

JEA 2020 FACTFINDING WORKSHOP

SESSION #1

DATE: Wednesday, November 6, 2019
TIME: 11:02 a.m. - 12:59 p.m.
PLACE: Lynwood Roberts Room
First Floor
City Hall at St. James Building
117 West Duval Street
Jacksonville, Florida 32202

COUNCIL MEMBERS PRESENT:

Al Ferraro, District 2
Aaron Bowman, District 3
Scott Wilson, Council President, District 4
LeAnna Cumber, District 5
Michael Boylan, District 6
Reggie Gaffney, District 7
Ju'Coby Pittman, District 8
Garrett Dennis, District 9
Brenda Priestly Jackson, District 10
Danny Becton, District 11
Randy White, District 12
Rory Diamond, District 13
Randy DeFoor, District 14
Terrance Freeman, Group 1
Ronald Salem, Group 2
Tommy Hazouri, Group 3
Matt Carlucci, Group 4
Sam Newby, Group 5

ALSO PRESENT:

Council Staff:

Dr. Cheryl Brown, City Council Director
Carol Owens, Chief of Legislative Services
Steve Cassada, IT Administrator
Jeff Clements, Chief of Research
Peggy Sidman, Office of General Counsel

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P R O C E E D I N G S

COUNCIL MEMBER BOYLAN: Good morning,
and thank you all for taking the time to be
here this morning. Make sure your
microphone's on. We will go around the
table for identifications starting with
Mr. Diamond.

COUNCIL MEMBER DIAMOND: Rory Diamond,
District 13.

COUNCIL MEMBER GAFFNEY: Reggie Gaffney,
District 7.

COUNCIL MEMBER BOWMAN: Aaron Bowman,
District 3.

COUNCIL MEMBER FREEMAN: Terrence
Freeman, At-Large Group 1.

COUNCIL MEMBER WHITE: Randy White,
District 12.

COUNCIL MEMBER DEFOOR: Randy DeFoor,
District 14.

COUNCIL MEMBER BECTON: Danny Becton,
District 11.

COUNCIL PRESIDENT WILSON: Scott Wilson,
District 4.

COUNCIL MEMBER BOYLAN: Michael Boylan,
District 6.

1 COUNCIL MEMBER HAZOURI: Good morning.
2 Tommy Hazouri, Group 3 At-Large.

3 COUNCIL MEMBER FERRARO: Al Ferraro,
4 District 2.

5 COUNCIL MEMBER JACKSON: Brenda Priestly
6 Jackson, District 10.

7 COUNCIL MEMBER NEWBY: Sam Newby, Group
8 5 At-Large.

9 COUNCIL MEMBER DENNIS: Garrett Dennis,
10 District 9.

11 COUNCIL MEMBER PITTMAN: Ju'Coby
12 Pittman, District 8.

13 COUNCIL MEMBER BOYLAN: Well, thank you
14 all for being here. I appreciate everyone's
15 attention.

16 First of all, I do want to thank
17 President Wilson for your appreciation --
18 we've got a bad one. You got it?

19 UNIDENTIFIED SPEAKER: Yeah.

20 COUNCIL MEMBER BOYLAN: Good -- and
21 importance of the work that we are about to
22 undertake and your expression of confidence
23 to me in facilitating this fact-finding set
24 of workshops. Thank you very much. And I
25 don't know if you want to comment --

1 COUNCIL PRESIDENT WILSON: This
2 microphone might be the problem.

3 I just would like to thank you for your
4 leadership on this issue, and thank each one
5 of my colleagues for being here.

6 I'd also like to thank -- I see Judge
7 Arnold and Jason Gabriel in the room, as
8 well as many other union leaders and
9 residents who are very interested in this
10 conversation. So thank you for leading this
11 cause, and I look forward to the
12 conversation. Thank you.

