

SPECIAL INVESTIGATORY COMMITTEE ON JEA

SESSION #9

DATE: Monday, September 28, 2020

TIME: 5:00 p.m. - 6:17 p.m.

PLACE: Zoom

COUNCIL MEMBERS PRESENT:

Brenda Priestly Jackson, Chair, District 10
Randy DeFoor, District 14
Scott Wilson, District 4
Joyce Morgan, District 1
Al Ferraro, District 2
Garrett Dennis, District 9
Ronald Salem, Group 2

ALSO PRESENT:

Dr. Cheryl Brown, Director, City Council
Steve Cassada, IT Administrator
Melanie Wilkes, Council Support Services
Eric Grantham, Council Support Services
Jeff Clements, Chief of Research
Yvonne Mitchell, Council Research
Kim Taylor, Council Auditor's Office
Heather Reber, Council Auditor's Office
Peggy Sidman, Office of General Counsel
Paige Johnston, Office of General Counsel
Jason Gabriel, Office of General Counsel
Sean Granat, Office of General Counsel
Jon Phillips, Office of General Counsel
Chris Garrett, Office of General Counsel
Steve Busey, Smith, Hulsey & Busey
Kurtis Wilson, JEA
Sandra Homrighouse, Ethics Office

1 P R O C E E D I N G S

2 CHAIRPERSON PRIESTLY JACKSON: I open
3 the meeting. Our Committee Member will give
4 us an invocation and the Pledge of
5 Allegiance, the second part of our good work
6 for today.

7 COUNCIL MEMBER DeFOOR: Is that for me
8 to do? Okay.

9 I'm going to start us with the serenity
10 prayer, so if you'll join me.

11 God, grant us the serenity to accept the
12 things that we cannot change, courage to
13 change the things we can, and the wisdom to
14 know the difference. In your name we pray,
15 amen.

16 I'll put up a flag. Join us in the
17 Pledge of Allegiance.

18 (Pledge of allegiance.)

19 CHAIRPERSON PRIESTLY JACKSON: Thank
20 you, Council Member DeFoor.

21 This meeting of the Special
22 Investigatory Committee is called to order.
23 The date is September 28th, 2020, and the
24 time is 5:01 p.m.

25 We have been called to order. We've

1 already had our invocation and Pledge of
2 Allegiance by Council Member DeFoor.

3 I will now read into the record a memo
4 from the Council President, Council
5 President Tommy Hazouri, that is modifying
6 parts of the charge of the Special
7 Investigatory Committee. And it reads, in
8 relevant parts: In accordance with Council
9 Rules 2.103(a), the Special Investigatory
10 Committee, which was scheduled to conclude
11 on September 30th, 2020, is hereby extended
12 until December 31st, 2020. Furthermore, I
13 have received and accepted the resignation
14 of Council Member Diamond from the Special
15 Investigatory Committee. The composition of
16 the Committee going forth will be Council
17 Member Brenda Priestly Jackson, Chair;
18 Council Member Randy DeFoor; and past
19 Council President Scott Wilson, through his
20 council term. Thereafter, as Council
21 President, I will replace him for the
22 remaining Special Committee term.

23 Other than modified herein, the charge
24 remains the same.

25 The Committee should organize its review

1 as follows, I will read those parts in the
2 charge and that will conclude it. One,
3 discussion of procedures and protocols; two,
4 historic timeline of events; three, review
5 of existing records, resources, and
6 materials from OGC, IG, JEA, and other
7 sources; four, if necessary, conduct further
8 investigation into matters related to the
9 charge of this memorandum; five, analyze
10 matters that, through powers invested in
11 this legislative body, could be prevented in
12 the future through legislative action, and
13 issue a report reflecting the same.

14 The charge, investigate JEA matters
15 related to the recent pursuit of the
16 strategic options to potentially privatize
17 JEA; determine matters that, through the
18 powers invested in the legislative body,
19 could be prevented in the future through
20 legislative action.

21 This review should include JEA's review
22 of the five scenarios of the future of JEA,
23 including the invitations to negotiate;
24 JEA's decisionmaking and pursuit of
25 privatization; and proposed employee

1 incentive program known as the performance
2 unit plan.

3 The Committee shall prepare an initial
4 schedule of meetings and shall report its
5 findings to the Council President on or
6 before December 31st, 2020, unless the
7 Special Committee is otherwise extended or
8 terminated.

9 The Committee and I, Council President
10 Hazouri, are committed to seeking the truth
11 as the people at City Council will not stop
12 until we have exhausted every effort in our
13 investigation. Thank you to each of the
14 Council Members and the Staff who make the
15 commitment to serve on this important
16 Committee.

17 Any comments or discussions from
18 Committee Members or colleagues relative to
19 the amendment to the charge, which amended
20 simply the term for the final report and the
21 membership of the Committee since Council
22 Member Diamond resigned?

23 None, okay. Seeing no hands raised for
24 discussion on that matter, we now move to
25 Item D on our agenda, outside counsel

1 update, Steve Busey, Esquire.

2 MR. BUSEY: Thank you, Madam Chair. We
3 have given you recently this month two
4 interim reports, one on September 10, one on
5 Friday, September 25th, telling you where we
6 are in our investigation. We have completed
7 reported sworn transcripts of the five
8 witnesses that you asked us to take on
9 July 27th. All of those transcripts now
10 have been posted to the City's website with
11 the exception of Tim Baker. We're awaiting
12 both OGC's and Tim Baker's signature on that
13 transcript before it's posted, because OGC
14 has asked that we have Tim Baker's signature
15 on the transcript before we post it. So
16 we're waiting to get it back from
17 Mr. Baker's counsel now.

18 But with that, we have identified, as we
19 suggested in our memorandum last week, a
20 number of additional witnesses we think it
21 would be useful for us to take. We've
22 examined to date, as we've reported,
23 something close to 600,000 documents through
24 a computer search engine that was produced
25 by JEA and other source s. We've gotten a

1 lot of information. We think it's time to
2 try to bring this in for a landing and
3 conclude it. But we've got some additional
4 witnesses we think we should talk to.

5 We have six witnesses that are
6 cooperative and have agreed to testify
7 voluntarily that we should be able to take
8 care of in the next couple of weeks. We
9 have three that are probably more
10 problematic that we want to talk to the
11 Committee about. One is Deno Hicks, who is
12 a former member of the Southern Group, which
13 was hired by Foley & Lardner after the ITN
14 was issued to lobby the Council, and we
15 think we should talk to Deno about the
16 Southern Group's lobbying during the cone of
17 silence.

18 The second is Joey Greive, who is the --
19 currently the Chief Financial Officer for
20 the City of Jacksonville. He participated
21 with Mike Weinstein in the December 2017
22 issuance of an RFP, which we've determined
23 was the beginning of the sale process for
24 JEA. And we -- and because there is
25 disputed testimony about the purpose of that

1 RFP and who authorized it for what purpose,
2 we would like to take Mr. Greive's
3 deposition. He is an employee of the City
4 of Jacksonville, so I assume that he'll
5 appear voluntarily, but we have not
6 approached him yet.

7 And third is Tim Baker. We took his
8 deposition. I told you about the status of
9 that transcript. But in the course of his
10 deposition, he declined to produce documents
11 and declined to answer questions regarding
12 his communications with his clients,
13 including Florida Power & Light. He has
14 disclosed to us that he signed a consulting
15 agreement with Florida Power & Light on
16 December 21, 2017, which was the day after
17 that RFP was issued by the City of
18 Jacksonville, and that his consulting
19 agreement was in effect from December 21,
20 2017, through July 31, 2019.

21 And during the period of time while it
22 was in effect, he attended the Club
23 Continental offsite meeting for JEA on
24 July 10, 2019, which was a lot of planning
25 for the motion that was put to the JEA board

1 on July 23.

2 And so we want to know about his
3 communications during that consulting period
4 with Florida Power & Light. We asked him
5 for his contract; he wouldn't give it to us.
6 We asked him for his communications with
7 Florida Power & Light; and he claimed
8 privileges. And we asked him for poling he
9 did during that time period, since that's
10 his business; and he declined to tell us
11 whether he did poling or for whom and what
12 the results of the poling were.

13 We think that's all relevant to the
14 Committee's charge and to -- he asserted in
15 his deposition constitutional privileges.
16 Tim Baker, as an individual citizen, has
17 rights of privacy under the Florida
18 Constitution, but his companies through
19 which he did business with Florida Power &
20 Light, Target Data Research and Bold City
21 Partners, are entities which did the
22 contracting. And so those are the entities
23 that we would like to issue subpoenas to.

24 We've talked to Mr. Gabriel about this.
25 He's prepared to advise the Committee on the

1 process for those subpoenas going forward.

2 But with those six voluntary depositions
3 and the three that I've identified, the
4 follow-up with Tim Baker, Joey Greive, Deno
5 Hicks, I think we should be substantially
6 complete and be able to complete the
7 investigation and get a report out to the
8 Committee within the time that's now set by
9 Council President Hazouri. And so far we're
10 fairly well within budget. We can talk
11 about that; it's on the end of this agenda.

