. In keeping with the Board's broader focus, Board committees will normally not have direct dealings with current staff operations unless specifically outlined in committee objectives.
- 4.8.2 Board committees may not speak or act for the Board except when formally given such authority for specific purposes. Expectations and authority will be carefully stated in order to prevent conflict with authority delegated to the CEO.
- 4.8.3 Board committees cannot exercise authority over staff. The CEO works for the full Board, and will therefore not be required to obtain the approval of a Board committee before an executive action.
- 4.8.4 Committees will be formed for a specific purpose only. Its purpose and function will be documented in a written charge. All committees are accountable to the Board as a whole.
- 4.8.5 This policy applies to any group that is formed by Board action, whether or not it is called a committee and regardless of whether the group includes Board members, it does not apply to committees formed under the authority of the CEO.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.9**

### **POLICY TITLE: BOARD COMMITTEE STRUCTURE**

*A committee is a Board committee only if its existence and charge come from the Board, regardless of whether Board members sit on the committee. The only standing Board committees are those which are set forth in the Bylaws or in this policy. Unless otherwise stated, a committee ceases to exist as soon as its task is complete. The CEO will attend meetings of each committee, but shall not have a vote.*

Accordingly,

- 4.9.1 Nominating Committee: The purpose of the Nominating committee is to recommend Board officers for election by the Board as a whole.
  - a. The Nominating Committee will be comprised of three members. The current Chairman (which shall serve as chair of the committee) and the two most immediate past Chairman still remaining on the Board will constitute the committee. If one or more past chairman is no longer serving on the Board, the Chairman shall select Board members to fill out a committee of three.
  - b. The Nominating Committee shall be formed no later than January of each year and will make its recommendation to the Board for action at its March meeting.
- 4.9.2 Finance and Audit Committee: The purpose of the Finance and Audit committee is to assist the Board in fulfilling its oversight responsibilities by reviewing financial information, systems of internal controls, and audit process, including a high level review of the operating and capital budgets. The committee will provide an open avenue of communication between the Board, Management, Audit Services, and external auditors.
  - a. The Finance and Audit committee will be comprised of three members appointed annually by the chair and confirmed by the Board. Two members will constitute a quorum.
  - b. The committee will meet at least four times per year. A schedule of regular meetings will be established by the committee annually. Special meetings may be called by any committee member. Meeting dates, times and location will be announced to the entire Board.
  - c. The committee shall oversee:
    - (1) Internal controls and risk assessment
    - (2) Internal Audit Services
    - (3) Compliance with laws, regulations and code of conduct
    - (4) Financial Reporting
  - d. The committee will oversee the External Auditor
- 4.9.3 Other Committees may be established as designated by the Chair.

# ***JEA Board Policy Manual***

## **POLICY TYPE: GOVERNANCE PROCESS**

### **POLICY 4.10**

### **POLICY TITLE: *COST OF GOVERNANCE***

*The Board will invest in continuous improvement in its governance capacity.*

Accordingly,

4.10.1 The Board will use appropriate methods to improve its governing skills.

- a. Training and retraining will be used liberally to orient new members as well as to maintain and increase existing members' skills and understandings.
- b. Outside monitoring assistance will be arranged so that the Board can exercise confident control over organizational performance. This includes but is not limited to a financial audit.
- c. Outreach mechanisms will be used as needed to ensure the Board's ability to listen to owner viewpoints and values.
- d. Knowledgeable industry experts will be made available to the Board in various ways to continuously improve the Board's awareness of emerging utility industry issues.

4.10.2 Costs for appropriate Board governance will be included during annual budget preparations. Any expenditure required will be in accordance with JEA procurement policies. Items may include but not be limited to the following as annually decided by the Board:

- a. training
- b. attendance at conferences, industry site visits and Rating Agency presentations
- c. audit and other third-party monitoring of organizational performance
- d. surveys, focus groups, opinion analysis, and meeting costs.

# ***JEA Board Policy Manual***

## **APPENDIX**

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- A1 Executive Core Competencies
- A2 JEA Charter (Article 21 of City of Jacksonville Ordinance Code)
- A3 By-Laws of JEA

## ***JEA Board Policy Manual***

# **Executive Core Competencies**

### **Models Integrity**

- Demonstrates high ethical standards and models important values for others to follow.
- Behaves and expresses oneself in an open and honest manner; is consistent in word and deed
- Is a fair person who does not manipulate or take advantage of others
- Tells the truth even when it is difficult
- Utilizes values and principles to guide his/her decisions
- Builds respect and trust from others by following through on commitments
- Represents information accurately and completely
- Assumes responsibility for own behavior; admits to mistakes

### **Makes Quality Decisions**

- Examines and integrates data from a variety of sources to make quality decisions
- Prioritizes decisions and initiatives in ways that ensures the highest value for the organization
- Makes educated and effective decisions in a timely manner, even when data is limited
- Makes high-quality strategic decisions for the organization even when the consequences may be controversial
- Seeks the input of others to ensure that decisions made will be best for the organization and will minimize conflict with other initiatives
- Takes appropriate risks that weighs the positive and negative impact of each decision on the organization

### **Takes Initiative**

- Assumes full ownership and accountability for own performance
- Takes on challenging work, even in the face of obstacles
- Initiates action on projects without being pressured from others to do so
- Reacts quickly to address problems that threaten organizational objectives
- Seeks out opportunities to extend or expand upon the organization's position in the market place
- Is passionate, highly engaged and highly energetic

### **Communicates Effectively**

- Listens actively to ensure understanding of each person's point of view
- Clearly articulates (through speech or in writing) own knowledge and ideas so they are easily understood and applied to others
- Communicates through appropriate channels



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- Identifies sources of motivation and appeals directly to co-workers in a language meaningful to them
- Is engaging with others and demonstrates professionalism through body language, including eye-contact, confidence, and focus
- Addresses difficult problems and perceptions that, if left untreated, could undermine the success of the organization
- Ensures regular, consistent, and meaningful communication throughout the organization

### **Drives Results**

- Seeks to achieve improved or even unprecedented results and demonstrates personal accountability for outcomes
- Creates a positive environment in which results flow from a desire to achieve
- Sets strategic goals and measurable performance expectations for defining success
- Drives execution with speed and discipline, and delivers on personal and organizational commitments
- Demonstrates ownership for performance of entire organization, and holds self and organization accountable for decisions and results
- Assesses financial implications of initiatives; allocates resources to improve results while maintaining financial discipline
- Actively monitors performance of self and others relative to performance objectives

### **Focuses on the Customer**

- Places high priority on identifying and meeting internal and external customer needs
- Provides high quality, valuable and consistent service to customers
- Ensures that customers understand and receive the fullest value possible from the products and services of the organization
- Assures that products and services meet customer needs and expectations
- Adapts and personalizes services to meet individual customer needs
- Anticipates changing customer needs and develops ways to meet or exceed those needs
- Utilizes follow-up procedures to ensure consistency and determine where improvements can be made to maintain high customer satisfaction

### **Fosters Teamwork**

- Shares relevant expertise and knowledge to ensure team members have adequate information to make decisions and achieve objectives
- Identifies and removes barriers that interfere with the team's success and provides suggestions to enhance team effectiveness
- Contributes to inclusive culture by valuing others' viewpoints, encouraging others to share ideas, and treating others in an accepting, respectful manner

## ***JEA Board Policy Manual***

- Recognizes and capitalizes on the strengths of others to accomplish organizational objectives
- Exhibits willingness to listen to others' views even if not same as own
- Does not take conflicts personally; handles conflict in a positive manner and seeks mutual understanding
- Directly confronts behaviors that undermine team effectiveness

### **Manages and Supports Change**

- Effectively copes with changing environments, tasks and responsibilities
- Facilitates the acceptance and implementation of change to enhance the organization
- Encourages others to embrace change and use it as an opportunity to be creative and improve performance
- Identifies the changes necessary to move the organization forward
- Embraces and promotes change initiatives with a positive and enthusiastic attitude
- Ensures that change initiatives are aligned with strategic initiatives, values, and mission of the organization
- Leads change initiatives with frequent and consistent two-way communication
- Leverages resources to promote and sustain change efforts

### **Visionary Strategist**

- Develops the strategies and actions needed to accomplish desired organizational objectives
- Communicates the organization's vision in a way that is meaningful and actionable for employees
- Researches and analyzes marketplace, political, economic, and other external influences to formulate vision and strategy, and position the organization in the marketplace
- Collaborates with Executive Team and Board of Directors to determine vision and strategy, and ensures support throughout the organization
- Reviews the planning, organization, and direction of initiatives to ensure support of the mission statement and values
- Considers both short and long-term implications of a strategy
- Accurately anticipates the implications of events or decisions for various stakeholders in the organization and plans strategy accordingly

### **Manages Performance**

- Motivates others to achieve results through both respect and holding them accountable
- Provides others with constructive feedback, guidance, and coaching for improving performance
- Sets clear performance expectations and strategic goals, regularly monitors performance, and provides accurate evaluations

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- Encourages the use of development activities (e.g., workshops, mentoring), to improve performance and achieve desired results for the organization
- Identifies and provides important assignments to facilitate the development of key personnel
- Balances levels of support, direction, and autonomy based on employee needs and level of experience

### **Delegates to Others**

- Plans delegated assignments to ensure an optimal match between value of task and value of the resource attached to it
- Determines when to assign responsibilities to others and clarifies expectations to ensure effectiveness
- Provides others with the resources, authority, and support to complete delegated tasks successfully
- Develops employees for assuming additional responsibilities; anticipates talent gaps and accelerates development plans to fill gaps
- Recognizes individuals who are successful in completing delegated assignments