13 COUNCIL MEMBER BOYLAN: Thank you. I
14 referenced the word facilitate in that last
15 sentence of mine. And I'm not leading this
16 effort. I'm merely trying to guide us, all
17 of us, through it. And when I say all of
18 us, I mean constituents, council members,
19 and all the interested parties.

20 Our purpose is singular: to fully
21 prepare ourselves and the constituents we
22 represent for whatever proposed changes to
23 structure and/or operations that the JEA
24 Board and Management may present to us in
25 the coming months.

1 To that end, we bring these discussions
2 with -- we'll bring you these discussions
3 with the help of subject matter experts that
4 will be identified by the Council and
5 Mr. Wilson, who we'll soon be retaining, but
6 also from the JEA Board and Management and
7 the individuals that they had identified to
8 help them doing work that they were doing.

9 And this is going to be a journey. It's
10 going to take us a couple of months to get
11 through this process. We had an
12 organizational meeting on Monday with my
13 colleagues, and we made some changes to the
14 schedule and for the schedule -- changes to
15 the schedule likely will be made. And I do
16 appreciate your input in this process.

17 Public involvement is very important to
18 this process. In addition to doing what we
19 are doing today, a lot of listening, we also
20 have opportunities for you to provide your
21 input. We're going to try and keep the
22 schedule very tightly to 90 minutes for the
23 discussion we have around the table here and
24 to provide 30 minutes for comments by folks
25 in the audience if you choose to do so.

1 You'll need to fill out a green card.

2 And what we will do, we will apportion
3 the time based upon the number of cards we
4 have from the folks in the audience;
5 however, I do want to make certain that
6 we -- we ask that your request -- during the
7 course of that process, that your
8 conversation or presentation should be
9 limited to the topic we are presenting today
10 and/or suggestions or questions about future
11 topics.

12 We're not here to talk about what we
13 should do at this point in time, merely to
14 understand the process that we're going
15 through and what we need to learn in order
16 to make a sound decision in the future.

17 It's my understanding that all the
18 workshops will be available for public
19 viewing on a number of electronic platforms,
20 including the COJ website. There you will
21 also be able to post comments or post
22 questions regarding an upcoming topic.

23 As you can see by the judge of today,
24 sessions will cover essentially three items:
25 The first is some background on the Office

1 of General Counsel and the rationale for
2 when and the process by which Special
3 Counsel is identified. It's a process we've
4 kind of gone through already and most of my
5 colleagues are familiar with it. But for
6 the benefit of the general audience out
7 there, we want to share this process with
8 you as well.

9 Frankly, the focus of the second item
10 changed a bit. Initially, the accident, if
11 you will, was put on the authority of the
12 independent authorities. But thanks to the
13 comments and questions raised by my
14 colleagues at our organizational meeting on
15 Monday, we changed the emphasis a bit. It's
16 being shifted really to the authority of the
17 City Council as it relates to the respective
18 authorities. Just exactly what is the line
19 of demarcation? Frankly, the ability of the
20 Council to materially address decisions made
21 by the Board and Management of any given
22 authority; but, obviously, in this case,
23 specifically JEA.

24 Yesterday, the Jacksonville City Council
25 provided our membership a letter from its

1 JEA subcommittee, an opinion memo that
2 specifically addresses Council's authority
3 in such matters and a presentation provided
4 by the group of the Florida Municipal Power
5 Authority.

6 We won't be delving into the latter two,
7 but Ms. Jean Miller is in the room and I
8 invited -- will be inviting her up a little
9 bit later on to share a little bit about the
10 process they've undertaken and some of the
11 general conclusions they have reached as
12 early on in their process.

13 Our first presenter today is the
14 Honorable Judge Charles Arnold, Jr.

15 Thank you. I have coaches here. I'm
16 going to need them.

17 We have a court reporter here, and the
18 court reporter has asked that we -- that the
19 initial time my colleagues speak, that you
20 identify yourself so that she will know who
21 you are in this process. Thank you.