12 But that's just a brief report to set
13 this up for discussion during the Committee
14 meeting. And I'll be happy to answer any
15 questions.

16 CHAIRPERSON PRIESTLY JACKSON: Before we
17 go to Committee Members, I have one question
18 for you. You identified the three
19 additional, but you didn't -- the six
20 voluntary additional ones, would you state
21 those for the record for this meeting as
22 well, please.

23 MR. BUSEY: Anna Brosche; Allen Morris;
24 who was with Holland & Knight; Michael Mace,
25 who was with FPM for whom the RFP was issued

1 for respondents to respond to; Jody Brooks
2 we've talked to extensively, but we want to
3 do an interview with her; Michael Hightower,
4 we talked to him extensively, but we want to
5 do an interview with him; and Paul McElroy
6 has agreed to give us a follow-up interview.
7 We've talked to him extensively. But as we
8 conclude the investigation, there are fine
9 points we would like to ask those people;
10 and they've agreed to testify and talk to us
11 about them. And so we'll do that in due
12 course in the next month or so.

13 CHAIRPERSON PRIESTLY JACKSON: I see --
14 before I recognize visiting Council Members,
15 questions from Committee members?

16 Council Member DeFoor.

17 COUNCIL MEMBER DeFOOR: Thank you, Madam
18 Chair.

19 Through the Chair to Steve Busey,
20 Mr. Busey, so I just want to make sure I
21 understand. This is your recommendation
22 that we take the -- we'll take two
23 depositions, one of Joey Greive, which in my
24 opinion he should do. The Mayor has been
25 very forthcoming with all his people, so to

1 me that shouldn't be a problem. Deno Hicks,
2 I wonder if we should reach out to him
3 first, if that's a possibility.

4 MR. BUSEY: That's already -- reach out
5 to him in person, ask him to voluntarily
6 appear, and if he's not willing to, we can
7 subsequently consider that with the
8 Committee.

9 COUNCIL MEMBER DeFOOR: Okay. And the
10 final one is a subpoena for Baker's
11 documents. So in --

12 MR. BUSEY: For his companies.

13 COUNCIL MEMBER DeFOOR: For his
14 companies. I just want to make sure, in
15 your -- it is in your expert opinion, that
16 we should be -- we should -- as long as it
17 meets the legal requirements of legislative
18 purpose, we should move forward in that
19 direction?

20 MR. BUSEY: It does meet the legal
21 requirements of legislative purpose. I'm
22 very comfortable with that and can expand on
23 that if required. The real question for the
24 Committee is whether or not -- assuming the
25 subpoena is contested, and it may be, which

1 may be a court challenge if the subpoena is
2 of proper legislative purpose, or the
3 privileges that were asserted by
4 Mr. Baker -- does the Committee feel the
5 time and effort and money that's associated
6 with that effort is worthwhile in terms of
7 we can't be -- we can't assure the Committee
8 what's going to be forthcoming in the event
9 we're successful to issue the subpoena and
10 get the documents.

11 But it just seems to us that, because we
12 know that he was -- that Mr. Baker was under
13 contract with FP&L at the times that I
14 mentioned, that there must be communications
15 that would be relevant to the Committee's
16 investigation.

17 But I think you can fairly debate
18 whether or not it's worth the time and
19 effort going forward. I just wanted to put
20 it on the table for the Committee.

21 COUNCIL MEMBER DeFOOR: Okay. Thank
22 you.

23 CHAIRPERSON PRIESTLY JACKSON: Council
24 Member Wilson, do you have any questions for
25 Mr. Busey relative to the witnesses he's

1 outlined?

2 COUNCIL MEMBER WILSON: No, ma'am, not
3 at this time, not at this time.

4 CHAIRPERSON PRIESTLY JACKSON: Okay. I
5 have a follow-up question as it relates to
6 the three -- not the voluntary six that you
7 gave us, and this is -- I think these are
8 new for today, those voluntary six. So are
9 those actually going to be depositions or
10 what is the process for that? Those that
11 are voluntary in nature, are they going to
12 be informal interviews, depositions? What's
13 the process for those six?

14 MR. BUSEY: They'll be informal
15 interviews. We'll ask the witness in each
16 case to permit to record the interviews,
17 because we found it's very useful to have a
18 transcript of these interviews because we've
19 used them in the preparation of the report.
20 And I can't predict at this point -- I don't
21 anticipate any difficulty, but we are going
22 to try to do all that voluntarily and
23 without the subpoena. And there would be a
24 transcript.

25 CHAIRPERSON PRIESTLY JACKSON: Thank

1 you. The three additional ones you
2 mentioned, Deno Hicks, Joey Greive, and Tim
3 Baker, so relative to Mr. Hicks and
4 Mr. Greive, we're going to follow our
5 standard procedure in terms of asking them
6 first if they will voluntarily appear before
7 you for a deposition of sworn statement,
8 that's our first step. And I would assume
9 that with Mr. Greive, then you will -- we
10 will do the same process we have done for
11 any other members of the COJ staff in terms
12 of making that request for them; is that
13 correct for that?

14 MR. BUSEY: That's correct.

15 CHAIRPERSON PRIESTLY JACKSON: The last
16 question I have relates to Tim Baker, and we
17 have it further down in our agenda when we
18 actually move to the point of witnesses,
19 subpoenas, documents, and related issues, if
20 one of the Committee Members decides to take
21 further action.

22 We've heard two things today: One was
23 Tim Baker's production of documents, but
24 I've also heard Tim Baker's production of
25 his person as well. He did not answer

1 questions, he didn't produce documents. Is
2 it both or is it just one that you're
3 seeking from Mr. Baker?

4 MR. BUSEY: The subpoena of the last
5 four will be a subpoena for testimony and
6 documents for the two entities controlled by
7 Mr. Baker.

8 CHAIRPERSON PRIESTLY JACKSON: Okay. I
9 don't have any other questions relative to
10 those witnesses. And I see one of our
11 colleagues, Council Member Salem, has a
12 question relative to your update in this
13 particular item.

14 Council Member Salem.

15 COUNCIL MEMBER SALEM: Thank you, Chair,
16 for recognizing me.

17 I would like the Committee to consider
18 one other person for testimony; that would
19 be Camille Johnson. I went back and watched
20 the July 23rd, 2019, board meeting. This
21 lady was the chair of the compensation
22 committee. She was in charge of the PUPs.
23 She was delegating complete authority to
24 Aaron Zahn for distribution of the PUPs and
25 as well as who could get what number of

1 PUPs.

2 And I know early on in the process, when
3 we were trying to determine the process of
4 termination of Aaron Zahn, I know OGC
5 reached out to her, she was unavailable, out
6 of town, et cetera. But I still think, in
7 terms of the PUP, she is a key witness. And
8 I would urge the Committee to consider
9 getting her testimony. That's point number
10 one.

11 I have a second question. In regard to
12 Tim Baker -- and this is probably to
13 Mr. Busey.

14 Mr. Busey, you mentioned three issues --
15 and I've not seen his testimony, so I'm
16 basing it on what I know today. I am
17 current with all other testimony. You
18 mentioned poling, contract, and other
19 communication with FP&L. We know he was at
20 the July 10th Club Continental meeting,
21 that's well established. And I believe it
22 was from Kerri Stewart's testimony we know
23 that he made a presentation on poling.

24 So my question to you is, in regard to
25 his contract, if he had a million-dollar

1 contract and if he had a performance clause
2 that if the contract -- if JEA sold, he got
3 extra dollars, some type of success
4 contract, is that relevant to the fact that
5 he was there? And I think that's the
6 concern that we all have. And what is the
7 relevancy of his poling to this? Other
8 communication I can't comment on because I'm
9 not sure what that is. But can you explain
10 to me the relevancy of the poling and his
11 specific contract?

12 CHAIRPERSON PRIESTLY JACKSON: Okay. So
13 I'm going to interrupt just for a moment
14 because we hadn't -- we actually, Council
15 Member Salem, when we got down to Item F,
16 which is witnesses, subpoenas, documents,
17 and related issues, we were going to have a
18 more robust discussion about the process and
19 the basis for issuing subpoenas, which would
20 specifically address that. So if you could
21 hold those questions until we get to that
22 item, which will tell you the process to --
23 that we have articulated in terms of what
24 evidence we think the witness has to offer,
25 what is the legislative and/or policy basis

1 of it consistent for our charge and how it's
2 integral to the charge of this Committee,
3 that should cover that.

4 And that's going to be discussed today,
5 but we're going to request a written opinion
6 from Attorney Busey, as well as our General
7 Counsel, to be submitted by the time this
8 Committee meets in two weeks.