### **Maintains Positive Public Relations**

- Seeks and builds relationships with external constituencies (e.g., elected officials, government agencies, other utility leaders, trustees, investment bankers) to strengthen the organization's impact and reputation in the community
- Treats others outside the organization in an accepting, respectful manner
- Understands the needs of the cities, board members and the community, and leverages this information to shape policies and initiatives
- Represents the organization with credibility to print and media sources (includes providing information, clarifying facts, etc.)
- Researches constituencies to determine the best way to communicate to them
- Ensures that customers experience and understand the full value they derive from the organization

### **Actively Supports Board of Directors**

- Keeps Board of Directors informed on progress towards implementing strategic initiatives and other important information
- Updates the board on large-scale progress of the organization towards its objectives
- Shows an appreciation for the unique role of a board member
- Maintains a cordial, productive relationship with each board member
- Educates the Board on the strategies and priorities that balance the needs of customers with operational needs
- Keeps board members informed on important issues – “no surprises”

## ***JEA Board Policy Manual***

### **Leads Others Effectively**

- Develops and communicates compelling rationales that build commitment and support for one's perspectives, strategies, and initiatives
- Builds diverse, high-performing teams that accomplish organizational changes, goals, and priorities
- Listens to the diverse ideas, perspectives, and contributions of others across the organization
- Builds trusting, collaborative relationships across organizational boundaries to achieve goals
- Leads with integrity and values, and a focus at all times on the mission of the organization
- Challenges and motivates others in a way that is inclusive, tactful, empowering, and maximizes performance
- Leads with a vision that inspires others to adopt the goals of the organization as their own
- Ability to interact and get along with employees at all levels

### **Leverages Industry Acumen**

- Monitors and analyzes financial data and key cost drivers (e.g., personnel) to evaluate options and make decisions
- Understands overall financial and operational performance of an organization in order to effectively position it in the marketplace
- Establishes and maintains realistic budgets in accordance with the organizations policies
- Follows appropriate legal and fiduciary requirements when reconciling and reporting financial transactions
- Considers multiple options for reducing costs and keeping the organization as efficient as possible
- Seeks to develop financial acumen and understand key financial related issues
- Grows continuously in business knowledge and experience

### **Plans for the Future**

- Identifies and balances risks and benefits when developing plans
- Assesses financial implications of projects and initiatives; allocates resources to improve results while maintaining financial discipline
- Provides the information, resources, implementation time, and talent needed to make plans and their implementation successful
- Identifies need for and ensures contingency plans are developed
- Assigns or directly monitors and evaluates the external environment when developing plans
- Aligns and allocates resources and time according to strategic priorities and company interests

### **Embraces Diversity**

- Promotes the active recruiting of diverse individuals

## ***JEA Board Policy Manual***

- Communicates and clarifies the link between diversity and achieving the organization's strategic goals
- Demonstrates visible support for programs that remove barriers (e.g., stereotypes) between diverse individuals
- Actively monitors organization to ensure equality and fairness for all members; objectively allocates compensation, rewards, and opportunities
- Promotes an inclusive culture where different viewpoints are valued and encouraged

### **Negotiates Collaboratively**

- Strives to understand each party's position by asking in-depth questions and probing for specific needs and issues
- Defines and evaluates specific points of agreement and disagreement
- Seeks win-win solutions that meet the underlying interests of all parties
- Discloses appropriate and important information to establish openness and trust
- Keeps arguments or disputes issue-oriented rather than personal
- Maintains flexibility in negotiating style, adapting style to the specific needs of a given situation

### **Manages Politics**

- Accurately discerns unspoken feelings and motivations, and leverages to determine what to say or how to proceed
- Adapts dress and demeanor as appropriate to a situation
- Appropriately manages impressions of oneself, one's department and the organization
- Keenly aware of and adheres to the norms and practices of the organization's culture
- Leverages appropriate channels of influence to more efficiently gain resources and accomplish goals
- Creates and maintains both formal and informal networks within the organization that facilitate the achievement of goals
- Chooses battles wisely and matches urgency to the importance of the concerns under discussion

# **BY-LAWS OF JEA**

## **ARTICLE 1 OFFICES**

The principal office of JEA shall be located in Jacksonville, Florida. Branch offices of JEA may be established at such places as JEA may designate from time to time.

## **ARTICLE II MEMBERS OF JEA GOVERNING BODY**

**Section 1. General Powers.** The affairs of JEA shall be managed by the JEA governing body (“Board”) as provided in Article 21, Charter of the City of Jacksonville, as amended, and other applicable laws.

**Section 2. Appointment, Number, Tenure, and Expense Reimbursement.** The membership of the JEA Board shall be constituted in number, qualifications, manner of appointment and tenure as provided in Article 21, Charter of the City of Jacksonville, as amended. Members of the JEA Board shall receive reimbursement for all expenses incurred which are reimbursable by law.

## **ARTICLE III OFFICERS**

**Section 1. Elections.** The Officers of the JEA Board shall be a Chair, Vice-Chair, and a Secretary who shall be elected by the members and who shall serve as such officers for one year or until a successor is chosen. The Chair may serve for two consecutive one-year terms, which shall not include any period served as replacement Chair during the unexpired portion of the predecessor’s term. Elections of Officers shall be conducted at the first regular meeting in March which may be preceded by a meeting of the nominating committee composed of the JEA Board acting as a whole or such other membership as the Chair may designate.

**Section 2. Vacancies.** A vacancy in any office because of death, illness, removal or otherwise, may be filled by the remaining members for the unexpired term.

**Section 3. Chair.** The Chair shall preside at all meetings of the JEA Board unless the Chair delegates otherwise. The Chair shall designate from time to time such special committees as the Chair deems appropriate and shall designate the subject matter assigned to each committee for consideration. In the event of the Chair’s prolonged absence or disability, the Vice-Chair shall exercise all functions of the Chair for a period of up to thirty (30) days, at the expiration of which a special election shall be conducted by the JEA Board and a permanent Chair elected.

**Section 4. Vice-Chair.** The Vice-Chair shall perform such duties as are assigned by the Chair in addition to the functions for which the Vice-Chair is responsible under Section 3 above.

**Section 5. Secretary.** The Secretary shall cause the minutes to be kept of each meeting of the members in the Minute Book designated for that purpose. In the event of the Secretary's absence or disability, the Chair shall designate another member to be responsible for keeping of minutes during the Secretary's absence and for their inclusion in the Minute Book. When so directed by the Chair, the Secretary shall cause all notices to be given in accordance with these By-Laws and other applicable laws; the Secretary shall be responsible for the proper care and custody of all records pertaining to JEA affairs and for custody of the Seal of JEA. The Secretary shall be responsible for the Register of the address of each Board member and of such other persons as may be designated by the Chair or by the Executive Committee. The Secretary shall perform such other duties as from time to time may be assigned by the Chair or by the Executive Committee.

## **ARTICLE IV** **COMMITTEES**

**Section 1. Executive Committee.** There shall be an Executive Committee comprised of as many members of the JEA Board as may be determined by the Chair. The Executive Committee shall function for and on behalf of the seven (7) members of the JEA Board to the extent that such action may be lawfully delegated; however, the designation of the Executive Committee and delegation thereto of authority to act in proper circumstances for the full membership of the JEA Board shall not operate to relieve the members of any responsibility imposed upon them individually or collectively by law. The Chair of the JEA Board shall preside at meetings of the Executive Committee, and it shall meet from time to time at such times and places as the Chair may designate.

### **Section 2. Ordinary Committees.**

(a) **Standing Committees.** The Chair may appoint standing committees from time to time which shall be composed of as many members of the JEA Board as determined by the Chair. The Chair shall name one of the committee members as committee chair and one as committee vice-chair. A standing committee shall continue until such time as it is terminated by the Chair.

(b) **Special Committees.** The Chair may appoint special committees from time to time, and the Chair may specify that one or more individuals who are not members of the JEA Board shall work with and assist the special committee. The Chair shall name one of the committee members as committee chair and one as committee vice-chair; both positions must be filled by current members of the JEA Board. When a special committee has fulfilled its function or when the best interests of JEA have been served, the committee shall be terminated without formal action.

**Section 3. Term of Committee Members.** Each member of a committee shall serve until the expiration of his/her term of office as a JEA Board member, until that member's successor is appointed and has accepted such appointment, or until the committee is terminated.

**Section 4. Powers of the Committee and the Committee Chair.** The committee chair, or vice-chair in the absence of the chair, shall have the power and authority to call meetings of the committee upon reasonable verbal or written notice to the members, and to set the date, time and place of such meetings. This function may also be performed by a majority of the remaining members of the committee upon inaction by the chair. A committee secretary may be designated by the committee chair. A committee may submit reports to the Chair and members of the JEA Board in writing as determined by the committee chair. Committee reports shall contain both majority and minority reports of committee members. A committee may by motion recommend to the JEA Board that action be taken on matters under consideration by the committee. Matters under consideration by the committee may include resolutions or other proposed actions presented to the committee by the JEA Managing Director.

**Section 5. Committee Vacancies.** The Chair shall fill vacancies in the membership of any committee. Should the Chair of the JEA Board fail to fill a vacancy within a reasonable length of time after such a vacancy occurs, then such vacancy may be filled by a majority of the members of the JEA Board acting in any regular or special meeting.

**Section 6. Conduct of Committee Business.** A majority of the entire membership of the committee shall constitute a quorum, and an act of the majority of the committee present at any meeting shall constitute the act of the committee. Should a quorum not be present at a scheduled meeting, the committee chair, or vice-chair in the absence of the chair, may appoint as many JEA Board members as necessary to constitute a quorum. Such appointment is for the purpose of that meeting only. All JEA Board members may attend and participate in any committee meeting, but only committee members have the right to make motions and to vote. Except as provided otherwise herein, Roberts Rules of Order shall govern the conduct of committee business, unless the majority of the committee present at such meeting shall elect to utilize other rules or procedures consistent with applicable law and these By-Laws.