22 Again, our first speaker today, our
23 presenter today, is the former judge,
24 retired judge, a circuit court judge, and
25 I'm very excited to have him here. He was

1 the Fourth Circuit Court -- Judge in the
2 Fourth Circuit Court in Florida from 1997
3 until his retirement in 2012; however, he
4 did spend a number of years practicing law
5 for 30 years prior to that and spent two
6 years -- three years as -- from '92 to '94,
7 Judge -- as the Office of General Counsel.

8 So we're going to open up the floor to
9 you and let you talk a little bit about the
10 history of the General Counsel role and also
11 as it relates specifically to the
12 identification of Specialized Counsel.

13 JUDGE ARNOLD: Thank you, Councilman
14 Boylan. Is this working now or --

15 COUNCIL MEMBER BOYLAN: Close enough.
16 You've got to move it closer, probably.

17 JUDGE ARNOLD: All right. Actually, I'm
18 still a senior circuit judge. The only
19 thing important about that is I have the
20 ability to get any of you out of jail on any
21 given day, if need be; however, depending on
22 what you did, you may have to go back later.
23 But don't hesitate to call me.

24 Councilman Boylan and I and Jason
25 Gabriel thought it was -- it might be of

1 interest to you to -- a little bit of
2 background about the General Counsel's
3 Office, why it got formed to start with.
4 And since you've already decided to hire
5 some additional attorneys, some background
6 on that as well, what has happened in past
7 years, and it might be able to give you some
8 guidance.

9 Just a little bit of my background: On
10 October 1 of '68, I was an Assistant Counsel
11 to Judge William L. Durden, who was the
12 initial General Counsel. And it was my job
13 to represent the City in a number of the
14 lawsuits that were filed challenging the
15 constitutionality of the Charter. And, in
16 fact, I got to argue the case in front of
17 the Florida Supreme Court once it was on
18 appeal, which was a lot of fun since I
19 graduated from law school in August of '68.
20 So it was a great start.

21 It was a wonderful time to be in City
22 Hall. I could go through and name every
23 City Councilman then and tell you all about
24 them. They were just wonderful folks.
25 Everybody had the interest of the people in

1 mind and just making a new government work,
2 and it was just great fun to be there.

3 Mayor Tanzler, Judge Durden, Ted
4 Grissett was President, Sally Mathis, John
5 Lanahan, I could go on and on. Some fellow
6 named Carlucci that kept half the staff of
7 the General Counsel's Office busy with
8 questions, which -- so you can sort of
9 understand one of your fellow members and
10 where all of that came from.

11 Everything was a legal question back in
12 1968. I recall the people from Nashville,
13 who had consolidated their government, came
14 down to speak with Mayor Tanzler to find out
15 about our government. Was it a strong mayor
16 government, council government, mayor
17 council? What was it?

18 And I sat in Mayor Tanzler's office with
19 Judge Durden when his answer to the
20 Nashville folks was, It's a strong General
21 Counsel form of government, is what it is.
22 I can't do anything except what the General
23 Counsel tells me I can do.

24 And I'm sure you-all can appreciate that
25 because you've gotten some binding opinions

1 that obviously help you with your job.

2 And then in -- coming up to '92 and '94,
3 I actually served as General Counsel under
4 Mayor Austin. And back in 2014 I sat on
5 Lori Boyer's committee, who studied the
6 Charter and some changes on that.

7 I think I'm one of two lawyers that are
8 still alive that worked for the City in
9 1968. And so for that reason I got invited
10 because I've been here since the beginning,
11 and just wanted to share with you a little
12 bit about the office and conflicts, or
13 perceived conflicts, hiring outside counsel.
14 Those questions always arise, whether it's
15 representing the constitutional officers,
16 the independent bodies, constitutional
17 bodies.