9 COUNCIL MEMBER SALEM: Okay. Can you
10 address the Camille Johnson part of it then?

11 CHAIRPERSON PRIESTLY JACKSON: Okay.
12 And I'm going to -- I would have brought
13 that up for the witnesses, as well, in
14 subpoenas. I will share with you that I am
15 reticent to engage any board members of the
16 boards of our independent authorities,
17 because, in my opinion, I would love to talk
18 to every board member that was on at the
19 time Aaron Zahn joined the board. I would
20 love to talk to every board member that was
21 on at the time that Aaron Zahn was selected
22 to be the CEO. And I darn sure would love
23 to talk to those that issued the ITN in
24 nonconformity to the Florida Sunshine.

25 And so I think that removing someone

1 from the position of a board member, for
2 me -- and I'm just one, in this case -- to a
3 separate status, if we don't apply those
4 same factors to everybody else that served
5 on the board, it's challenging and
6 problematic. And that is my opinion as it
7 relates to a member of a board when I think
8 that all of us have different degrees of
9 knowledge we believe imputed to board
10 members of JEA throughout this entire
11 process.

12 And so I would not know how to pick one,
13 and we would not pick the board that Mr.
14 Zahn joined, we would not pick the board
15 that selected him to be CEO, and we would
16 not pick the board that voted on the ITN
17 after being properly noticed. And so those
18 are my questions and my one view as it
19 relates to a member of our independent
20 authority board.

21 COUNCIL MEMBER SALEM: Just to clarify,
22 we have spoken to Alan Howard, who was the
23 chair of the board.

24 CHAIRPERSON PRIESTLY JACKSON: Yeah.
25 And I think that was a voluntary

1 conversation with him. So any pursuit of
2 voluntary conversations, I don't think that
3 any actions taken by this Body has precluded
4 that.

5 I was told that I believe that
6 information she has is not so germane to our
7 investigation as it is to other matters that
8 may be before the City. So if it's germane
9 to other matters that may be before the
10 City, then I would suspect those entities,
11 the Office of General Counsel will get her
12 testimony before that. If it's not germane
13 to our work for the SIC, I don't want to use
14 the SIC as a basis to get information for
15 another one. But I am, again, one.

16 So but I want to move -- Councilman
17 Salem, I'm going to move through the agenda
18 to get to the report of General Counsel's
19 Office and we can pick this back up when we
20 get to the witnesses, subpoenas, documents,
21 and related items.

22 Mr. Gabriel, General Counsel, if you
23 will, give -- that concludes your report,
24 Mr. Busey, at this time?

25 MR. BUSEY: Yes, ma'am.

1 CHAIRPERSON PRIESTLY JACKSON: Okay.
2 Mr. Gabriel.

3 MR. GABRIEL: Madam Chair, Jason Gabriel
4 here, General Counsel, along with Jon
5 Phillips, Deputy General Counsel.

6 I really don't have much in the way of
7 an update other than we continue to work
8 with Special Counsel on finalizing -- I
9 think we're at the last tranche of documents
10 and any remaining legal issues and things
11 like that. So we continue to work hand in
12 hand with your Special Counsel on that.

13 I do have some, hopefully, guidance on
14 subpoenas or, for that matter, you know,
15 your deliberations on other witnesses, but
16 I'll wait until your discussion on the
17 witnesses, subpoenas, and documents if
18 that's how you want to handle that. But I'm
19 available for any questions that you may
20 have or that the Committee has. Thank you.

21 CHAIRPERSON PRIESTLY JACKSON: Okay.
22 Any questions outside of witnesses,
23 subpoenas, and documents that we're coming
24 -- for our General Counsel, Mr. Gabriel?
25 Council Member DeFoor?

1 COUNCIL MEMBER DeFOOR: Thank you, Madam
2 Chair.

3 I would like to know about -- before we
4 get into the whole who we might -- what
5 witnesses we may call upon, I would like to
6 know about the subpoena. I mean, is that
7 okay if we hear that information now?

8 CHAIRPERSON PRIESTLY JACKSON: I'm going
9 to take it up at the beginning, and we can
10 talk about the process for that. So if you
11 look at F, you see witnesses, subpoenas,
12 documents, and related issues.

13 COUNCIL MEMBER DeFOOR: Okay.

14 CHAIRPERSON PRIESTLY JACKSON: Yeah, so
15 we're going to let him share his process.
16 Mr. Busey is going to articulate his first,
17 and then Mr. Gabriel is going to articulate
18 his. And I am going to request that they
19 both give us written opinions before our
20 next meeting on what they share. So if
21 there is nothing else, we will now move on
22 to F. And we will start with subpoenas.

23 And, Mr. Busey, Special Counsel, if you
24 will, share your understanding of the policy
25 basis, and legislative purpose as it relates

1 to subpoenas and what information you can
2 provide for us on that at this time before
3 witnesses are identified that might be
4 subpoenaed.

5 MR. BUSEY: Well, it's difficult to talk
6 about the proper legislative authority for
7 an inquiry unless you're talking about which
8 inquiry you're talking about. So I'm
9 assuming we're talking about Tim Baker at
10 this point, in following up with him,
11 because that's the one subpoena that we
12 anticipate may be needed by the Council
13 given whatever the outcome of this meeting
14 is today.

15 I don't think there is any question that
16 it's proper legislative authority. If you
17 start with President Wilson's charge to this
18 Committee in December of last year, we've
19 spent now ten months and over a million
20 dollars investigating. Nobody to date has
21 really questioned the real proper
22 legislative authority for what President
23 Wilson has asked us to do; and that is, to
24 determine -- asked the Committee to do; and
25 that is, to determine what happened with

1 this entire JEA ITN process and uncover the
2 facts regarding it. And then, additionally,
3 to determine what can be done legislative or
4 by Charter to prevent it from happening
5 again.

6 We have to get to the bottom of what
7 happened and how it happened. And so I
8 think it's clearly within the proper
9 legislative authority. Overlapping on that
10 are other issues also within proper
11 legislative authority. We found in our
12 investigation huge ethics issues that need
13 to be investigated. When you look at the
14 fact that Mr. Baker was under contract with
15 FP&L and participating during the cone of
16 silence period in that Club Continental
17 meeting on July 10th, that raises -- why he
18 was there and who was paying him to do what
19 raises huge ethical issues.

20 We've got Mr. Mousa's contract, which
21 was entered on July -- effective July --
22 signed on July 23 by FP&L, the very date of
23 the board meeting, for \$7,500 a month to
24 continue to lobby. We have Foley & Lardner,
25 which was hired by the Southern Group

1 effective July 23, 2019, to lobby the City
2 Council during the cone of silence period.
3 And there is a question there of whether or
4 not that was a proper procurement by Foley &
5 Lardner as a law firm to lobby the City
6 Council during that cone of silence period.

7 There is just a fertile field of ethics
8 issues there and related procurement issues,
9 the entire manner of which the ITN was
10 handled, including the Club Continental
11 meeting and the degree to which the whole
12 ITN process was, in large part, masked from
13 the public, including an existing member of
14 the -- a consultant to the City of
15 Jacksonville and a former -- that is,
16 Mr. Mousa, and a former member, Mr. Baker,
17 at that ball game in October of 2019.

18 All of those are just a fertile field of
19 procurement issues, ethical issues, and
20 directly responsive to President Wilson's
21 charge. I just don't think we can avoid any
22 conclusion other than this is proper
23 legislative authority.

24 Then it just gets down to whether or not
25 the privileges asserted by Mr. Baker are

1 appropriate or inappropriate. As I
2 mentioned, there is a privacy privilege
3 under the Florida Constitution, but it's
4 individual; it doesn't apply to
5 corporations. And he's asserted
6 constitutional privileges other than that,
7 but he wouldn't be precise as to which
8 constitutional privilege it is. So I don't
9 even know if it's Fifth Amendment or some
10 other privilege.

11 So those are appropriate issues to be
12 challenged by a subpoena. He has directly
13 refused to answer those questions and
14 produce those documents. So I think it's
15 with proper legislative authority. And if
16 the Committee wants to, at this point,
17 invest the time and money to get answers to
18 those questions, or not, before we enter a
19 final report in this case, is a fair
20 question for debate within the Committee. I
21 think that's what y'all are considering.

22 CHAIRPERSON PRIESTLY JACKSON: Okay.
23 And so I'm going to glean that you're
24 sharing that you're more dealing in
25 hypotheticals until we actually have a

1 motion, perhaps, and a second from a
2 Committee Member on who they want to
3 subpoena. But that's -- the only person
4 that's before us today with that issue would
5 be Tim Baker, because our process is to
6 voluntarily request the testimony in
7 advance. And then to date we have not --
8 everyone voluntarily agreed.

9 I think the issue relative to
10 Mr. Baker's testimony was, was it
11 responsive, the voluntary agreement was it
12 responsive -- was he responsive during the
13 time that he voluntarily appeared.

14 Council Member DeFoor, do you want our
15 General Counsel to share the legislative
16 purpose, policy basis now or do you want to
17 move on to a specific motion or something
18 involving any witnesses or anybody before we
19 get to --

20 COUNCIL MEMBER DeFOOR: Thank you, Madam
21 Chair. I do want to make a motion, but I
22 will do so after our General Counsel speaks
23 to the subpoena issue.