## **ARTICLE V**

### **CONDUCT OF AUTHORITY BUSINESS**

**Section 1. Regular Meetings.** Regular meetings shall be held at least monthly at the principal offices of JEA in the City of Jacksonville, or at such other public place within the City of Jacksonville as may be determined by the Chair, and at such times as the Chair or a majority of the members may designate. More frequent regular meetings may be held at the pleasure of a majority of the members.

**Section 2. Special Meetings.** Special meetings of the members may be called by the Chair or by any three (3) members and shall be held at the principal offices of JEA in the



City of Jacksonville, or at such other public place within the City of Jacksonville as may be determined by the Chair.

**Section 3. Notice of Special Meetings and Purpose.** Notice of each special meeting of the members shall be given by the Chair or by the three (3) members who may have called such special meeting. Such notice shall be in writing and shall be provided to every member not less than two (2) working days before the meeting and shall state the purpose, time and place of the special meeting. Attendance by a member at a special meeting shall constitute waiver of notice. A member may, however, appear at a meeting for the sole purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called without losing the right to object to improper notice. No business shall be transacted at any special meeting other than the purpose specified in the notice unless a majority of the members in attendance at such special meeting agree to transact other business.

**Section 4. Teleconference or Videoconference Meetings.** The Chair may allow Board member(s) to attend a regular or special meeting by teleconference or videoconference, provided that all JEA Board members attending the meeting and all other persons participating in the meeting may hear (or if by videoconference, see and hear) each other at the same time. Whenever any Board member attends a meeting by teleconference or videoconference, the Chair shall conduct the meeting in a manner so as to allow, to the fullest extent possible, simultaneous communication. A Board member or other person wishing to speak must first identify himself/herself to the Chair and request recognition from the Chair before speaking. Visual presentations shall be described in detail for any Board member attending by teleconference who is unable to view the presentation. It is the Board's preference that meetings be held with a quorum physically present except, on occasion, when the Board needs to transact business for a special matter typically conducted at a special meeting.

**Section 5. Quorum and Votes Required for Action.** The majority of the Board members shall constitute a quorum for the purpose of meeting and transacting business. Four (4) affirmative votes shall be required to accomplish an act of business. Pursuant to Chapter 286, Florida Statutes, no member who is present at any Board meeting may abstain from voting except when there is, or appears to be, a possible conflict of interest. In such case, the abstaining Board member shall comply with the disclosure requirements of Chapter 112, Florida Statutes.

**Section 6. Vacancies.** Any vacancy occurring in the office of a member of the JEA Board shall be filled for the unexpired term in the manner provided in Article 21, Charter of the City of Jacksonville, as amended.

**Section 7. Rules and Procedures.** Except as provided otherwise herein, Robert's Rules of Order shall govern the conduct of the JEA Board business, unless the majority of members shall elect to utilize other rules or procedures consistent with applicable law and these By-Laws.

**ARTICLE VI**  
**AMENDMENTS TO BY-LAWS**

These By-Laws may be amended, repealed or altered, in whole or in part, by the affirmative votes of four (4) members at any regular or special meeting, provided such subject has been included in an agenda item.

**ARTICLE VII**  
**EFFECT OF BY-LAWS**

Noncompliance with these By-Laws shall not operate to invalidate any JEA Board action otherwise valid under applicable law.

APPROVED BY THE BOARD

\_\_\_\_\_  
Date:\_\_\_\_\_

Form Approved :

\_\_\_\_\_  
Office of General Counsel

## ARTICLE 21. JEA

[Sec. 21.01. JEA created and continued.](#)

[Sec. 21.02. Definitions.](#)

[Sec. 21.03. Composition; compensation; officers; meetings.](#)

[Sec. 21.04. Powers.](#)

[Sec. 21.05. Construction.](#)

[Sec. 21.06. Bonds and revenue certificates eligible for legal investments.](#)

[Sec. 21.07. Fiscal and budgetary functions.](#)

[Sec. 21.08. Employees.](#)

[Sec. 21.09. Awards of contracts.](#)

[Sec. 21.10. Execution of instruments; examination of claims; funding through revenue bonds or revenue certificates.](#)

[Sec. 21.11. Legislative authority of council.](#)

[Sec. 21.12. Severability.](#)

### Section 21.01. JEA created and continued.

There is hereby created and established a body politic and corporate to be known as JEA, which is authorized to own, manage and operate a utilities system within and without the City of Jacksonville. JEA is created for the express purpose of acquiring, constructing, operating, financing and otherwise having plenary authority with respect to electric, water, sewer, natural gas and such other utility systems as may be under its control now or in the future. Such utilities may be owned, operated or managed by JEA separately or in such combined or consolidated manner as JEA may determine and JEA may use such name or names in the conduct of its business in connection therewith as it may determine. It is the specific purpose of this article 21 to repose in JEA all powers with respect to electric, water, sewer, natural gas and such other utilities which are now, in the future could be, or could have been but for this article, exercised by the City of Jacksonville. JEA created and established by this article is the same Jacksonville Electric Authority previously created and established by chapter 67-1569, Laws of Florida, as amended, (including as added to Chapter 67-1320, Laws of Florida by Chapter 78-538, Laws of Florida and, as amended and readopted by Chapters 80-515, and 92-341, Laws of Florida) and, except as otherwise provided or authorized by this article, JEA shall continue to function under this article the same as it previously functioned under chapter 67-1569, Laws of Florida, as amended (including as added to Chapter 67-1320, Laws of Florida by Chapter 78-538, Laws of Florida and, as amended and readopted by Chapters 80-515 and 92-341, Laws of Florida). (Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1)

### Section 21.02. Definitions.

In the interpretation of this article, unless the context otherwise requires:

(a) The term "utilities systems" means the electric utility system and the water and sewer utility system now operated by JEA which shall include, except where inconsistent with Chapter 80-513, Laws of Florida, as amended, or where the context otherwise requires, any "system" or "project" authorized pursuant to the provisions of Chapter 80-513, Laws of Florida, as amended and any natural gas utility system to be operated in the future by JEA together with any other

additional utility systems as may be hereafter designated as a part of the utilities systems operated by JEA as provided in section 21.04(w) herein.

(b) The term "member" means a member of JEA.

(c) The term "managing director" means the managing director of JEA.

(d) The term "utility system" shall mean any of the separate utility systems operated by JEA such as its electric utility system, its water utility system, its wastewater utility system or its natural gas utility system.

(e) The terms "sewer utility system" and "wastewater utility system" shall each have the same meaning as the other and these terms shall be interpreted as meaning the same.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1)

#### Section 21.03. Composition; compensation; officers; meetings.

(a) The governing body of JEA shall consist of 7 members, appointed by the mayor, subject to confirmation by the council, for a term of 4 years or until such member's successor has been appointed and has qualified. Each member of JEA shall have been a resident and elector of the city for at least 6 consecutive months prior to such member's appointment. No member of JEA shall hold any other public office or position. If at any time during a member's tenure on JEA, such member shall cease to possess the qualifications required for membership on JEA, such member shall cease to be a member and a vacancy shall exist on JEA. Any vacancy on JEA, however created, shall be filled for the unexpired term in the same manner as the position was originally filled, and the person filling the vacancy shall have and retain all the qualifications prescribed for membership on JEA. Any member appointed to JEA for 2 consecutive full terms shall not be eligible for the succeeding term. The members may be removed by the mayor at any time with or without cause, but a removal must be approved by a two-thirds vote of the council.

(b) The members of JEA shall not be entitled to compensation, pension, or other retirement benefits on account of service on JEA, but members and employees shall be entitled to payment of reasonable expenses as provided by the council. Members of JEA shall be subject to the provisions of s. 286.012, Florida Statutes, relating to voting at meetings of JEA, and to the provisions of ss. 112.311 through 112.3175, inclusive, Florida Statutes, as from time to time amended, relating to financial disclosure and conflicts of interest.

(c) JEA shall elect a chairperson, vice-chairperson and secretary and may elect one or more assistant secretaries, each of whom shall serve for one year or until such officer's successor is chosen. JEA shall hold regular meetings at least monthly at such times and places as it may designate and may hold more frequent regular meetings. Special meetings may be held upon the call of the chairperson or any 3 members of JEA. A majority of the membership shall constitute a quorum for the purpose of meeting and transacting business. Each member of JEA shall have one vote. JEA may adopt bylaws and make rules and regulations not inconsistent with this article or general law.

(Laws of Fla., Ch. 75-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 83-693-582, § 1; Ord. 84-1307-754, § 25; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 98-253-E, § 1)

#### Section 21.04. Powers.

JEA shall have the following powers, in addition to powers otherwise conferred:

(a) To construct, own, acquire, establish, improve, extend, enlarge, reconstruct, reequip, maintain, repair, finance, manage, operate and promote the utilities system.

(b) To acquire for the use of the utilities system by grant, purchase, gift, devise, condemnation by eminent domain proceedings, exchange, lease or in any other manner, all property, real or personal, or any estate or interest therein, including without limitation, property used:

(1) In connection with the generation, transmission and distribution of electric power and energy,

(2) In connection with the collection, storage, treatment, processing, disposal, transmission and distribution of water and wastewater including, but not limited to, raw water, potable water, non-potable water, chilled water and reused water; however, JEA shall have no power or authority for the function of stormwater runoff and drainage management.

(3) In connection with the production, procurement, extraction, manufacture, transmission, transportation, distribution, and storage of natural gas.