18 And the reason the office got formed --
19 and I assume most of you have read Richard
20 Barnes' book on A Quiet Revolution, but just
21 a few of the things that he said in there:
22 Prior to consolidation, there were six
23 attorneys in the City attorney's office;
24 there were two attorneys in the County
25 attorney's offices; and then there were

1 attorneys for the School Board, the hospital
2 board, the Sheriff, the Tax Assessor, the
3 Tax Collector, the Clerk of the Court, the
4 Budget Commission, the Civil Service Board,
5 and each one of them had between one and
6 three attorneys. And although it doesn't
7 sound like much now, back then they spent
8 over a half a million dollars a year on
9 attorneys.

10 And so the legislature and the study
11 commission decided that they needed to have
12 one group of attorneys that represented all
13 of the City of Jacksonville. And, actually,
14 we had 15 attorneys in the General Counsel's
15 Office the first year. And we saved the
16 City a quarter of a million dollars just
17 that first year in attorneys' fees alone.

18 But all of these attorneys, they were
19 always suing -- on behalf of their clients,
20 they were always suing each other too. And
21 that led to a whole lot of litigation and
22 inconsistent opinions.

23 And so it really -- the General Counsel
24 really became the judge of the government as
25 opposed to just a lawyer giving advice. The

1 General Counsel decided things and y'all
2 were stuck with it. And a great deal of
3 thought went into that. And since then
4 there's been a lot of discussion as to
5 whether that is the right approach to legal
6 answers. And it kind of came about because
7 of accident.

8 If you look at Article 8, Section 9, of
9 the Constitution, which set all of this up,
10 it gave the legislature, followed by
11 referendum, the authority to combine
12 everything: the Tax Collector, the Sheriff,
13 the Property Appraiser, even the School
14 Board, would be departments of the City of
15 Jacksonville. And they'd all operate under
16 the Mayor and Counsel. So that made it
17 pretty easy. They were all the clients of
18 the General Counsel.

19 Well, then, in an effort to get
20 consolidation passed, everybody got worried;
21 if you do away with these constitutional
22 officers, or you do away with the beaches
23 and Baldwin, we may not win. And so they
24 started spreading these things out and
25 leaving them as elected constitutional

1 officers and boards. And by doing that,
2 though, they didn't touch the legal
3 department. They left that alone. That
4 still made everything they did subject to
5 Central Services, General Counsel, and so
6 forth.

7 So they didn't like that. Morgan
8 Slaughter sued us several times. Over the
9 years there were several lawsuits about
10 that.

11 And the best way to look at the General
12 Counsel's Office is, when you're dealing
13 with the primary government, that is, the
14 Mayor, the Council, the independent
15 authorities, is the -- it's like General
16 Motors: You've got Chevrolet; used to
17 have Pontiac; you still have Buick. And
18 that's all a part of General Motors, though.
19 And so you're all part of the same
20 government. And you have one attorney that
21 is representing all of you.

22 Where it gets a little tricky is when
23 you get to the constitutional officers and
24 the School Board. I've been bothered, since
25 day one, that there may be some inherent

1 conflicts in representing all those folks;
2 but Jason wrote an opinion in 2016 that
3 covered that subject matter about the
4 ethical ramifications, and if you haven't
5 read it, you should do that. And it's
6 really a very well-written opinion, and he
7 answers a lot of those questions.

8 When is it appropriate to go get outside
9 counsel? Obviously, if there's some
10 third-party besides the City involved, like
11 the landfill cases when the federal
12 government came after everybody. You had
13 private business and the City were
14 defendants. And the private business didn't
15 want the City attorney representing them, so
16 the City had to go hire outside counsel.

17 Bond issues, the underwriters want
18 separate bond counsel. And, on occasion,
19 the General Counsel's office just simply
20 doesn't have the expertise to properly
21 advise their clients, and it's certainly
22 fine to go out and get people to do that.