24 CHAIRPERSON PRIESTLY JACKSON: Okay.
25 Mr. Gabriel.

1 MR. GABRIEL: Yes, ma'am. Can you hear
2 me?

3 CHAIRPERSON PRIESTLY JACKSON: Yes.

4 MR. GABRIEL: Great. Yeah, I think it's
5 appropriate to pursue the voluntary
6 interviews of Joey Greive, Deno Hicks,
7 that's in compliance, obviously, with the
8 advice we've been given thus far. So that's
9 appropriate.

10 As for Tim Baker -- I think we're
11 talking about the three today -- I would
12 just offer a few points. One, the City
13 Council really should -- or the SIC
14 Committee, in particular, probably should
15 review the actual transcript first and see
16 and assess what, if any, other information
17 is needed to meet the ambit of the
18 investigation.

19 Obviously, Steve Busey has done a good
20 job of giving his perspective and view. He
21 was, obviously, one -- the one conducting
22 the interview. And so he's given you his
23 perspective and summary on that. But
24 certainly, the SIC Committee should probably
25 get its hands on the transcript and review

1 it to see and assess what, if any, other
2 information may be needed to meet the
3 purpose of the investigation.

4 And that sort of dovetails into the
5 second point, which is the legislative
6 purpose, which we've been talking about
7 here. And Mr. Busey gave some conclusive, I
8 think, perspectives on that from his point
9 of view.

10 What I would offer is just the guiding
11 principles. And again, we will produce this
12 in writing for your information and review
13 before the next meeting.

14 But in line with some of our
15 conversations before, it's basically twofold
16 legislative purpose. Number one is the
17 information or testimony sought within the
18 Council President's directive and purpose of
19 the Committee. And obviously, that's
20 outlined in the amended mission statement
21 that you read earlier, Ms. Priestly Jackson.

22 And then the second is the information
23 or testimony sought within the scope of
24 Council's ability to legislate. And that's
25 sort of the guiding feature on legislative

1 purpose. While the legislative power to
2 investigate is broad, it's limited by
3 certain parameters that we've been kind of
4 talking off and on about throughout this
5 process.

6 And just a few of those points are, you
7 know, number one, the boundary of inquiry is
8 marked by the power to legislate. In other
9 words, the inquiry, legislative inquiry,
10 ends where the jurisdiction of the Body
11 ends. So in other words, what can you
12 legislate on and what is within the scope of
13 that legislation that you would want to seek
14 information or documents on. And I think
15 you've heard a couple points on that this
16 evening.

17 You know, put another way, the City
18 Council does not possess the power, for
19 example, to make inquiry into the private
20 affairs of a witness. So obviously, we want
21 to be careful with that.

22 So the non-exhaustive list of
23 considerations, you know, in looking at
24 whether there's legislative purpose, is you
25 want to assess how much the Council needs

1 the information in question, whether the
2 subpoena is narrowly drawn to achieve that
3 information, and then whether the
4 information that City Council is seeking is
5 available from other sources. And again,
6 the concerns are always in the backdrop of
7 legitimacy over breadth and the burdens and
8 things like that.

9 Having said that, to the extent the
10 Council is seeking information and
11 documentation that it believes is within its
12 purview in order to legislate on certain
13 things -- you heard some items tonight, for
14 example, in the way of procurement, ethics
15 and things of that sort -- and if y'all make
16 a determination, then that would be the
17 basis of pursuing the information.

18 And then lastly, I think, as Mr. Busey
19 pointed out, the consideration for Council
20 to take into account, you know, the time,
21 effort, and expense required if the subpoena
22 were contested against the likelihood of
23 obtaining useful information and things of
24 that sort.

25 But anyway, that's it in a nutshell.

1 And obviously, we're available for
2 questions. And we'll produce the guiding
3 principles in writing for your information.
4 And we're available for any questions you
5 may have.

6 CHAIRPERSON PRIESTLY JACKSON: Council
7 Member DeFoor -- thank you.

8 Council Member DeFoor.

9 COUNCIL MEMBER DeFOOR: Thank you, Madam
10 Chair.

11 So my questions, we haven't gotten the
12 testimony because I understand it's
13 contingent upon his signature. And what
14 time frame are we giving for the signature?

15 MR. GABRIEL: I can maybe take a stab at
16 that. Yeah, actually Jon Phillips can.
17 Because this is sort of a process we've been
18 pursuing with every person that's
19 interviewed. They always have -- Jon will
20 fill in the gaps here.

21 But every person has an opportunity --
22 obviously, that's interviewed has an
23 opportunity to review the transcript and
24 provide an errata sheet that they sign off
25 on. And obviously, that's all reviewed for,

1 potentially, reactions. I don't expect any
2 in this case perhaps. And then it's turned
3 around for public dissemination.

4 But, Jon, why don't you fill in the gaps
5 there.

6 MR. PHILLIPS: Right. In general, you
7 have the right to either waive the reading
8 and signing of any deposition-like
9 proceeding like this one or you can -- right
10 to read and sign, as we understand it. And
11 I'm going on what others have told me -- I
12 wasn't there at the actual interview -- that
13 he either at the interview or later
14 communicated that he wanted to read and
15 sign.

16 As I understand it, the transcript was
17 provided to his lawyer late Friday
18 afternoon, and that his lawyer then says
19 that he gave it to Tim Baker immediately
20 thereafter, and that they would provide it
21 to us immediately after Mr. Baker goes
22 through the transcript and makes his
23 notations of whatever he wants to make a
24 note about.

25 What you can do, with a transcript like

1 that, is you can both correct what you claim
2 to be errors by the court reporter and you
3 can also alter your testimony if you think
4 that you misspoke.

5 So there is no -- we don't know how long
6 that's going to take Mr. Baker, but the way
7 that would work normally, if it were, say, a
8 deposition, is that you get a certain period
9 of time, and I don't remember off the top of
10 my head what that period of time is, but I
11 want to say it's 15 days or maybe even 10
12 days, where you -- if you don't read and
13 sign it, you're just deemed to have waived
14 the right to read and sign it.

15 So at some point in the near future if
16 we don't get it back from him, we can tell
17 him, look, if you're not going to read and
18 sign it, we're going to release it without
19 your signature.

20 But since he's only had it for a
21 weekend, I don't think we're at that point
22 yet, but I don't -- so I don't have any
23 reason to believe he's going to take a long
24 time, but who knows. And we can deal with
25 it either way, though.

1 MR. GABRIEL: If I can add, Ms. DeFoor,
2 just so that you know, I was notified by --
3 Tom Bishop is Mr. Baker's attorney. And
4 they had not received the transcript as of
5 Friday to be able to review it for the
6 errata sheet review. And so we did -- I did
7 check with Mr. Busey's office.

8 But the bottom line is my understanding
9 today is that Mr. Bishop and Mr. Baker have
10 received the transcript as of later Friday
11 afternoon. And I am told by Mr. Bishop that
12 they will turn it around quickly,
13 potentially as quickly as tomorrow, if not
14 the next couple of days. So I don't expect
15 any issue with respect to getting that back
16 promptly, if that helps.

17 COUNCIL MEMBER DeFOOR: Just a follow-up
18 on that, if you don't mind, Madam Chair.

19 But we do know that the information that
20 we asked them to provide was not provided at
21 the time of the deposition; correct? And
22 that can even go to Mr. Busey, probably.

23 Mr. Busey.

24 MR. BUSEY: Yes, yeah. And we received
25 the transcript a couple of weeks ago. We

1 transmitted it to the Office of General
2 Counsel on September the 17th. The Office
3 of General Counsel likes to review these
4 transcripts to make sure there is nothing
5 statutorily protected in them before the
6 release for filing.

7 We have with other interviews released
8 them for filing without a signature for the
9 witness, because the transcript is generally
10 reliable. And then if we received errata
11 sheets, we have subsequently posted them
12 with the City Council's office. This is the
13 first time we were asked to hold off until
14 we received the signature of the witness
15 himself. And so that's where we are. Jason
16 has accurately described where we are at
17 this point in time.

18 In my judgment, there is no reason why
19 the Committee can't go ahead and look at the
20 transcript if they want to. Yes, the
21 questions in the transcript were specific.
22 The declination to answer the questions was
23 precise. The document requests were
24 precise. And we reduced it now. If we were
25 to issue a subpoena, it's less than a

1 one-page list of documents that we want. So
2 it's just not complicated.

3 COUNCIL MEMBER DeFOOR: And it's your --
4 again, it's your expert -- your desire, you
5 think it's in the best interest of this
6 Committee to issue the subpoena for the
7 documents that were not produced, if we were
8 going to meet the charge of the Committee?

9 MR. BUSEY: Subject to consideration of
10 time and expense and your judgment about
11 whether or not it's going to be worthwhile,
12 but other than that, yes, clearly within
13 your legislative authority.