(4) In connection with the production of steam, the mining, extraction, development, production, manufacture, procurement, transportation, handling, storage, processing or reprocessing of fuel of any kind, to likewise acquire any facility or rights with respect to the supply of water, any rights with respect to minerals, including but not limited to coal, petroleum coke, natural gas and oil and bio-mass facilities for the processing of by-products derived from the operation of the utilities system, solid waste disposal and environmental protection facilities, communication and computer facilities, and any other property, equipment, facilities or property rights whatsoever determined by JEA to be necessary or convenient in connection with the operation, promotion, financing, construction, management, improvement, extension, enlargement, reconstruction, re-equipment, maintenance, repair, decommissioning or disposal of the utilities system or any part thereof, and to sell, lease or otherwise transfer, with or without consideration, any such property when in JEA's discretion it is no longer needed or useful, or such sale, lease or transfer otherwise is in the best interest of JEA, all upon such terms and conditions as JEA shall by resolution fix and determine.

The right of eminent domain conferred herein shall be exercised by JEA in the manner provided by law. If JEA leases any real property to another agency, firm, corporation, or individual, it shall cause said lease or leases to be recorded with the clerk of the circuit court as a matter of public record. JEA shall not sell real property for less than the appraised value as recorded by the property appraiser for Duval County, unless approved by the council. If there is no recorded appraised value, then JEA shall request the property appraiser for Duval County to provide an appraisal prior to the sale of the real property.

(c) To furnish electricity, water, sanitary sewer service, natural gas and other utility services as authorized herein to any person or entity, public or private, within or without the city and for said purposes shall have the right to construct and maintain electric lines, pipelines, water and sewer mains, natural gas lines and related facilities in and along all public highways and streets within or without the city.

(d) To sell power and energy, water, sanitary sewer service, natural gas and other utility services as authorized herein at wholesale and retail and/or to provide transmission or other services of any kind to any person or entity, public or private, within or without the State of Florida, directly by JEA, indirectly through other entities and jointly through associations with other utilities or entities engaged in these activities.

(e) To enter into contracts with any person or entity, public or private, deemed necessary or desirable by JEA in connection with carrying out its powers and duties.

(f) To fix, pledge to establish or establish, levy, regulate, impose and collect rates, assessments, fees and charges for the use or benefit of the utilities system and to alter and amend same from

time to time, which rates, assessments, fees and charges shall result in JEA receiving or possessing an amount which, together with accumulated balances from prior years available therefore is not less than is required to operate and maintain a self-liquidating or self-sustaining utilities system. When establishing or altering rates, assessments, fees or charges for retail service, JEA shall first give notice of and hold a public hearing in the City of Jacksonville. The notice shall be published not less than one (1) week in advance in at least one (1) newspaper of general circulation in the city. Said notice shall be at least one-fourth page in size, inviting the public to be present and heard. JEA shall have the power to impose sanctions to enforce compliance with any rule or regulation which JEA may adopt in the management and operation of, or the sale or use of any utility service provided by JEA from the utilities system including, without limitation, electricity, water, sewer and natural gas services. The city and other public bodies shall be required to pay for any utility services provided by JEA upon the same basis as other users.

(g) To sue and be sued, implead and be impleaded, complain and defend in all courts, to adopt and use a corporate seal, to apply for, hold and own patents and copyrights, to sell or license patents, copyrights, patented or copyrighted materials to other public or private entities. Prices or fees for such sales or licensing may be based upon market considerations. JEA may designate how proceeds from such sales or licensing shall be used. Prices or fees for the sale of copyrighted data processing software, as defined in section 119.083, Florida Statutes, shall be established pursuant to section 119.083, Florida Statutes.

(h) To make or cause to be made such surveys, investigations, studies, borings, maps, drawings and estimates of cost and revenues as it may deem necessary, and to prepare and adopt a comprehensive plan or plans for the location, relocation, construction, improvement, revision and development of the utilities system.

(i) (1) To issue revenue bonds or revenue certificates of JEA for the purpose of financing or refinancing the utilities system, including without limitation the financing of any one or more enlargements, expansions, developments, replacements, acquisitions or modernization of the utilities system, any expenses of the utilities system, any reserves deemed necessary or desirable by JEA and any other purpose not otherwise prohibited by law, and retiring any bond, note or revenue certificate issued under this article, or any bond, note or revenue certificate issued by or on behalf of the city to finance the water and sewer utilities previously owned or operated by the city, and for any combination of one or more such purposes in any single issue of revenue bonds or revenue certificates. At the discretion of JEA, such bonds or revenue certificates may be issued for any one or more of the several utility systems of JEA (or any combination thereof).

(2) The bonds or revenue certificates of each issue shall be authorized by resolution of JEA, which resolution shall contain such provisions relating to the protection and security of the holders of the bonds or revenue certificates, including their rights and remedies, and the rights, powers, privileges, duties and obligations of JEA with respect to the same. Such resolution may also contain provisions providing for the pledge of all or any part of the revenues of the utilities system, to which may, at JEA's discretion, be limited to the revenues of one or more of the several utility systems, to secure the payment of the bonds or revenue certificates of any issue and may provide for the pledge of other funds and accounts of JEA. Such resolution also shall determine the timing and manner of sale, which may be public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times as provided or in accordance with a specified formula or method of determination (subject to any legal limitations on interest, as established by s. 215.84, Florida Statutes, or according to said section as it may from time to

time be amended); and other terms and conditions of the bonds or revenue certificates, provided that JEA may delegate to the chairperson, managing director or other officer or employee of JEA designated by JEA the power to determine any such terms or conditions. However, the amounts and maturities of such bonds or revenue certificates and the interest rate or rates of such bonds or revenue certificates shall be within the limits prescribed by JEA and its resolution delegating to the chairperson, managing director or such other officer or employee of JEA the power to authorize the issuance and sale of such bonds or revenue certificates, and, in the case of the total aggregate amount of bonds or revenue certificates issued by JEA, within the limits prescribed by ordinance of the council. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or revenue certificates shall cease to be such officer before the delivery of such bonds or revenue certificates, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. All bonds and revenue certificates issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The issuance of such bonds and revenue certificates shall not be subject to any limitations or conditions contained in any other law.

(3) Bonds or revenue certificates and refunding bonds or refunding revenue certificates issued pursuant to this article if sold by bid shall be sold to the bidder whose bid produces the lowest true interest cost to JEA. JEA may restrict the bidders in any sale by pre-qualification or otherwise and may reserve the right to reject any or all bids. Prior to any sale by bid of bonds or revenue certificates JEA shall cause notice to be given in such manner and at such time as JEA shall determine. Said notice shall specify such matters relating to the bonds or revenue certificates offered for sale as JEA shall determine and shall state the manner in which bids shall be given. JEA may reserve the right to waive any informalities or irregularities if JEA determines that such actions are in its best interest. In no event shall said bonds or revenue certificates be sold at a net interest cost to JEA in excess of the legal limit, as established by s. 215.84, Florida Statutes, or according to said section as it may from time to time be amended.

(4) In no event shall general obligation bonds be issued hereunder.

(5) Bonds or revenue certificates may be issued by resolution of JEA, subject only to the approval by ordinance of the council of the aggregate principal amount of such bonds or revenue certificates.

(j) To borrow money and to issue notes for any purpose or purposes for which bonds or revenue certificates may be issued under the provisions of this article, in accordance with the provisions of this article relating to the issuance of bonds or revenue certificates, and to refund the same and to issue notes in anticipation of the receipt of the proceeds of the sale of any such bonds or revenue certificates.

(k) To borrow money from the city, for any period not to exceed one year, to provide JEA with working capital to meet routine or emergency cash requirements and to maintain adequate inventories, at such interest rates and upon such conditions concerning the method of borrowing, the time and manner of payment and the maximum amount that may be on loan at any time, as are determined by ordinance of the council; to lend money from one of its utilities operations to another of its utilities operations for such period, at such interest rates and upon such other conditions concerning the method of borrowing, the time and manner of payment and the maximum amount that may be on loan at any time, all as determined by JEA; and to borrow money from lending institutions, including borrowing as part of a commercial paper or other short-term note financing program which may include provision for payment upon demand by

the purchaser or purchasers, as authorized by resolution of JEA. When authorized by resolution of JEA, such notes, including renewals, may be sold by officers of JEA at public or private sale and delivered by such officers to the purchaser or purchasers thereof within the limitations and restrictions contained in such resolution. Such loans between utility systems and such borrowings from lending institutions, or between one or more of the utility systems, including borrowing as part of a commercial paper or other short-term note financing program, will not require the approval of the council.

(l) To enter into contracts determined by JEA to be necessary or desirable for the prudent management of JEA's funds, debt or fuels, and any and all other commodities used for the several utility systems including, without limitation, interest rate swaps, option contracts, futures contracts, contracts for the future delivery or price management of power, energy, natural gas or other related commodities, hedging contracts, other risk management techniques, securities lending agreements and forward purchase contracts.

(m) To invest money of JEA not required for immediate use, including proceeds from the sale of any bonds, revenue certificates or notes, in such obligations, securities, and other investments as JEA shall deem prudent, subject to any agreement with bondholders, revenue certificate holders or note holders.

(n) To enter into joint project agreements as provided by part II of chapter 361, Florida Statutes, for the purpose of implementing a project, as such term is defined in Part II of Chapter 361, Florida Statutes. A copy of all such joint project agreements shall be filed with the council and the mayor at least thirty days prior to the effective date of the agreement. Anything in this provision to the contrary notwithstanding, (i) any joint project agreement that involves a transfer of any function or operation that comprises more than ten percent of the total of the utilities system by sale, lease or otherwise to any other utility, public or private, or (ii) any joint project agreement that involves the issuance of debt not previously authorized by s. 21.04(i)(2), shall require prior approval of the council.

(o) To enter into agreements with one or more other electric utilities, public or private, and related contracts with respect to joint electric power projects as provided in section 2 of chapter 80-513, Laws of Florida, as amended. The provisions of said chapter 80-513 shall govern and control JEA in all respects in the carrying out of a joint electric power project authorized thereunder notwithstanding any provision of the charter or of the Ordinance Code of the City of Jacksonville which may be in conflict therewith.

