

Agenda

**Meeting of City Council Special Investigatory Committee
Chair Rory Diamond, General Counsel Jason Gabriel,
Margaret Sidman, Steve Busey and Lanny Russell**

- Collaboration–Committee Members, Office of General Counsel and Smith Hulsey & Busey

Who does what (e.g., Charter, ordinance or legislative changes, collection of documents, takes witness statements or testimony or proposes)?

Are there specific steps that can improve collaboration (e.g., regular meetings, OGC and SHB; SHB, OGC and individual Committee Members; copying each other on all communications; and point persons at OGC and SHB to assure most efficient circulation of communications)?

Are there specific problems with collaboration we need to improve?

- Review SHB investigation activity to date (Schedule A attached).
- What witnesses will be interviewed, and who will interview: OGC, SHB, Committee?
- Proceed *now* with interviews of former JEA employees (identified during February 10 Committee meeting)?
- Agenda for February 24, 2020 Committee public meeting.
- Do public record exemptions continue when documents provided by OGC to SHB?
- Regular written reports/communications to Committee Members?
- OGC should copy SHB on communications with Committee Members.
- Retention of ESI consultant (Schedule B attached) and role of Nelson Mullins in ESI work.
- Copy Jason on all SHB communications with OGC?
- Access by Committee Member to documents in data room.
- Consultants (Dean Cannon and William Garner?).
- Status of OGC document request/interrogatories to JEA (CP DeFoor's suggestions).
- Identify end game (as way of focusing work now).

Jacksonville City Council Special Investigatory Committee

Summary of the material tasks Smith Hulseley & Busey performed since being retained in December 2019:

- attended City Council, Special Investigatory Committee, other City Council Committee and JEA meetings and workshops;
- met with eleven City Council Members to develop investigatory strategies¹;
- met and communicated individually and repeatedly with the members of the Special Investigatory Committee;
- interviewed the City Council Auditor, the Director of the Ethics Commission, community leaders, and potential witnesses to gather information about Investigatory Matters;
- gathered, organized and analyzed voluminous document productions, witness statements, news media, JEA's publically filed documents, and electronically stored information relating to investigatory matters;
- commenced 70-page (so far) factual chronology with documents electronically imbedded relating to the Investigatory Matters;
- met with the General Counsel, multiple members of his staff and senior members of JEA's Information Technology Department to discuss electronic discovery platforms, protocols, metadata concerns, and electronic discovery vendors;
- assisted OGC in preparing requests for documents and information from JEA;
- identified the witnesses, persons and entities on the attached list as potential interviewees;
- read and analyzed depositions of JEA's Senior Leadership Team taken by OGC;
- identified and communicated with proposed consultants with specialized utility expertise; and
- requested documents from OGC (see attached schedule).

¹ "Investigatory Matters" means the Total Market Compensation Strategy or compensation for JEA's Senior Leadership Team, the privatization or recapitalization of JEA, the scenario-based strategic planning initiative, the ITN, or the PUP.

Schedule A (Addendum)

SHB Requests to OGC

- Do JEA procurement rules permit Nelson Mullins to retain Encompass to collect and host data from JEA without an open bidding process?
- All of JEA professional engagement letters for privatization.
- Billing statements for JEA professionals (OGC says they are being reviewed for exempted or privileged information).
- All JEA emails between it and its professionals (same comment as above).
- List of JEA employees who OGC believes have information (including devices) within scope of the Investigatory Matters.
- JEA's mobile device management policy, bring your own device policy and names of persons who had access to data rooms.
- Zahn sworn statement exhibits (except Diamond/Salem binder and audio clips).
- Any JEA-related material OGC releases (makes public) should be provided simultaneously to SHB.
- JEA's public records response (in native format) to the Diamond/Salem request for JEA records.
- Copies of all public records requests to JEA and description of the status of the responses to those requests.

“Investigatory Matters” means the Total Market Compensation Strategy or compensation for JEA’s Senior Leadership Team, the privatization or recapitalization of JEA, the scenario-based strategic planning initiative, the ITN, or the PUP.

From: Stephen D. Busey
Sent: Thursday, February 13, 2020 12:01 PM
To: 'Rondinelli, Mellissa'
Subject: FW: Ediscovery pricing and process
Attachments: 6229946 Smith Hulsey Busey JEA Investigation 2_7_2020 SOW.pdf

From: Chris Dix <cdix@smithhulsey.com>
Sent: Wednesday, February 12, 2020 7:05 PM
To: 'Granat, Sean' <SGranat@coj.net>
Cc: Lanny Russell <lrussell@smithhulsey.com>; Stephen D. Busey <busey@smithhulsey.com>
Subject: Ediscovery pricing and process

Sean,

Attached is a draft proposal I asked KLDDiscovery to prepare last week based on our preliminary discussions about the data we anticipate collecting from JEA in connection with the City Council's investigation. Because we do not know how many custodians or how much data will be collected, the proposal from KLDDiscovery is essentially a pricing menu that describes the per unit cost for different tasks and tools that may need to be utilized. I asked KLDDiscovery to include pricing for Relativity, as well as pricing for their own document review platform called Nebula. I also asked KLDDiscovery to provide the pricing for any contract review attorney services that may be required (e.g., to conduct a privilege review of confidential information and other information exempt from disclosure under the Florida Sunshine law). This should provide you with a good benchmark for pricing, even if another vendor such as Encompass is ultimately chosen to perform the work.

To begin assessing the potential volume of this project, you may find the following link from Logikcull useful: <https://www.logikcull.com/blog/ediscovery-opportunity-costs-infographic> Although Logikcull's numbers are a helpful starting point, in this case based on the initial discussions with JEA's IT staff, we expect data will be larger than the typical litigation matter and will need to be collected from multiple sources, including email, network file shares, laptops/desktops, data rooms, mobile devices and Oracle (for accounting and financial data). If the number of custodians ranges between 25 – 30 people, I think the total data collected will exceed 1 Terabyte. After collection, however, we use date ranges, file types and other search and culling tools to narrow down the data that actually gets placed into a review tool.

Even with competitive pricing based on a high volume project, \$100,000 is a reasonable starting point to estimate the cost of this project. That estimate does not include the cost of contract review attorneys to conduct a privilege review (the cost of which would depend heavily on the volume of documents collected and the degree to which predictive coding and other analytics are used in lieu of a doc by doc review of the entire collection).

Please provide us with an update regarding the next steps for selecting a vendor to proceed with the work necessary to collect the data responsive to the City Council's document request for JEA.

Thanks,

Chris Dix

SMITH HULSEY & BUSEY