14 COUNCIL MEMBER DeFOOR: Then I will make
15 the motion to subpoena those documents -- in
16 reliance upon your guidance, to subpoena
17 those documents.

18 CHAIRPERSON PRIESTLY JACKSON: Are you,
19 Mr. Busey, issuing the subpoena of the
20 documents or the testimony and the
21 documents? I want to be clear.

22 MR. BUSEY: Let me be clear. The
23 testimony, we would have to subpoena the
24 testimony from the corporations themselves.
25 We can do that, we can compel a

1 representative of the corporation. It would
2 probably be Tim Baker. But the subpoena
3 would be directed to the entities for the
4 testimony, as well as for the documents.

5 COUNCIL MEMBER DeFOOR: Okay. So motion
6 for testimony and the documents.

7 CHAIRPERSON PRIESTLY JACKSON: There is
8 a motion before us.

9 Council Member Wilson, is there a second
10 for the motion?

11 Can you unmute Council Member Wilson?

12 COUNCIL MEMBER WILSON: Thank you. And
13 so, yes, I will second the motion.

14 CHAIRPERSON PRIESTLY JACKSON: It's been
15 properly moved and seconded. Any further
16 discussion by this Body relative to --
17 before we vote on the item?

18 I will make one -- a statement as the
19 Chair. We rely on Mr. Busey, we have relied
20 on him through his professional knowledge
21 and expertise, legal expertise, throughout
22 this process. He has been forthcoming and
23 open to us in all endeavors. And I think
24 our continued reliance on the information
25 that he feels is germane and what we need is

1 integral to our fulfilling the charge.

2 And I -- in light of that, I am in
3 support, if we are not -- we don't have
4 testimony that's responsive to addressing
5 the charge or noncompliance, and there may
6 be constitutional protections invoked by
7 someone, then I naturally believe this is
8 the next course of action for this
9 Committee.

10 Ms. Sidman has her hand raised, I guess,
11 before we vote.

12 Yes, ma'am.

13 MS. SIDMAN: I just wanted clarification
14 of the motion. I understand there are
15 corporate documents. And the two
16 corporations, maybe Mr. Busey could clarify
17 that, to whom the subpoena is being
18 directed.

19 MR. BUSEY: I can. BCSP, LLC, and
20 Target Data Research. But, Peggy, we'll
21 work with your office to develop the
22 subpoenas. We want you involved in the
23 issuance of the subpoenas and the processing
24 of the subpoenas. We'll do that with the
25 cooperation of OGC.

1 MS. SIDMAN: Thank you. I just wanted
2 to make sure that we had it properly
3 reflected for the record. Thank you.

4 COUNCIL MEMBER DeFOOR: Thank you,
5 Ms. Sidman.

6 CHAIRPERSON PRIESTLY JACKSON: Okay.
7 Seeing no further hands raised for
8 discussion relative to the motion, we have a
9 motion and a second to issue subpoenas for a
10 representative and documents, are we saying
11 from BCSP and Target Data, or are we saying
12 Tim Baker? Which one did you say?

13 MR. BUSEY: The two entities: BCSP,
14 LLC, and Target Data Research.

15 CHAIRPERSON PRIESTLY JACKSON: BCSP,
16 LLC, and Target Data Research.

17 MR. BUSEY: It stands for Bold City
18 Strategic Partners.

19 CHAIRPERSON PRIESTLY JACKSON: All
20 right. Thank you.

21 All Committee Members ready, raise your
22 hand if you are in support of the motion.

23 MS. MITCHELL: Three yeas, zero nays.

24 CHAIRPERSON PRIESTLY JACKSON: By your
25 action, we have approved the issuance of

1 subpoena to BC -- BCSP; correct?

2 MR. BUSEY: BCSP.

3 CHAIRPERSON PRIESTLY JACKSON: Yes --
4 and Target Data Research.

5 Okay. We now move on to -- are there
6 any other -- the witnesses as identified by
7 Mr. Busey in his report. Is there any
8 further action needed from this Body as it
9 relates to Mr. Hicks and Mr. Joey Greive?
10 Is there any action that needs to be taken
11 by this Body, Mr. Busey, for those?

12 MR. BUSEY: Not from our point of view
13 at this point. We're going to try to do
14 this voluntarily.

15 CHAIRPERSON PRIESTLY JACKSON: Okay.
16 Any other -- okay, Council Member DeFoor.

17 COUNCIL MEMBER DeFOOR: Thank you, Madam
18 Chair.

19 I'm going to follow up on Councilman
20 Salem's comment. You know, I have no
21 problem having the same -- why don't we ask
22 the board, you know, the board that was
23 there that voted on Mr. Zahn. I raised
24 Kelly Flanagan before. She said, you know,
25 that she would -- if we were -- you know, I

1 would like to readdress that with her. And
2 I think the other one is April Green, Husein
3 Cumber, and then Camille Johnson is one
4 more. Why not ask?

5 CHAIRPERSON PRIESTLY JACKSON: Okay.
6 Councilman Wilson, do you have anything you
7 want to share on these additional names that
8 are coming before the Body?

9 COUNCIL MEMBER WILSON: I certainly
10 don't believe it's -- I think asking them to
11 provide testimony would be a good idea, and
12 we'll see what the response is. Is that
13 what Council Member DeFoor mentioned?

14 COUNCIL MEMBER DeFOOR: Yes.

15 CHAIRPERSON PRIESTLY JACKSON: Kind of
16 like the other six voluntary inquiries that
17 are made?

18 COUNCIL MEMBER DeFOOR: Yes.

19 CHAIRPERSON PRIESTLY JACKSON: Okay.
20 And I will just share, I can agree to the
21 voluntary. I am reticent for formal action
22 by this Committee if we have not talked
23 about that in advance, and if it's board
24 members. If there is an informal action for
25 Mr. Busey to include those names, and we

1 heard the other Council Members ask others,
2 then I support that. But I am not in
3 support of formal action by the independent
4 authority's board members, because arguable
5 they have no authority outside of acting via
6 the board.

7 Is that a problem for you, Mr. Busey?

8 MR. BUSEY: No. And I would like to
9 respond to Council Member Salem's comment
10 about Ms. Camille Johnson. We share your
11 interest in talking to her. We understand
12 she's been nonresponsive to requests by the
13 Office of General Counsel for her testimony.
14 We were concerned that, in order to talk to
15 her, given that report, we would have to
16 subpoena her.

17 We know that she was chair of the
18 compensation committee that met in June of
19 2019, which authorized Mr. Zahn to proceed
20 with the PUP plan. We have the minutes of
21 that meeting. Weighing all that, we're
22 trying to be a good steward of the time and
23 budget of this Committee. And we're trying
24 to make judgments about who was really
25 necessary to do what we're trying to do.

1 I want to reinforce, Councilman Salem,
2 that your interest is well taken; we share
3 it. I think, given what Council Member
4 DeFoor says, we'll try to do this
5 voluntarily and see how far we get.

6 CHAIRPERSON PRIESTLY JACKSON: And would
7 you give us -- you'll provide for us in your
8 next update then, Mr. Busey, those that are
9 going to -- voluntarily witnesses that you
10 have called on and the status of those?

11 MR. BUSEY: We will report on how we're
12 doing in our progress in that regard.

13 CHAIRPERSON PRIESTLY JACKSON: Okay.
14 We're now moving, since there has been a
15 motion and a second for those two entities,
16 then I am requesting a memo from our outside
17 counsel, as well as the Office of General
18 Counsel relative to the subpoenas being
19 issued to articulate the legislative purpose
20 and the policy basis behind what's sought,
21 also along with the evidence. We actually
22 went over that process in one of our first
23 meetings after I assumed the Chair. So I'm
24 requesting that that document, that
25 memorandum, be prepared in advance of our

1 next meeting for this Committee.

2 Are there any other Committee Members
3 that have questions about that? That is
4 stating the witness, we now know it's two
5 corporate entities; the evidence that we
6 think is going to be gleaned from it; a
7 nexus between the evidence gleaned; and the
8 legislative purpose and policy basis for the
9 subpoena, and that being provided. Are
10 there any other things from the Committee
11 Members that we think need to be included in
12 that? That was a process we outlined about
13 a month ago for that.

14 No, okay.

15 Are there any other -- we've now dealt
16 with witnesses and subpoenas. Are there any
17 other documents or related issues that we
18 need, Mr. Busey or from General Counsel,
19 that we need to address at this time?

20 MR. BUSEY: Not from our perspective.
21 Thank you.

22 CHAIRPERSON PRIESTLY JACKSON: All
23 right. Mr. Gabriel, anything else?

24 MR. GABRIEL: No, ma'am. Thank you.

25 CHAIRPERSON PRIESTLY JACKSON: Okay. I

1 see we have two of our colleagues' hands
2 raised. And I want to -- if you're going to
3 talk to the action on the witnesses and
4 subpoenas, briefly we can; if not, we will
5 take those questions at the end before we
6 move on to Council Member disclosure.