(p) To transfer, sell, finance, lease or otherwise provide services or products, or by-products, developed or used by JEA incident to the exercise of the powers conferred by this article, including but not limited to, energy performance contracting, water, sewer and natural gas (and any other utility service hereafter provided by JEA) contracting, power marketing services, the testing and maintenance of customer-owned facilities such as transformers, capacitors, lighting, HVAC systems, water cooling and heating systems, energy management systems, etc.; the temporary leasing of JEA facilities such as oil storage tanks; the supply of steam or other thermal energy; the provision of specially conditioned power on the premises of customers and the provision of services or products to build, transfer, lease, finance, operate or sell cogeneration facilities, small power production facilities, specially conditioned power, energy conservation, energy efficiency and dispersed generation to other electric utilities both within and without the state or to any wholesale or retail customers of JEA, upon such terms and conditions as JEA shall by resolution fix and determine; and to transfer, sell, finance, lease or otherwise provide services, products or by-products developed or used by JEA incident to the exercise of the powers



conferred by this article, in the delivery of water, wastewater and natural gas services, including but not limited to the financing, testing, maintenance and operation of customer owned facilities used in water, wastewater and natural gas functions; provided, however, that JEA will not enter into any activity pursuant to this section in addition to those activities listed herein without first providing written notice of such activities to the council auditor no less than 30 days before the commencement of such activity. Nothing in this article shall authorize or be construed to authorize JEA to transfer any function or operation which comprises more than ten percent of the total of the utilities system by sale, lease or otherwise to any other utility, public or private without approval of the council. So long as there are outstanding any of the city's "Capital Project Revenue Bonds" as originally authorized pursuant to Ordinance 97-1054-E, the council may approve only such transfer which does not materially adversely affect future receipts of JEA contributions as defined therein.

(q) (1) To voluntarily collect from customers and ratepayers the sum of one dollar (\$1.00) or more per month to be deposited into an elderly and/or handicapped or low income customer emergency trust fund administered by JEA. The proceeds of such trust fund may be expended periodically by JEA for the purpose of providing financial assistance to elderly and/or handicapped or otherwise needy low income residents living within the service area of JEA for the payment of their utilities needs. The method of administration of such trust fund, including the collection and distribution thereof, shall be as provided by ordinance of the council.

(2) Upon the unanimous approval of the Board, and a two-thirds vote of the City Council, to collect the sum of one dollar (\$1.00) or more per month in voluntary contributions from customers and ratepayers, for a charitable, scholastic, or public service community giving program. - Contributions from any such program shall be passed through to an appropriate non-profit entity for administration and distribution and shall not be administered by JEA. No additional programs shall be initiated except by future discontinuation of the program authorized in this item (2). The results of such giving program shall be reported annually each July 1st to the Council.

(r) To jointly or separately plan, finance, operate, use, share costs of, sponsor, publicize or otherwise participate in projects, systems, programs or measures to promote or implement electric and natural gas energy, electrotechnologies, water, wastewater and natural gas conservation and efficiency, power conditioning and load management, including, but not limited to, energy, water and wastewater conservation, energy efficiency and conditioning or load reducing or load shaping modifications to the maintenance and operating procedures and facilities of a building or facility or in the installation therein; energy, water and wastewater conserving and energy efficiency modifications to windows and doors, pipes, pumps and motors; caulking and weatherstripping; insulation; automatic energy control systems; load management systems; hot water systems; replacements or modifications of lighting fixtures; and energy recovery and recycling systems; and research and development relating thereto within or without the state.

(s) To delegate any act authorized pursuant to this article to any officer, employee or agent of JEA as it may deem necessary or desirable for the prudent management of JEA.

(t) To do all acts and deeds necessary, convenient or desirable, incidental to the exercise and performance of the powers and duties granted to JEA in this article.

(u) Express authority is given JEA to enter into any contracts, leases or other agreements with other governmental bodies (either local, state or federal) for the purpose of carrying out any of the provisions, powers or purposes of this article. JEA is expressly prohibited from appropriating

or expending any of its funds for payments, contributions or transfer to any non-profit organization or any other group, association or entity other than those whose primary purpose directly involves the electric, water, wastewater and natural gas utility, (or any other utility which may, in the future, be operated by JEA) industries, or electric energy, water, wastewater and natural gas (or any other utility which may, in the future, be operated by JEA) related matters.

(v) If JEA determines that it is necessary or appropriate for it to provide, operate or maintain any other utility system or function other than electric, water wastewater and natural gas, JEA shall by resolution identify such additional utility system or systems or function or functions and indicate its desire to provide such utility service or services or function or functions to the council. Upon the adoption and approval of this resolution by JEA and the council, voting as separate entities, JEA, with respect to the specified system or systems, shall be vested with all powers set forth herein or in general law that would, but for the provisions of this article, apply to such specified utility system or systems.

(w) To exercise all powers granted to the city with regard to sewage collection and disposal and to water supply pursuant to chapters 170 and 180, Florida Statutes, including the issuance of bonds or notes in anticipation thereof payable from special assessments under said chapter 170, Florida Statutes.

(x) To coordinate carefully with the Department of Public Works of the City of Jacksonville and the Jacksonville Transportation Authority the planning and execution of engineering and construction projects involving underground work and streets and highways to seek to minimize the total cost of such projects and to reduce disruption to the citizens of the city to the maximum extent possible.

(y) To expend JEA funds up to one and one-half (1.5) percent of the prior year's gross revenues to promote the efficient use of JEA's services through public education including exhibits, conferences, displays, tours and other events customary to the utilities industry and also to publicize, advertise and promote the objects of this article and to promote the objectives of JEA in the manner set forth by resolution of JEA. Accordingly, JEA may expend its funds to make known to the users, potential users and public in general the advantages, facilities, resources, products, attractions and attributes of the services provided by JEA and to further create a favorable climate of opinion concerning the activities and projects authorized and indicated by this article. JEA may also, to the extent permitted by the laws of the State of Florida, expend funds in cooperative efforts to and with other agencies, both public and private, in accomplishing the purposes enumerated and indicated by this article; and in furtherance thereof. JEA may also authorize expenditures for any and all of the purposes herein enumerated, including but not limited to, meals, hospitality and entertainment of persons in the interest of promoting and engendering good will toward the activities and projects herein authorized. Whenever an expenditure of funds for any of the foregoing purposes is made by a member or employee of JEA, JEA may reimburse such member or employee therefor, but only after such expenditures have been duly authorized by JEA or its managing director if so delegated to do so. JEA will provide a list of proposed promotional expenditures each year to the council auditors.

(z) To allocate costs between the electric, water, sewer, natural gas and any other utility system operated now or in the future by JEA on a cost accounted basis.

(aa) To assist the City of Jacksonville and any of its departments and independent agencies in the development of joint financing programs for the purpose of financing capital improvement programs for the City of Jacksonville and any of its departments and independent agencies.

(bb) To enter into such interlocal agreements authorized by, and to become a member of such separate legal entity or entities created pursuant to chapter 163, Florida Statutes, as JEA shall determine by resolution are necessary or desirable to accomplish the purposes enumerated and indicated by this article; and, to the extent permitted by the laws of the State of Florida, to enter into such joint ventures, partnerships, joint ownership arrangements, or other similar arrangements with other persons or entities, public or private, as JEA shall determine by resolution are necessary or desirable to accomplish the purposes enumerated and indicated by this article.

(cc) To allocate and allot the sums appropriated by the council in JEA's annual budget for more specific purposes and to transfer from time to time during the fiscal year, without further council approval, appropriated funds including capital outlay funds from one of the purposes for which funds are appropriated to another of such purposes, if, in the discretion of JEA, such transfer is necessary to carry out all of the purposes for which funds were appropriated, subject to applicable law; provided however, nothing in this section shall authorize JEA to transfer appropriated funds from its operating budget to its capital outlay budget or vice versa, without prior approval of the council. This includes the financing of power conditioning and energy conservation equipment for both residential and nonresidential customers providing that the receivables at any point in time will not exceed ten (10) percent of the prior year's utilities system's revenues. A written summary of all budget transfers shall be provided to the council auditor at the end of each quarter.

(dd) To the extent permitted by the laws of the State of Florida, to have ownership and membership in separate organization entities, including but not limited to corporations, to conduct utility related activities and functions. A copy of all such ownership agreements shall be filed with the council and the mayor at least thirty (30) days prior to the effective date of the agreement.

(ee) (1) To shut off and discontinue the supplying of services of one utility system, to any and all users of the utilities system, for the nonpayment, when due, of the rates, assessments, fees or charges, for facilities or services of that particular utility system, or for facilities or services of any other utility system.

(2) To deny any application for services of one utility system, to any and all users or potential users of the utilities system for the nonpayment, when due, of rates, assessments, fees or charges for facilities or services of that particular utility system, or for facilities or services of any other utility system.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Laws of Fla., Ch. 82-312, § 15; Ord. 84-1307-754, § 25; Ord. 86-164-454, § 1; Ord. 86-1458-879, § 1; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 94-1268-757, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1; Ord. 2005-1032, § 1)

#### Section 21.05. Construction.

The powers of JEA shall be construed liberally in favor of JEA. No listing of powers included in this article is intended to be exclusive or restrictive and the specific mention of, or failure to mention, particular powers in this article shall not be construed as limiting in any way the general powers of JEA as stated in Section 21.04. It is the intent of this article to grant to JEA full power and right to exercise all authority necessary for the effective operation and conduct of JEA. It is further intended that JEA should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which JEA is created. The fact

that this article specifically states that JEA possesses a certain power does not mean that JEA must exercise such power unless this article specifically so requires. JEA's power to levy special assessments shall not be deemed to be the power to levy taxes.