23 That doesn't really apply to the
24 independent authorities as far as having to
25 get independent counsel, unless the General

1 Counsel doesn't have the expertise to do it.
2 There's even been thoughts over the year
3 that, for example -- I won't talk much about
4 it because it's pending -- where you have
5 the School Board suing the City, you could
6 actually have all the private firms do it.
7 We built something called the Chinese Wall;
8 and that is, you have one group of attorneys
9 that don't talk to another group of
10 attorneys in the same law firm, and you
11 could represent both sides. And I've
12 suggested to Jason that's something they
13 want to think about.

14 Actually, that's the way he arrives at
15 most of his opinions. One of his lawyers
16 gets one side and one of the lawyers get
17 another, but he's the judge and he decides.
18 But I think that system has worked very well
19 over the years.

20 And nobody, other than President Wilson,
21 to use today's example, nobody catches more
22 hell in this building than the General
23 Counsel does. And that's because the
24 General Counsel's decisions are tough. And
25 he's got a lot of clients pulling him in a

1 lot of directions.

2 Just to give you some example, I
3 remember -- and there was recently an
4 article in the paper about it. I won't
5 spend much time on it; but we had
6 Westinghouse Tenneco come to town, and it
7 was the greatest thing since sliced bread.
8 And they formed OPS, and they put this big
9 old crane out on Blount Island, and it was
10 going to be the most wonderful thing for the
11 economy there could be.

12 And they were going to build these
13 floating generating plants, and it was --
14 actually, they weren't going to build it in
15 the river; they were going to float it off
16 Atlantic Beach. And they were going to sell
17 them up and down the coastline.

18 But the contract with the City, or the
19 JEA and the City, had a lot of liability
20 issues for the City. And Harry Shorstein,
21 who was General Counsel and a good friend,
22 he said, No, you just can't do that. You
23 can't subject the City to that kind of
24 liability. And he was vilified everywhere
25 for ruining this great economic opportunity.

1 But can you imagine, if Dorian had
2 parked off Atlantic Beach on top of a
3 nuclear generating plant, where we'd be
4 today? We'd had a nuclear reactor probably
5 floated up to this building, and we'd be
6 like Chernobyl, and none of us would live
7 here anymore. So his advice seemed pretty
8 good over the years.

9 I recall back in '92 when I was General
10 Counsel, and we were negotiating with the
11 Jaguars -- the lease, and everybody wanted
12 the Jaguars here, including me. But we had
13 a problem with the cost of the stadium. It
14 started at 75 million, and it went to 100-,
15 and then it went to 120-, and then it went
16 to 150-. And then the Jaguars took the
17 position, Well, whatever it costs, you've
18 got to build it, because Mr. Weaver is going
19 to invest \$200 million, and he didn't want a
20 partially built stadium.

21 And I said, No, we've got to have a firm
22 price and -- because the City can't enter
23 into a contract without a firm number on the
24 end.

25 Well, quite understandably, they said,

1 Well, Chuck's being mean, so we're not
2 coming to town.

3 Well, fortunately, John Delaney and Lex
4 Hester and some of the other folks got ahold
5 of the negotiation after me and -- it was
6 actually Lex Hester's idea: Well, we'll
7 give you \$150 million, since you're
8 guaranteeing that's what it will cost, and
9 you build the damn stadium, and then that
10 number will work. And it did.

11 So it worked out just great. And John
12 and Lex actually came up with that and did a
13 super job.

14 But I just point out those situations to
15 you because it is a tough job and, just
16 because on any given day you don't like the
17 advice of your lawyer, I can assure you he
18 has the best interests of the people of the
19 City of Jacksonville in mind.

20 So with that, that kind of brings us up
21 to today. As far as the JEA and y'all's
22 relationship to it, I'll let Jason speak to
23 that. And then if you have any questions
24 about it later, I'll be glad to talk about
25 that.

1 But, anyway, I hope that bit of
2 background maybe helps you a little bit of
3 some of our past squabbles and half-past
4 hiring attorneys and how the program is
5 supposed to work anyway.