7 I know Councilman Salem had his hand up
8 relative to the subpoenas. And so if there
9 is a specific question that has not been
10 answered relative to that that's going to
11 kind of be timely and quick, I recognize
12 Councilman Salem, followed by Councilman
13 Dennis. And then we're going to move
14 through our agenda.

15 Councilman Salem.

16 COUNCIL MEMBER SALEM: Thank you, Chair.
17 Can you clarify, did you take a vote on the
18 board members, is that necessary for
19 voluntary --

20 CHAIRPERSON PRIESTLY JACKSON: No, it's
21 not necessary.

22 COUNCIL MEMBER SALEM: Not necessary.
23 Number two, just my opinion, I respect
24 Councilman DeFoor's comment about all the
25 board members. In my opinion, the one that

1 really could provide relevant information is
2 Camille Johnson. I think the rest of them
3 have commented through our investigative
4 process of what they knew. I think she's
5 the one that can really add a lot of
6 information on the PUP, as Mr. Busey -- if
7 she doesn't voluntarily provide testimony, I
8 would urge the Committee to subpoena her.
9 Thank you.

10 CHAIRPERSON PRIESTLY JACKSON: Thank
11 you.

12 Councilman Dennis.

13 COUNCIL MEMBER DENNIS: Thank you.

14 Through the Chair, can someone quickly
15 and briefly go through the process, now that
16 you all have voted on the subpoena, it comes
17 before the Rules Committee, once the Rules
18 Committee takes action, does it go to the
19 Council or once the Rules Committee takes
20 action, the subpoenas are issued? I'm just
21 curious.

22 CHAIRPERSON PRIESTLY JACKSON: I'm going
23 to let -- it's not going to go before the
24 Rules Committee until we get these memos
25 from Mr. Busey and Mr. Gabriel. So then it

1 would go to the Rules Committee.

2 But, Mr. Gabriel, you can pick up with
3 that process from that point forward.

4 MR. GABRIEL: Sure. Through the Chair,
5 so the SIC Committee has, essentially, taken
6 a vote to -- I'll call it a recommendation
7 to the Rules Committee to issue the
8 subpoenas. And typically, so what would
9 happen is next it would go to the Rules
10 Committee for the Rules committee to
11 actually issue the subpoenas per the
12 ordinance code.

13 Now, what I just heard from the
14 Chairwoman was that you have a Rules
15 Committee next Tuesday, I believe. But what
16 I'm hearing, and I'm subject to be
17 corrected, obviously, by the Chairwoman, but
18 what I'm hearing is she wants a couple of
19 memos, one from our office and one from
20 Steve Busey's office, relative to
21 legislative purpose. And we'll provide at
22 least, from our point of view, guiding
23 principles on that. Steve Busey can look at
24 the transcript and review in terms of making
25 any other observations and do his memo.

1 But what I'm hearing, though, is this
2 will come up before the SIC Committee, I
3 suppose, on the -- what is it, in two weeks
4 from now on the 12th of October, I believe.
5 And at that point, I suppose, your
6 recommendation will either stand or will be
7 altered. It's y'all's call. But then after
8 that it would go to the Rules Committee
9 after that, which would then issue the
10 subpoena.

11 And now I'll take it from there. That's
12 where the process is in full force. So once
13 the Rules Committee actually approves and
14 issues the subpoena, the Council Secretary,
15 you know, we prepared in advance -- the
16 Council Secretary actually signs it, it's
17 served with a date, time, and statement with
18 all the things we talked about. And there
19 is a deadline. We'll figure out what that
20 will be. And then the person complies or
21 doesn't comply.

22 Now, if that deadline comes and goes
23 without compliance -- and I'll just assume
24 the worst here so we can walk through the
25 whole exhaustive process -- then at that

1 point the Rules Committee will have to
2 decide whether it wants to reinforce the
3 subpoena, which at that point it would then,
4 after a subpoena is not complied with, it
5 would then travel from Rules to Council.

6 So I hope that -- at least right there
7 and then, that answers Councilman Dennis'
8 question, which is it doesn't go to the
9 Council until if -- the full Council until
10 if and when the subpoena is not adhered to.
11 And then the City Council will have a
12 decision to make as to whether it wants to
13 take next steps or not. I hope that in a
14 nutshell answers the question, but that
15 would be my answer.

16 CHAIRPERSON PRIESTLY JACKSON: And so
17 I'm going to use this as an opportunity to
18 share the reason for the memorandums from
19 the Office of General Counsel, specifically
20 our General Counsel, and specifically our
21 Special Counsel, Mr. Busey. Because it is
22 my understanding that these -- this is new
23 terrain for the Jacksonville City Council in
24 the issuance of subpoenas. New terrain does
25 not mean an act that's prohibited by our

1 Charter, clearly that's not it. But it is
2 new terrain.

3 What I don't want to establish is a
4 record that makes the enforceability of our
5 subpoenas questionable, particularly would
6 not want any contrary opinions coming from
7 the General Counsel's office or anyone else
8 that makes the enforceability questionable;
9 that, in essence, costs our -- the taxpayers
10 additional dollars to try to enforce
11 something, because it was not narrowly
12 tailored enough to achieve the purpose of
13 this Committee consistent with the charge.

14 And so that is why we have taken the
15 action. Our action stands subject to
16 receiving these memorandums from our Special
17 Counsel, Mr. Busey, and General Counsel,
18 Mr. Gabriel, to make certain that, you know,
19 we aren't moving on in an area, even though
20 it's unknown terrain, that it's not terrain
21 inconsistent with what is permissible under
22 our Charter.

23 I have no reasons to believe it is. But
24 I love the memos coming to us to clarify
25 that and to help us more narrowly tailor

1 them, which would happen after we get those
2 memos if they are needed.

3 Council Member DeFoor.

4 COUNCIL MEMBER DeFOOR: Thank you, Madam
5 Chair. It occurred to me I do -- when you
6 raised, are there any other documents, there
7 is another document that I want to talk
8 about, if that's okay. And it really
9 relates to the, what I think, you know, what
10 I know we're trying to do; and that is, to
11 be completely transparent. And so we will,
12 as Council Members -- and we'll get into
13 that, I know the next item on the agenda is
14 we all did disclosures. The thing that
15 bothers me, and I shared it with
16 Mr. Gabriel, and that is some of the
17 discovery recently that we -- you know, we
18 did not -- for the first six months, for
19 whatever reason, we were unable to get a lot
20 of discovery, like no discovery. I mean, it
21 was pathetic. And I read all of the
22 discovery during that time, and it really
23 was, it was like, you know, someone took
24 their dog out to the dog park.

25 Since that time, we've been able to get

1 a lot of discovery since the FBI, the
2 discovery that was given to the FBI was
3 given to us and since your chairmanship.
4 We've all said the dam has been broken, and
5 we've gotten a ton of discovery.

6 And out of that recently we got a Nixon
7 Peabody invoice that we never saw before.
8 And it's a legal invoice. All legal
9 invoices have to be approved by the General
10 Counsel's Office. They are hired by General
11 Counsel's Office and approved by the General
12 Counsel's Office.

13 And this was back -- it's dated
14 September 2018. And it's all about
15 privatization of the JEA, every bit of it.
16 So one simple search for privatization would
17 have disclosed this invoice.

18 And it just lead me to believe that, as
19 we do all these disclosures for ourselves, I
20 think it's really important if the General
21 Counsel does a disclosure, what they knew,
22 when -- what they knew and when they knew
23 it, because we're finding that they knew a
24 lot.

25 And I just think, to be a part of this

1 Committee, that's important. And so I'm
2 going to ask Mr. Gabriel if he will do a
3 disclosure of what he knew and when he knew
4 it in terms of privatization of JEA.

5 CHAIRPERSON PRIESTLY JACKSON:

6 Mr. Gabriel, would you like to respond to
7 that?

8 MR. GABRIEL: Sure. And a lot of the
9 knowledge is public record. It's no secret,
10 obviously, that Ms. Broche, when she was
11 council president had asked us about the
12 process for privatization back in 2018. We
13 produced a memo on that. And there were
14 various other memos. I'm happy to get all
15 of our memos and information together.

16 We're the attorneys. There is
17 attorney-client privilege, but I'm happy to
18 share all the public records, which would
19 trump any attorney-client privilege in that
20 regard and show what we knew when.

21 There is no secret. I don't know, you
22 know, what that insinuation is that
23 Ms. DeFoor is making, but we've been
24 upfront, transparent, and facilitating all
25 along all the documents. They're out there

1 for public consumption. I'm happy to maybe
2 package it in a way that's sort of one-stop
3 shop where you can peruse through it and
4 see.

5 But, yeah, absolutely, knew there was
6 privatization in 2018. We had public
7 meetings. I got up there and provided
8 guidance and counsel.

9 You know, to make it sound like, you
10 know, privatization and the discussion of it
11 was some big secret is ludicrous. That's
12 been a part of the record all along. I'm
13 happy to show exactly what we knew when.
14 The memos and letters and correspondence
15 will all show all of that. Happy to answer
16 and address any questions in that regard.