(Ord. 93-82-1385, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1)

**Section 21.06.** Bonds and revenue certificates eligible for legal investments.

Notwithstanding any provisions of any other law or laws to the contrary, all revenue bonds and revenue certificates including refunding bonds and refunding revenue certificates, issued pursuant to this article shall constitute legal investments for savings banks, trust companies, executors, administrators, trustees, guardians, and other fiduciaries, and for any board, body, agency or instrumentality of the State of Florida, or of any county, municipality, or other political subdivision of the State of Florida; and shall be eligible as security for deposits of state, county, municipal and other public funds.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25; Ord. 93-82-1385, § 1)

**Editor's note:** Former § 21.06, relative to transfer of property by the city, was deleted by § 1 of Ord. 93-82-1385, and former § 21.05 was subsequently renumbered as s. 21.06. The provisions of former § 21.06 derived from Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25 and Laws of Fla., Ch. 92-341, § 1.

**Section 21.07.** Fiscal and budgetary functions.

JEA shall have fiscal and budgetary functions, subject to the limitations herein expressed:

(a) The fiscal year of JEA shall commence on October 1 of each year and end on the following September 30.

(b) JEA shall prepare and submit its budget for the ensuing year to the city on or before July 1 of each year, setting forth its estimated gross revenues and other available funds, and estimated requirements for operations and maintenance expenses, capital outlay, debt service, and depreciation and reserve account. The council and the mayor shall approve or disapprove such budget in the manner provided in article 14 for budgets of independent agencies.

(c) As consideration for the unique relationship between the City of Jacksonville and JEA, as a tax-exempt entity within the consolidated government, and in recognition of the shared attributes with the consolidated City of Jacksonville in connection with its electric, water, and sewer distribution systems, there shall be assessed upon JEA in each fiscal year, for the uses and purposes of the city, from the revenues of the electric system and the water and sewer system operated by JEA available after the payment of all costs and expenses incurred by JEA in connection with the operation of such electric system and water and sewer system (including, without limitation, all costs of operation and maintenance, debt service on all obligations issued by JEA in connection with such electric system and water and sewer system and required reserves therefore and the annual deposit to the depreciation and reserve account required pursuant to section 21.07(g)), an amount as provided herein. Effective October 1, 2008, consistent with the provisions of this section 21.07(c), JEA shall pay the city a combined assessment for the electric system and the water and sewer system. The combined assessment for the electric system and the water and sewer system shall equal, but not exceed the sum of (i) the amount calculated by multiplying 5.513 mills by the gross kilowatt-hours delivered by JEA to retail users of electricity in JEA's service area and to wholesale customers under firm contracts having an original term of more than one year (other than sales of energy to Florida Power and

Light Company from JEA's St. Johns River Power Park System) during the twelve-month period ending on April 30 of the fiscal year immediately preceding the fiscal year for which such assessment is applicable plus (ii) the amount calculated by multiplying 2.149 mills by the number of cubic feet of potable water and cubic feet of sewer service, excluding reclaimed water service, provided to consumers during the twelve-month period ending on April 30 of the fiscal year immediately preceding the fiscal year for which such assessment is applicable.

Notwithstanding the foregoing not-to-exceed amount for the combined assessment, JEA shall pay the city each fiscal year, from fiscal year 2008-2009 through fiscal year 2015-2016, an additional amount, if necessary, to ensure a minimum annual increase of \$ \$2,500,000, using the fiscal year 2007-2008 combined assessment of \$ \$94,187,538 as the base year.

(d) The assessment calculations for the electric system and the water and sewer system shall be in effect until September 30, 2013, when the council may reconsider the assessment calculations. The council may reconsider the assessment calculations every fifth year thereafter. The council may change the assessment calculations by ordinance within the provisions of this section 21.07.

Should the council not reconsider the assessment calculations, the assessments shall be calculated using the existing formulas. If either federal or state laws are enacted or regulatory actions are taken that adversely impact JEA's financial position for the electric utility system or the water and sewer utility system, the council shall promptly consider enacting such changes to this section 21.07 as may be negotiated by JEA and the council to mitigate such adverse impact.

(e) The council shall have the power to appropriate annually a portion of the available revenues of each utility system (other than the electric, water and sewer systems) operated by JEA for the uses and purposes of the city. This appropriation shall be based on a formula to be agreed upon by JEA and the council.

(f) JEA shall pay over to the city (i) the amounts assessed upon JEA pursuant to section 21.07(c) and (ii) such portions of the funds actually appropriated by the council pursuant to section 21.07(e) at such time as the council may request, but not in advance of collection. Although the calculation for (i) the amounts assessed upon JEA pursuant to section 21.07(c) and (ii) the annual transfer of available revenue from JEA to the city pursuant to section 21.07(e) is based upon formulas that are applied specifically to the respective utility systems operated by JEA, JEA, in its sole discretion, may utilize any of its revenues regardless of source to satisfy its total annual obligation to the city mandated by said sections 21.07(c) and (e).

(g) JEA shall be required to set aside each year in a depreciation and reserve account established for each utility system it operates, an amount equal to not less than 10 percent of its annual net revenues for the previous year attributable to each such system. For such purpose, "annual net revenue" shall mean annual gross revenues derived by JEA from the operation of such system reduced by expenses for operation and maintenance allocable to such system and debt service allocable to such system. Funds set aside in each such depreciation and reserve account shall be used exclusively for enlargements, extensions, improvements and replacements of capital assets of the utility system for which such account was established or to pay or provide for the payment of JEA's bonds, notes or revenue certificates relating specifically to such system; provided, however, that if JEA by resolution determines that it is in the best interests of JEA to use all or any portion of the funds set aside in the depreciation and reserve account established with respect to a particular utility system for the purposes of another utility system, then such funds may be so applied.

(h) JEA shall not be required to utilize the personnel, motorpool, purchasing, communication or information systems services of the city. By mutual agreement of JEA and the city such services

may be provided from one party to the other but only on a cost-accounted basis. JEA shall be required to use the legal services of the city on a cost-accounted basis except in those cases when the chief legal officer of the city determines that the city legal staff cannot or should not provide legal services in the required legal area. JEA shall appropriate the funds necessary to meet the obligations for outside legal services as determined by the chief legal officer of the city. Such chief legal officer shall consult with JEA before he or she selects outside counsel.

(i) Unless otherwise determined by JEA, all revenues and service charges receivable by JEA as payment for the sale of utilities services shall be collected and received by the tax collector. The tax collector shall deposit to the account of or otherwise turn over to JEA such funds at such times and in such manner as JEA may from time to time designate by resolution. JEA may provide for the collection of such revenues and service charges directly by JEA, provided that the council auditor shall be notified in writing of any proposed change from the current collection process utilizing the Tax Collector and that such change shall not take place until the next fiscal year after such notice is given.

(j) JEA shall employ and fix the compensation of the managing director, who shall manage the affairs of the utilities system under the supervision of JEA. The entire working time of such managing director shall be devoted to the performance of the duties of such office and the managing director shall have no outside employment or business. The managing director shall be a graduate of an accredited college or university, or have at least ten years' managerial experience in a consumer-oriented industry or comparable enterprise. JEA may appoint and fix the compensation of 48 staff assistants to the managing director, to serve at the pleasure of JEA. JEA shall employ and fix the compensation of the department heads, deputy directors of departments, division chiefs and assistant division chiefs of the utilities system. JEA may adopt position titles different from those recited herein, consistent with utility industry practice. The managing director, department heads, deputy directors of departments, staff assistants, division chiefs and assistant division chiefs shall not be included within the civil service system of the city. JEA may employ such certified public accountants, consultants and other employees for special purposes, not within the civil service system, as it may require, and fix and pay their compensation. Whenever used in this s. 21.07(i), "compensation" shall mean both salary and benefits, exclusive of city pension benefits. All personnel appointed by JEA pursuant to this s. 21.07(i) shall participate in the City of Jacksonville pension plan in the same manner as other employees of JEA who participate in such plan. However JEA shall have the option to establish an employee deferred compensation program separate from the city's employee deferred compensation program.

(k) JEA is authorized to pay over to other local governmental units outside the city annually a portion of available revenues derived from operations in such local governmental units' territories, for the uses and purposes of such local governmental units, an amount not to exceed that which would be calculated using the procedures in Sections 21.07(c) and (e), but only to the extent that JEA is able to, and does, include in the rates imposed only upon the customers in such local governmental units' territories the total amounts in respect of such payments.