6 COUNCIL MEMBER BOYLAN: Great. So we've
7 got about 15 minutes for questions in this
8 section here. And I think we can kick it
9 off with the conversation, specifically
10 instances where you found it necessary
11 during your tenure to hire independent or
12 specialized counsel and the parameters that
13 you set around in doing that. Give us an
14 example of that.

15 JUDGE ARNOLD: Well, actually, I didn't
16 hire any, because we knew everything. No,
17 I'm kidding. That's a joke.

18 No. We actually -- we didn't, and I can
19 remember, because Judge Durden taught me how
20 I was supposed to be General Counsel, I
21 thought. And that was Durden's. We didn't
22 hire anybody when Durden was General
23 Counsel, other than bond counsel.

24 The only time I know of that outside
25 counsel was hired on a pure what we call

1 conflict of interest was back in '87 when
2 Judge Harrison was General Counsel. And the
3 Police and Fire Pension Fund, which y'all
4 have all had a lot of discussion about in
5 litigation with it over the years. He just
6 flat wrote an opinion that it was a conflict
7 of interest for his office to represent the
8 City, the Council, the Mayor, and the Police
9 and Fire Pension Fund, and they could go
10 hire their own lawyer. And they did.

11 And while I was General Counsel, we got
12 in a dispute with Sheriff McMillan about
13 getting his retirement and his pay. And I
14 recall asking one of my attorneys, Lori
15 French, I said, How in the world does the
16 Police and Fire have their own lawyer?
17 They're part of the government.

18 And she went and found this opinion for
19 me, which I didn't think much of it at the
20 time, but I thought a lot of Judge Harrison.
21 I know he honestly felt that he should do
22 that.

23 And then, as I said, the 2016 opinion of
24 Jason Gabriel kind of talks about that and
25 really corrects what I think was a mistake

1 back then, even though it was in his best
2 interest.

3 But really it's the situations I talked
4 about earlier when you go hire independent
5 counsel. And it really comes down to when
6 you need the expertise of somebody that
7 isn't in the office; for example -- and I
8 thought -- in fact, Harry used some other
9 folks. They didn't charge him. But dealing
10 with nuclear energy, that's a pretty heavy
11 subject. You don't have lawyers that do
12 that every day. But, anyway, so much for
13 that.

14 COUNCIL MEMBER BOYLAN: I'm going to
15 refer to the memo, Jason, that you've
16 produced back on September the 23rd. Is
17 there anything specific in there that you
18 want to speak to as it relates to the topic
19 of a selection of specialized counsel?

20 MR. GABRIEL: Jason Gabriel, General
21 Counsel.

22 No, not really. I mean, if there's a
23 question, obviously, I'm happy to entertain.
24 I think it's pretty straightforward, and
25 it's the process that we're actually

1 undertaking now, you know, as we lead up to
2 selecting that legislative counsel that will
3 help.

4 And as I've said before, I mean, the one
5 thing I'll say, is this is intended to be
6 special legalized -- or special legal
7 counsel for the Council as you undertake
8 this sort of oversight capacity of this JEA
9 project that's moving forward at this time.
10 But, ultimately, you know, it's got to be a
11 collaborative, cooperative effort. It can't
12 be an adversarial type proceeding.

13 We certainly have a lot of room for
14 debate, discussion, and interpretation, but,
15 ultimately, the opinions of the Office of
16 General Counsel are the ones that prevail in
17 any dispute.

18 But I only say that for -- again, for
19 the benefit of the City. And I'm going to
20 get into some of those concepts when I get
21 into my slides that kind of underscore that
22 and that proposition. But that's all I have
23 to say at this time.

24 COUNCIL MEMBER BOYLAN: For the benefit
25 of those who may not know the story, I'll

1 come to you in just a second.