17 And as for the document production, you
18 know, she mentioned the Nixon Peabody
19 billings from 2018. Again, no secret, we
20 provided that to Smith, Hulsey & Busey.
21 There was an issue as to why it was
22 provided, you know, in a time frame, a
23 certain time frame. We got to the bottom of
24 it. The record document production system
25 that we codeveloped with Smith, Hulsey &

1 Busey has been working and working in a good
2 and productive and efficient way. And so
3 we've been providing all the documents in a
4 timely fashion. There is nothing that we're
5 getting in the way of in terms of that.

6 And in any event, I'm happy to provide,
7 you know, the public record in terms of all
8 the memos and advice we've been given. And
9 that will show you sort of a chronology of
10 time as to what advice we were giving at
11 certain points in the process. I'm willing
12 to do that.

13 COUNCIL MEMBER DeFOOR: Mr. Gabriel, I
14 just was going to follow up, if I could. I
15 think that's important, because we are a
16 transparent Committee. That's -- you know,
17 that's why we're here. That's what we're
18 trying to get at. And I know the Mayor has
19 waived his privilege as it relates to his --
20 you know, all his employees and the JEA has
21 waived their privilege. So I think that's
22 great, and I think that will go a long way
23 in credibility as it relates to this
24 Committee. So thank you very much.

25 CHAIRPERSON PRIESTLY JACKSON: Thank you

1 for that, Councilman DeFoor.

2 And Mr. Gabriel and I had a conversation
3 about two weeks ago, and we talked about
4 this very thing, I think we did at that
5 time, in terms of disclosures and if there
6 was a need for disclosures.

7 And I think we have to kind of share we
8 are charged as a Committee to look at what
9 happened and when, because we believe it was
10 inconsistent with our Charter, Florida
11 Statutes, and the Florida Constitution;
12 that's our role. I would contend that all
13 discussion throughout this process may have
14 not been inconsistent. It's when
15 procurement policies or ethical policies
16 were not followed, and ones that may have
17 led to levels of criminality and illegality
18 that it all changed.

19 And so I don't know that this question
20 of privatization, even though it was beyond
21 my scope and understanding, was corrupt at
22 its inception. It just moved to corruption
23 somewhere along the way. And so that's why
24 we are doing the work of this Committee.
25 And we will keep moving forward in that

1 direction.

2 We'll move now to Council Members
3 disclosures. We as a Committee took the
4 action to voluntarily request the
5 disclosures of our colleagues on the City
6 Council relative to any engagements they may
7 have had with the JEA senior leadership
8 team, the board or our consultants. And we
9 asked for them to voluntarily comply and
10 provide that information.

11 And I am going to now read into the
12 record those of our colleagues that have
13 complied with that information. Ms. Hodges
14 has my list.

15 Ms. Hodges, if you could bring my list
16 you took out from my notebook.

17 And while she's bringing me that list, I
18 just wanted to share that what we also
19 requested of our Special Counsel -- what we
20 also requested of our Special Counsel was
21 that this documentation, as provided by our
22 colleagues, be cross-referenced with the
23 timeline they created and also
24 cross-referenced with the witnesses and
25 testimony that they've received. And if

1 there are any areas of concern, that they
2 reach out to those Council Members and share
3 those.

4 And so to date, we have 16 of our 19
5 colleagues that have responded; that's,
6 Council Member Danny Becton, Council Member
7 Michael Boylan, Council Member Matt
8 Carlucci, Council Member Randy DeFoor,
9 Council Member Garrett Dennis, Council
10 Member Rory Diamond, Council Member Al
11 Ferraro, Council Member Reggie Gaffney,
12 Council Member Tommy Hazouri, Council Member
13 Joyce Morgan, Council Member Sam Newby,
14 Council Member Ju'Coby Pittman, Council
15 Member Brenda Priestly Jackson, Council
16 Member Ron Salem, Council Member Randy
17 White, and Council Member Scott Wilson.

18 I want to thank each of the 15 other
19 Council Members for their compliance and
20 voluntarily submitting this information as
21 requested, holding ourselves to the same
22 standard that we are holding those that we
23 think were involved in JEA with. And I
24 appreciate that and encourage the Council
25 Members who have not responded to consider

1 doing so.

2 We now move on in our agenda to the next
3 item. That's -- are there any discussions
4 on that item?

5 None.

6 Council Members' one-on-one meetings
7 with Outside Counsel. Mr. Busey stands
8 ready, willing, and available.

9 Mr. Busey, would you share about
10 one-on-one meetings with our colleagues and
11 your availability?

12 MR. BUSEY: We've received a number of
13 requests. And we continue to meet with
14 Council Members as they've asked us to. And
15 we remain available. We're very flexible in
16 that regard. If any Council Member wants to
17 talk to us or wants to ask questions and
18 hasn't done so to date, just give us a call
19 and we'll arrange that at their convenience.

20 CHAIRPERSON PRIESTLY JACKSON: Thank you
21 so much.

22 And you notice this is on the agenda
23 every time, colleagues, because we want you
24 to take advantage of that. Mr. Busey is a
25 Special Counsel to the City Council, not the

1 SIC, the City Council. So please take
2 advantage of that opportunity.

3 We now move on to Outside Counsel budget
4 extension. And I will pass this off to
5 Ms. Sidman at this point.

6 MS. SIDMAN: Thank you.

7 Peggy Sidman, Office of General Counsel.

8 Presently we stand on our budget at
9 \$1,075,572.68. That doesn't reflect the
10 outstanding invoice that we have to date.
11 So therefore, the previous extension, which
12 had a not-to-exceed amount of 1.15 million,
13 will be very close upon us.

14 As the Chairman indicated, the Council
15 President has extended the SIC deadline, the
16 Committee deadline, to December 31st. And
17 so it would be appropriate for the Committee
18 to discuss an increase in that number. We
19 had previously met with them, the Chair, who
20 had suggested a \$300,000 increase, which
21 would bring the not-to-exceed amount to
22 \$1.45 million. And we stand ready to make
23 any contract amendment that's needed in that
24 regard.

25 CHAIRPERSON PRIESTLY JACKSON: Any

1 questions from the Committee Members?

2 Council Member DeFoor.

3 COUNCIL MEMBER DeFOOR: Do you need a
4 motion for that?

5 CHAIRPERSON PRIESTLY JACKSON: I don't
6 know.

7 Do we, Ms. Sidman, do we need a motion?

8 MS. SIDMAN: We've done it in the past
9 just to reflect the collegial action.

10 CHAIRPERSON PRIESTLY JACKSON: Okay. Is
11 there a motion, Ms. DeFoor?

12 COUNCIL MEMBER DeFOOR: I'll move it.
13 Sorry, I misunderstood. I'm happy to move
14 it to the increase of the 300,000 to 1.45.

15 CHAIRPERSON PRIESTLY JACKSON: Council
16 Member Wilson?

17 Can you unmute him for his second?

18 COUNCIL MEMBER WILSON: I will second
19 the motion, ma'am.

20 CHAIRPERSON PRIESTLY JACKSON: Thank
21 you, Council Member Wilson.

22 Any further discussion on the Outside
23 Counsel budget extension of \$300,000?

24 Seeing no hands raised for discussion,
25 all those Committee Members in support of

1 the extension, please signify by raising
2 your hand.

3 MS. MITCHELL: Three years, zero nays.

4 CHAIRPERSON PRIESTLY JACKSON: By your
5 action, you have approved the budget
6 extension of \$300,000 for Outside Counsel.

7 I'm going to share with you that at the
8 next meeting we're going to have information
9 for the public relative to what Mr. Busey
10 has been able to uncover in terms of other
11 costs to date, just for the public to
12 understand that there were millions of
13 dollars of costs that led to the initial
14 attempts from other parties to privatize,
15 just so that there is a balance so they can
16 understand the resources we're expending to
17 get to the bottom of it and ensure that it
18 doesn't happen again are well worth it and
19 are significantly less than those spent to
20 explore the privatization. But we'll share
21 that information at our next SIC Committee
22 meeting.

23 Other business, any other business from
24 any of the SIC Committee members and then
25 follow that up with any other considerations

1 from our City Council colleagues?

2 Any SIC Members? Ms. DeFoor, any
3 business, none?

4 COUNCIL MEMBER DeFOOR: No, ma'am.

5 CHAIRPERSON PRIESTLY JACKSON:

6 Mr. Wilson, anything additional you would
7 like to share at this time?

8 COUNCIL MEMBER WILSON: No, ma'am.

9 CHAIRPERSON PRIESTLY JACKSON: Okay.

10 Thank you.

11 Then I see Councilman Dennis' hand
12 raised.

13 Mr. Dennis.

14 COUNCIL MEMBER DENNIS: Thank you.

15 Through the Chair, can you hear me okay?
16 Because I'm actually in my car.

17 CHAIRPERSON PRIESTLY JACKSON: Yes, we
18 can.

19 COUNCIL MEMBER DENNIS: So I received a
20 letter from Aaron Zahn's attorney, basically
21 put me on notice that I may be subpoenaed in
22 circuit court. I had my assistant send that
23 to Dr. Brown to send to the SIC Members, as
24 well as to Jason Gabriel.