(l) In addition to all other sums paid by JEA to the City of Jacksonville, JEA shall pay to the City of Jacksonville a franchise fee in an amount equal to three percent (3%) of the revenues of the electric system and the water and sewer system as set forth in Section 21.07(c) herein. The franchise fee will commence for revenues derived effective April 1, 2008 and shall be paid monthly with the first payment payable on June 1, 2008. The franchise fee shall be limited to (1) revenues derived within Duval County not including Urban Service Districts 2-5, and (2) per

customer, total water and sewer rate revenues, and (3) up to a per customer maximum of \$2,400,000 per fiscal year of electric rate revenues. The franchise fee shall be calculated each month by multiplying three percent (3%) by the sum of JEA's base rate electric revenues, fuel rate revenues, water rate revenues and sewer rate revenues for that month excluding unbilled revenues and uncollectible accounts. The franchise fee shall be calculated on revenues derived from the sale of gross kilowatt-hours and number of cubic feet of potable water and cubic feet of sewer service as set forth in Section 21.07(c). Notwithstanding the foregoing, no franchise fee shall be paid on franchise fees, state utility taxes, fuel related interchange sales, sales for resale, City of Jacksonville accounts, JEA accounts, investment income and other revenues. JEA shall be authorized to pass-through the amount of the franchise fees set forth herein and associated charges resulting from the stated three percent (3%) franchise fee calculation on rate revenues notwithstanding the \$2,400,000 limit set forth herein to the customers of JEA, in accordance with the customers' proportionate share of rate revenues as calculated above. This franchise fee is in consideration of the administrative costs incurred by the City to coordinate functions and services with JEA, for the exclusive right to serve electric, water and sewer customers, for use by JEA of the public rights-of-way used by it in connection with its electric distribution system and its water and sewer distribution and collection system, and in further consideration of the unique relationship of JEA and the City, in which JEA is a wholly owned public utility, and such other good and valuable consideration that has been agreed to between JEA and the City of Jacksonville. The gross franchise fee and the amount of the pass-through set forth herein may be increased by ordinance, initiated by the Mayor and approved by two-thirds supermajority of the City Council, but the franchise fee shall not exceed six percent (6%) of the gross utility revenues as calculated above. The JEA and the City shall enter into a Franchise Fee Agreement for the administration of the Franchise Fee.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 81-921-490, § 1; Ord. 84-1307-754, § 25; Ord. 89-1001-632, § 1; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1; Ord. 2003-1320-E, § 1; Ord. 2007-838-E, § 1; Ord. 2007-1132-E, § 1)

#### Section 21.08. Employees.

All employees of the utilities system shall be employees of JEA and shall be subject to articles 16 and 17 unless otherwise provided by the council, which shall be and continue to be the legislative body as provided in section 447.203(10), Florida Statutes. JEA shall be fully responsible for the administration and operation of all utility services as set out in this article and in order to meet its administrative and operational responsibilities, JEA shall have full and independent authority to hire, transfer, promote, discipline, terminate and evaluate employees engaged to provide any and all of the utilities services for which it is responsible and accordingly, consistent with the provisions of article 17, JEA may establish employment policies relating to hiring, promotion, discipline and termination, and other terms and conditions of employment, and enter into negotiations with employee organizations with respect to wages, hours and terms and conditions of employment and take such other employment related action as needed to assure effective and efficient administration and operation of the utilities system. In order to effectively implement the foregoing, JEA shall perform all functions with regard to its own employees that prior to the effective date of the consolidation and expansion of its utility function, were performed by the Personnel Division of the Department of Administration and Finance of the city. JEA, at its expense, shall provide accidental death benefits for all employees

engaged in hazardous duty as determined by JEA, in the amount of \$50,000 payable to the beneficiary named by the employee, or as otherwise provided, in the event said employee dies as a result of an accident occurring to any employee in the course of his/her employment. Nothing contained in this section 21.08 shall be construed to supersede or repeal any provision of section 12 of Chapter 80-513, Laws of Florida, as amended.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25; Ord. 87-203-345, § 1; Laws of Fla., Ch. 92-341, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1)

#### Section 21.09. Awards of contracts.

(a) JEA shall not be subject to the provisions of Chapter 126, Ordinance Code of the City of Jacksonville, as the same may be amended from time to time, however, JEA in entering into any contracts relating to the construction, reconstruction, repair, operation or maintenance of the utilities system or the purchase of supplies, equipment, machinery and materials for the utilities system or the contracting or otherwise purchasing for any advisory, professional or any other services may establish such rules, regulations or procedures as it may deem desirable or necessary in connection therewith. In the absence of such specific authority, rules, regulations or procedures, JEA shall follow the provisions of Chapter 126 of the Ordinance Code of the City of Jacksonville, as the same may be amended from time to time. JEA shall have the right to reject any and all bids, in whole or in part, in the best interests of JEA. Nothing in this chapter shall be construed to limit the power of JEA to construct, repair, or improve the utilities system, or any part thereof, or any addition, betterment or extension thereto, directly by the officers, agents, and employees of JEA, or otherwise by contract. JEA is authorized to implement and to take all actions necessary to administer a purchasing and procurement program directed to Minority Business Enterprises including, but not limited to, prime contractors, subcontractors, consultants, subconsultants, and suppliers. Any such Minority Business Enterprise program shall be implemented by JEA to remedy discrimination or the present effects of past discrimination, if any, suffered by Minority Business Enterprises in the business community in the area served by JEA. For purposes of this chapter, the term "Minority Business Enterprise" shall be defined by JEA and shall include, at a minimum, those business entities that are legitimately owned, operated and controlled by persons who have been shown to have been discriminated against or who suffer from the present effects of past discriminations, if any, in the business community in the area served by JEA. Such program shall be used to redress and remedy discrimination or the present effects of past discrimination, if any, as may be determined by JEA, and which are shown to have been suffered by Minority Business Enterprises, in the business community in the area served by JEA.

(b) No member of JEA or officer or employee thereof shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with JEA for any matter, cause or thing whatsoever in which such member shall have a financial interest or by reason whereof any liability or indebtedness shall in any way be created against JEA. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against JEA.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 80-113-169, § 1; Ord. 81-921-490, § 2; Ord. 84-1307-754, § 25; Ord. 84-229-307, § 1; Ord. 86-1475-875, § 1; Ord. 88-989-705, § 1; Ord. 91-678-447, § 1; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1)



Section 21.10. Execution of instruments; examination of claims; funding through revenue bonds or revenue certificates.

All instruments in writing necessary to be signed by JEA shall be executed by the chairperson and secretary or assistant secretary, or by such officer, agent or employee of JEA as it may by resolution designate. JEA shall provide for the examination of all payrolls, bills, and other claims and demands against JEA to determine before the same are paid that they are duly authorized, in proper form, correctly computed, legally due and payable, and that JEA has funds on hand to make payment. Funds on hand to make payment shall be deemed to have been provided when revenue bonds or revenue certificates of JEA (or notes issued in anticipation thereof) to finance the acquisition and construction of plants and facilities for the production and/or transmission of electricity, the production and transmission of water, the transmission and treatment of wastewater and the transmission of natural gas, costing in excess of \$10,000,000.00 have been duly authorized as provided in this article whereupon JEA may enter into instruments in writing for the acquisition and construction of such plants and facilities and may sell such revenue bonds or revenue certificates (or notes issued in anticipation thereof) in the manner provided in this article in installments to provide funds as obligations of JEA under such instruments in writing become due.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25; Laws of Fla., Ch. 92-341, § 1; Ord. 93-82-1385, § 1; Ord. 97-12-E, § 2; Ord. 98-253-E, § 1)

Section 21.11. Legislative authority of council.

Notwithstanding any provision of this charter to the contrary, the council may repeal or amend any portion of this article, by two-thirds vote of the membership of the council. A public hearing on the adoption of the ordinance shall be advertised in substantially the same manner as the council is required to advertise its intention pursuant to s. 200.065, Florida Statutes, and held not earlier than 30 days after the introduction of the ordinance into the council. The council shall take final action on the ordinance only after the expiration of 60 days after the advertised public hearing, and no ordinance shall be enacted except by a two-thirds vote of the entire council. If the mayor disapproves the ordinance, the council may enact it notwithstanding such disapproval only by a four-fifths vote of the entire council.

(Laws of Fla., Ch. 78-538, § 1; Laws of Fla., Ch. 80-515, § 1; Ord. 84-1307-754, § 25; Laws of Fla., Ch. 92-341, § 1)

Section 21.12. Severability.

If any provisions of this article or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(Ord. 93-82-1385, § 1)

Texas Government Code - Section 1502.070. Management And Control Of Utility System

Legal Research Home > Texas Laws > Government Code > Texas Government Code - Section 1502.070. Management And Control Of Utility System

§ 1502.070. MANAGEMENT AND CONTROL OF UTILITY SYSTEM.

(a) Management and control of a utility system may be vested in:

- (1) the municipality's governing body; or
- (2) a board of trustees named in the proceedings adopted by the municipality and consisting of not more than five members, one of whom must be the mayor of the municipality.

(b) The compensation of the trustees shall be specified by the proceedings. The compensation may not exceed five percent of the gross receipts of the utility system in any year.

(c) The proceedings of the municipality may specify the terms of office of the board of trustees, their powers and duties, the manner of exercising those powers and duties, the election of successor trustees, and any matter relating to the organization and duties of the board. On any matter not covered by the proceedings, the board of trustees is governed by the laws and rules governing the municipality's governing body, to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, § 1, eff. Sept. 1, 1999.  
Renumbered from V.T.C.A., Government Code § 1502.071 and amended by Acts 1999, 76th Leg., ch. 1064, § 22, eff. Sept. 1, 1999.

SUBCHAPTER G. MANAGEMENT OF CERTAIN ENCUMBERED MUNICIPAL  
ELECTRIC UTILITY SYSTEMS

Sec. 552.121. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns an electric utility system, that by ordinance or charter elects to have the management and control of the utility system governed by a board of trustees, and that:

(1) has outstanding obligations payable in whole or in part from and secured by a lien on and pledge of the net revenue of the system; or

(2) issues obligations that:

(A) are payable in whole or in part from and secured by a lien on and pledge of the net revenue of the system; and

(B) are approved by the attorney general.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 402.121 by Acts 2007, 80th Leg., R.S., Ch. [885](#), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.122. TRANSFER OF MANAGEMENT AND CONTROL OF ELECTRIC UTILITY SYSTEM. (a) A municipality by ordinance may transfer management and control of the municipality's electric utility system to a board of trustees appointed by the municipality's governing body.

(b) The municipality by ordinance shall prescribe:

(1) the number of members; and

(2) the qualifications for appointment to the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 402.122 by Acts 2007, 80th Leg., R.S., Ch. [885](#), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.123. AUTHORITY OF BOARD OF TRUSTEES. (a) The municipality by ordinance may vest in the board the power to establish rates and related terms for its municipally owned electric utility system.

(b) The municipality may delegate to the board of trustees all or part of the municipality's authority to:

(1) exercise the power of eminent domain with respect to property that will be used by, useful to, or required by the utility system; and

(2) issue obligations in the name of the municipality to acquire or construct an improvement to or extension of the utility system or to repair the system.