2 Could you sort of update us as to where
3 we are in the selection process and what
4 that process is?

5 MR. GABRIEL: Sure. I think what --
6 from the discussions that we had a few weeks
7 ago, President Wilson kind of put in
8 motion -- I think everyone here is clear on
9 what that is. He put in motion him -- well,
10 he selected himself, obviously; me; and
11 Carla Miller, the Ethics Director, as sort
12 of this three-group administrative, you
13 know, staff that's going to review all of
14 the incoming proposals. He set a
15 deadline -- I think it was October 25th --
16 for any firms out there. I think a lot of
17 people did some outreach and, you know, kind
18 of canvassed, you know, the local community,
19 and even some out-of-state, you know, folks
20 and players.

21 And, in any event, we -- the Council
22 President set October 25th as the deadline
23 to get those proposals. Cheryl Brown did a
24 nice job of collecting them and organizing
25 them and distributing them to the three

1 folks that -- you know, him, me and Carla.
2 And we have those. We're in possession of
3 those. We've been reviewing them.

4 Scott has been out of town, but my
5 understanding is we're going to be meeting
6 today to discuss our reviews of those things
7 and to give some advice to the Council
8 President to then take, hopefully, a
9 selected set of counsel to the City Council
10 overall for your approval.

11 COUNCIL MEMBER BOYLAN: If I might ask,
12 as far as the timeline for that, is it set
13 yet, or have you determined it?

14 COUNCIL PRESIDENT WILSON: So our first
15 meeting was today, and we're going to
16 discuss the applicants that were received.
17 And we'll see how that conversation goes.
18 It may be worthwhile to interview some of
19 the candidates one on one if we have further
20 questions.

21 My plan is, if we can identify a firm or
22 a set of firms, to introduce that at the
23 next council meeting. I'd like to introduce
24 it as an emergency in and out, if that's
25 possible. If we do do that, we will submit

1 that legislation or that firm to each member
2 ahead of that meeting so you have time to
3 think about it, prepare, and discuss.

4 The reason for the in-and-out emergency
5 is to get someone onboard to assist us as
6 soon as possible.

7 And like Mr. Gabriel said, whoever we
8 hire or retain will work in collaboration
9 with the Office of General Counsel and the
10 attorneys that JEA has hired in hopes of not
11 recreating the wheel, but assisting us in
12 helping us identify and understand some of
13 the complex questions that may arise.

14 COUNCIL MEMBER BOYLAN: Tommy.

15 COUNCIL MEMBER HAZOURI: Thank you,
16 Mr. Chairman. I didn't know if those
17 questions had already been submitted.

18 COUNCIL MEMBER BOYLAN: No.

19 COUNCIL MEMBER HAZOURI: I don't want to
20 circumvent that.

21 Just to Judge Arnold: You said y'all
22 didn't hire, but did y'all carry -- and I
23 know we had to hire an environmental
24 attorney when we were doing landfills. And
25 we didn't have a -- technically, a law firm

1 like we have today that they do have
2 specialties.

3 Did y'all not carry forward with the
4 environmental -- I think Frank Freedman at
5 the time. I didn't know if he stayed
6 onboard when you were looking for the
7 southeast landfill or not.

8 And then, secondly, was it the 2014
9 legislation that allows us, or can we do it
10 without that legislation, that I think Bill
11 Gulliford offered and we just didn't
12 implement to allow the City Council to hire
13 an outside attorney? Two questions.

14 JUDGE ARNOLD: Okay. Well, on the first
15 one, we had an attorney on staff named
16 McGuire --

17 COUNCIL MEMBER HAZOURI: Right.

18 JUDGE ARNOLD: -- who had some
19 environmental --

20 COUNCIL MEMBER HAZOURI: We had him too.

21 JUDGE ARNOLD: He left and went to
22 Rogers Towers later, and I think the City
23 did, in fact, retain him to help after that.

24 When we got into the landfill
25 litigation, I had left and gone to

1 Holland & Knight, and we actually got hired
2 to represent not only the City but all the
3 other hundred businesses that were involved
4 in putting things in the landfill. So
5 that's an example.