25 I'm sharing this for a couple reasons,

1 to let you all know that they're saying I'm
2 a material witness. And that if I received
3 it, other members of the Council may be in
4 the same situation that I'm in.

5 And then the other thing, you all know I
6 have a bill, 20-2528, capping fees as it
7 relates to, you know, the City reimbursing
8 legal fees. And I'm sharing all this to say
9 that it looks like that I may be -- I don't
10 want to have to get outside counsel, an
11 attorney, to represent me as I go through
12 this process. So I just wanted to share it
13 with the SIC. I had it forwarded to the SIC
14 today.

15 And, you know, here we go. So there may
16 be additional dollars that we're going to
17 have to pay out as the overseer of taxpayer
18 dollars. So I just wanted to share that.
19 Thank you.

20 CHAIRPERSON PRIESTLY JACKSON: I
21 appreciate you sharing that, Councilman
22 Dennis.

23 Councilman DeFoor?

24 COUNCIL MEMBER DeFOOR: Thank you,
25 Chairwoman. I just got a text from my ECA

1 saying that I received a similar letter this
2 afternoon.

3 MR. GABRIEL: Can I make a --

4 CHAIRPERSON PRIESTLY JACKSON: Please,
5 please, Mr. Gabriel.

6 MR. GABRIEL: Can you hear me?

7 CHAIRPERSON PRIESTLY JACKSON: Yes.

8 MR. GABRIEL: I appreciate Council
9 Member Dennis bringing that up. And I have
10 a feeling that perhaps all Council Members
11 probably got that exact type of letter.
12 There may be variations, I don't know.

13 What I would ask is that each of your
14 respective ECA's will forward it to me, and
15 we'll take it from there. This may be in
16 the context of the litigation, the active
17 litigation that we have against -- well,
18 should I say the active litigation that JEA
19 has against Mr. Zahn.

20 So I would just respectfully ask if you
21 can have your respective ECAs forward to our
22 office, you can send it to me, and we'll
23 take it from there. And we'll provide any
24 further guidance at a later time. It's
25 probably good for us to see who has been

1 canvassed with it and what they're asking
2 for.

3 CHAIRPERSON PRIESTLY JACKSON: This is
4 impending civil litigation, is that --

5 MR. GABRIEL: Yes. And again, assuming
6 that these letters are being written, I
7 think they're coming from one of the firms.
8 I think there are two firms that Mr. Zahn
9 has, at least as far as I can tell, that are
10 assisting him in the litigation that JEA has
11 against him. And I believe that letter that
12 Mr. Dennis has referred to and I think
13 Ms. DeFoor just referred to is from one of
14 those two firms. So I have reason to
15 believe it's within the context of that
16 active litigation on the JEA side of it.

17 So I would just ask for y'all to forward
18 it our way. And we'll provide any further
19 guidance afterwards. But send it our way,
20 if you don't mind.

21 CHAIRPERSON PRIESTLY JACKSON: Thank
22 you.

23 I see Council Member Morgan has raised
24 her hand.

25 Council Member Morgan, welcome. Council

1 Member Morgan.

2 COUNCILWOMAN MORGAN: I'm trying. I'm
3 trying. I couldn't get unmuted.

4 But thank you, Mr. Gabriel, and thank
5 you, Madam Chair, because I also received
6 the letter from Mr. Zahn's attorneys. So I
7 will forward it straight to you,
8 Mr. Gabriel.

9 MR. GABRIEL: Sure.

10 COUNCILWOMAN MORGAN: Thank you, Madam
11 Chair.

12 CHAIRPERSON PRIESTLY JACKSON: Thank
13 you.

14 And I will share that my ECA just
15 brought it in to me, so I think everybody is
16 going to receive it. So, Mr. Gabriel, you
17 can kind of advise us, I would assume that
18 we're receiving it in our role and capacity
19 as Members of the City Council.

20 MR. GABRIEL: Yeah. What I would
21 suggest is, before everyone goes and runs
22 out and gets their own personal attorney,
23 send it to our office. Let us review it.
24 It very well may be in the context of that
25 JEA case. And if that's the case, it may be

1 handled under that whole umbrella.

2 But let us -- if we can at least take a
3 look at it and make that assessment. So
4 send it our way first before you do anything
5 else.

6 CHAIRPERSON PRIESTLY JACKSON: I'm not
7 doing anything. That's exactly first thing.

8 "Please be advised that this firm
9 represents Aaron Zahn regarding certain
10 matters related to his employment with JEA."
11 That answers it for us, for me.

12 MR. GABRIEL: Okay.

13 CHAIRPERSON PRIESTLY JACKSON: Any other
14 colleagues that have anything they want to
15 share?

16 Before we adjourn the meeting, we are
17 trying to come up with the process of having
18 information uploaded to the SIC page,
19 Dr. Brown, and we want you to kind of share
20 with us that what's -- so that things aren't
21 uploaded every day. You've been wonderful.
22 When it's come in, you've shot it out,
23 right. So we think a bit more uniformity
24 and consistency might help us all in
25 determining dates and times. And so we

1 would love to have an opportunity for you to
2 share your insights on what works best with
3 that.

4 We are also asking for there to be some
5 type of index or something provided. But I
6 told Mr. Gabriel early on in this process,
7 when anything posts late on a Friday, I look
8 at it askance as an attorney, because that's
9 called the dump day, right. So you look at
10 anything suspect that comes out late on
11 Fridays, right.

12 So just making certain that we have
13 dates and times certain. And I think that
14 that means that will give clear guidance to
15 witnesses, if they are reviewing
16 transcripts, that they need to have them
17 back in by a date because we're uploading
18 and give us assistance as we seem to be
19 getting a lot of that. But just wanted to
20 kind of share that.

21 You have done wonderful, Dr. Brown. You
22 have been wonderful. You have gone above
23 and beyond at all times to add it and put it
24 on.

25 So we think we want to streamline it,

1 not to tax you all so much, but also to make
2 it -- help the work of the Committee and
3 make it more accessible. So that's it for
4 that.

5 Anything else for the good of the order?

6 Clear direction from you, Mr. Gabriel,
7 we'll send all of these lovely letters to
8 you. And I think we'll all copy them to
9 Mr. Busey as well, right. So we'll send the
10 letters we've gotten from there.

11 Anything else?

12 Our next Special Investigatory Committee
13 meeting is scheduled for October 12, 2020.

14 I will ask that, Mr. Gabriel, what is a
15 reasonable time for you to have your memo in
16 relative to subpoenas for the Committee?
17 What date for you in advance of that meeting
18 is a good time?

19 MR. GABRIEL: You put me on the spot.

20 CHAIRPERSON PRIESTLY JACKSON: Yes, I
21 did. But you have almost two weeks, so.

22 MR. GABRIEL: Could I have until the
23 Friday before? I guess that's the 9th,
24 whatever Friday is.

25 CHAIRPERSON PRIESTLY JACKSON: As long

1 as it's before noon, it's not that
2 afternoon.

3 MR. GABRIEL: Sure.

4 DR. BROWN: Way before noon, because we
5 have to post by noon.

6 MR. GABRIEL: So by noon on the 9th; is
7 that fair?

8 CHAIRPERSON PRIESTLY JACKSON: I have no
9 objections.

10 Committee Members, any concerns if we
11 get the memos by noon on the 9th?

12 MR. GABRIEL: What are you imposing on
13 Mr. Busey?

14 CHAIRPERSON PRIESTLY JACKSON: He said
15 he's ready to go. He said he's already
16 ready.

17 Mr. Busey, does by noon on the 9th work
18 for you as well?

19 Unmute Mr. Busey for me so I can make
20 sure that time is good for him.

21 MR. BUSEY: Yes, ma'am, that's good.

22 CHAIRPERSON PRIESTLY JACKSON: Okay.
23 Wonderful.

24 All right. Seeing no further actions
25 that need to be taken by this Body, our next

1 meeting is October 12, 2020, it's an
2 8 o'clock a.m. meeting. We rotate,
3 remember, morning -- I know.

4 This meeting is hereby adjourned. Thank
5 you everyone.

6 (Meeting concluded at 6:17 p.m.)

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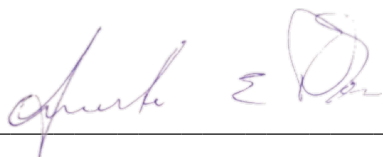
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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF DUVAL

I, Amanda E. Robinson, Registered
Professional Reporter, Certified Realtime
Captioner, do hereby certify that I was
authorized to and did report the foregoing
proceedings; and that the transcript, pages 1
through 74, is a true record of my stenographic
notes.

DATED this 11th day of October, 2020.



Amanda E. Robinson,
Registered Professional Reporter,
Certified Realtime Captioner