(c) The municipality may authorize the board of trustees to issue obligations under Subsection (b)(2) without the prior approval of the municipality. The obligations must be payable solely from the net revenue of the utility system.

(d) The municipality may not delegate to the board of trustees the authority to:

(1) levy or collect ad valorem taxes; or

(2) issue obligations that are payable in whole or in part from ad valorem taxes.

(e) The municipality and the board of trustees may jointly provide for the issuance of obligations payable from ad valorem taxes and the utility system's net revenue by adopting identical provisions in an ordinance or resolution, as appropriate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 402.123 by Acts 2007, 80th Leg., R.S., Ch. [885](#), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.124. EFFECT OF PREVIOUSLY ISSUED BONDS. (a) A municipality or an existing board of trustees may not exercise a power provided by this subchapter in relation to an obligation issued before June 14, 1989, unless the ordinance authorizing the issuance of the obligation or the deed of trust or trust indenture securing payment of the obligation specifically allows the municipality or board to exercise the power. The authority of the municipality or board in relation to that obligation is subject to any restriction or covenant contained in the ordinance, deed of trust, or trust indenture.

(b) The board of trustees may authorize, issue, and sell additional obligations on a parity with an obligation issued before June 14, 1989, if the ordinance, deed of trust, or trust indenture provides for the issuance of the obligations. The obligations must be payable from the revenue pledged to pay the previous obligation and must be secured by pledges and liens on a parity with the pledge securing the previous obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 402.124 by Acts 2007, 80th Leg., R.S., Ch. [885](#), Sec. 3.76(a)(2), eff. April 1, 2009.

**RESOLUTION NO. 990913-05**

**WHEREAS**, state and federal legislative initiatives are driving a transition of the electric utility industry from a regulated, monopoly environment to a restructured, competitive industry; and

**WHEREAS**, Austin's electric utility, Austin Energy, is a valuable City asset and a vital community resource; and

**WHEREAS**, the City Council is committed to taking the actions necessary to ensure the continued successful operation of Austin's electric utility, enhance the value of its electric utility and to provide the City a fair return from the ownership of and investment in its electric utility; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

1. The City will evaluate its electric utility's pricing structure for all customer classes, using the annual Electric Reliability Council of Texas average retail price as a standard. The City Manager will annually present to the City Council a comparison of the electric utility's prices for all customer classes compared to the annual Electric Reliability Council of Texas average retail price. Such analysis will be used to determine the timing and amount of rate changes necessary to achieve competitive prices. The City will continue efforts to retain major retail customers.
2. The City Manager will annually present to the City Council a review of the electric utility's operations, financial position and an analysis of its projected competitive position. The City Manager will recommend, based on these analyses, updates to this resolution's targets when deemed appropriate. The City Council will use these targets in determining the utility's budget and the utility's transfer to the General Fund.

3. The City will direct all excess electric utility cash to a debt management fund. The debt management fund will be used to improve the competitive position of its electric utility including, but not limited to, funding capital needs in lieu of debt issuance, reduction of outstanding debt, improving the debt to capital ratio, and other competitive strategies such as rate reductions, allocated in a fair and equitable manner across all classes of customers, and new technology.

The City will evaluate all alternatives for providing future customer requirements in order to identify the most competitive source including, but not limited to, traditional generation facilities, purchased power, demand side management programs and new technology.

	FY1997	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003
<b>Debt as percent of capital</b>	75%	73%	70%	66%	62%	62%	62%

4. The City will continue to reduce operating expense of its electric utility as necessary to ensure the continued successful operation of Austin's electric utility. The utility will operate at a cost and cents per kilowatt hour below the ERCOT average. Targets will be re-evaluated on a periodic basis.

	FY1997	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003
<b>ERCOT Average</b>							
<b>Total O&amp;M (cents/kWh)</b>	3.367	3.160	3.090	3.2716	3.242	3.214	3.188

5. The City may initiate a public education and input process that may culminate in a City Charter amendment election to consider governance options for its electric utility, including establishing a partial powers governing board using the San Antonio model. This board model will retain for City Council the powers of eminent domain, rate setting, debt issuance and budget approval.

6. The City will decrease the General Fund Transfer from its electric utility as necessary to achieve competitive pricing for its electric utility, using the annual ERCOT average retail price as a standard, with an annual review to reaffirm the appropriate level as the competitive market develops.

	FY1997	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003
<b>Percent of Total Revenue</b>	<b>10.6%</b>	<b>10.1%</b>	<b>9.1%</b>	<b>8.1-9.1%</b>	<b>6.6-9.1%</b>	<b>6.6-9.1%</b>	<b>6.6-9.1%</b>

7. The City will adjust conservation spending for its electric utility as necessary to achieve competitive pricing for its electric utility using the annual ERCOT average retail price as a standard, with an annual review to reaffirm the appropriate level as the competitive market develops. The City will evaluate conservation programs on an ongoing basis to ensure that they are achieving maximum savings and effectiveness.

Cost effective conservation programs shall be the first priority in meeting new load growth requirements of Austin Energy. The utility will increase its conservation effort and investigate the following activities to accomplish this goal:

- Load management programs, including air conditioning cycling, water heater cycling and "watt-buster" days;
- Austin Energy Operations Conservation, including Power Factor Correction;
- City of Austin Building Code Revisions;
- Appliance and Lighting Discounts;
- Austin Energy Interruptible Tariffs;
- Austin Energy Curtailable Tariffs;
- Education Programs;
- Elimination of "all electric heating";
- Tree Planting; and
- Commitment by City of Austin to departmental purchases of green power.



Additionally, all energy conservation equipment used in Austin contracts from the utility's Energy Management Services public enterprise will be purchased and installed through a competitive process and not in competition with local contractors. The conservation goal will be publicized through a variety of methods, including:

- (a) Employee education programs, and
- (b) Community awareness programs

Semi-annual reports to Council and all appropriate commissions and committees shall be made on progress to date in achieving this goal.

8. The expansion of renewable energy sources in Austin Energy's energy portfolio is a priority of the utility. Austin Energy's goal is to achieve 5% of the energy in its portfolio mix coming from renewable sources by December 31, 2004. Renewable resources are those stated in the definition of "renewable resources" in Public Utility Commission Substantive Rule 25.5.

All renewable energy funding in excess of avoided costs shall be accomplished through two mechanisms for these programs including:


- (a) Austin Energy's Green Pricing Program; and
- (b) The greater of \$1 million or 2% of actual net income for the prior fiscal year excluding any extraordinary gains (losses) and subtracting off-system sales revenues, plus an amount equal to the utility's total green pricing subscriptions for the prior fiscal year, provided the total of this subpart (b) shall not be more than 5% of actual net income for the prior fiscal year excluding any extraordinary gains (losses) and subtracting off-system sales revenues.

Provided, however, that these funding mechanisms do not apply to any renewable contract for which costs are less than avoided cost. "Avoided cost" is defined as the incremental cost to Austin Energy of electric energy or capacity or both, which,

but for the purchase from a supplier of electricity, Austin Energy would generate itself or purchase from another source.

**ADOPTED:** September 13, 1999

**ATTEST:**



Shirley A. Brown  
City Clerk

**RESOLUTION NO. 20120607-038**

**WHEREAS**, the Austin City Council is the governing body of Austin Energy, establishing rates, policies, and regulations; setting budgets; and authorizing the issuance of bond obligations on behalf of the utility; and

**WHEREAS**, approximately 50,000 of Austin Energy's more than 400,000 customers are located outside of the jurisdiction of the City of Austin and therefore do not participate in directly electing members of Austin Energy's governing body; and

**WHEREAS**, according to the American Public Power Association's (APPA) 2010 Governance Survey, 32% of utilities with more than 50,000 customers surveyed use city councils as their governing bodies; and

**WHEREAS**, other governance models, including independently elected or appointed governing boards, are used throughout the country's public power utilities; and

**WHEREAS**, according to APPA's 2010 Governance Survey, of the utilities with more than 50,000 customers that serve customers outside of municipal boundaries approximately 12% have a governing board that includes representative(s) from outside the municipality; and

**WHEREAS**, Austin residents benefit from keeping Austin Energy a municipally-owned electric utility because public power entities provide for local control of energy policy issues, maintain public participation in rate regulation, and offer financial and other advantages to the inhabitants of the region; and

**WHEREAS**, the benefits of any governance change must be in the best interest of the customer and citizen-owner to continue to meet expectations of having competitive prices; providing safe and reliable service; encouraging local input; and supporting the local community and region; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Manager is directed to study and compile a list of the various governance models of public power utilities that serve customers located outside of the regulating municipality. The study should include municipally-owned utilities from across the country with a focus on Texas-based utilities.

The City Manager should present the models to the Electric Utility Commission no later than August 31, 2012.

**BE IT FURTHER RESOLVED:**

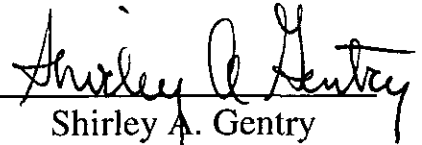
The Electric Utility Commission (EUC) is directed to evaluate the models presented by the City Manager, including at a minimum the impacts on local control and public participation, effects on bond ratings, legal and municipal charter issues, and impacts on utility and regional finances.

The City Manager and the EUC should consult with former General Managers of Austin Energy, the Texas Public Power Association, the American Public Power Association, and other sources they consider appropriate to inform their understanding of the issues and enhance the analysis. The EUC may form a working group to conduct the analysis, as needed.

The EUC should report its findings and input to the City Council no later than October 31, 2012. The City Manager may also provide his findings and analysis to the City Council during this same timeframe.

**ADOPTED:** June 7, 2012

**ATTEST:**

  
Shirley A. Gentry  
City Clerk