6 COUNCIL MEMBER HAZOURI: And we still
7 allow -- this is a question form. But we
8 still allow others that need specialized
9 attorneys, like the JPA for the suit that's
10 going on right now with the dredging. And
11 so y'all worked with them to hire -- or pick
12 the firm. I don't know who picked them.

13 So it's not without precedence. We've
14 always had outside attorneys when we
15 couldn't provide that kind of service,
16 whether it was to the authorities or for our
17 own edification.

18 And so back to that other question and
19 I'm done -- thank you -- and our ability to
20 hire.

21 MR. GABRIEL: Yes. And so there's two
22 rules that apply to your question. One is
23 the Charter. You've always had -- I can
24 look and confirm as to how long it's been in
25 there. It's been certainly decades. But

1 you've always had in the Charter itself the
2 ability to hire legislative counsel. And
3 I'm talking about for City Council.

4 So the Charter has been consistent, at
5 least since the '80s, as far as I can tell.
6 I think from -- there was amendment in 1985
7 where the General Counsels, the chief legal
8 advisor, you know, he's able -- he or she is
9 able to bind all the agencies or -- you
10 know, of the consolidated city with binding
11 opinions; however, there's always been this
12 sort of outlet for legislative counsel for
13 City Council. That's always been in the
14 Charter.

15 I think what you're referring to in
16 2014 -- it was either 2013 or 2014, and I
17 think it was led by Council President
18 Gulliford at the time -- is, in line with
19 that Charter provision, there was a creation
20 of Chapter 14 in the ordinance code, and
21 that's the one I think you're referring to,
22 and we've talked about a couple times. It
23 was kind of a setup for legislative counsel
24 if this City Council ever wanted that.

25 And, again, we're talking about a couple

1 of different things here. There's
2 legislative counsel, which is consistent
3 counsel akin to Peggy and Paige that gives
4 you consistent legislative help with
5 legislative priorities that you guys have
6 coming before you, drafting legislation and
7 opining in that terrain. Then there's also,
8 you know, specialized legal counsel -- and
9 we're talking about kind of a hybrid in this
10 case -- and that's the one where you're
11 picking someone up for some specialized --

12 COUNCIL MEMBER HAZOURI: Has the Council
13 ever done that before now?

14 MR. GABRIEL: On the special legal --

15 COUNCIL MEMBER HAZOURI: Yes.

16 MR. GABRIEL: Well, okay. So on the
17 legislative counsel, I understand that in
18 the '80s the Council did do it for a couple
19 of years. I'm talking about just pure
20 legislative counsel that was hired by City
21 Council, but there was -- and I can get you
22 the piece of legislation. There was a piece
23 of legislation that ended that program, I
24 think it was after a couple years, because
25 it just wasn't working out. And they

1 thought that the intent -- there's some
2 language in the whereases that the intent of
3 the General Counsel's Office really services
4 this; there's too much redundancy. So they
5 went back to the model that we're still
6 operating under today.

7 Your question about specialized counsel
8 for City Council, the only one that I'm
9 aware of -- and I think this is the last
10 time it happened -- was in 2013 or '14,
11 probably '13 -- a firm was engaged on a
12 limited basis -- I can pull the legislation
13 for you. It was a pension-related question
14 or a series of questions, and it was limited
15 to that.

16 And so, yes, that's an example. I'm not
17 aware of any others, at least not recently.

18 COUNCIL MEMBER HAZOURI: Thank you.

19 Thank you, Mr. Chairman.

20 COUNCIL MEMBER BOYLAN: I'm going to try
21 to keep us on time and on task here. But
22 I'll entertain one more question.

23 Ms. Jackson.

24 COUNCIL MEMBER JACKSON: Thank you,
25 Councilman Boylan.

1 Your Honor, I appreciate you taking the
2 time and, General Counsel Gabriel, I don't
3 envy your position at all. But I do have a
4 couple concerns as we relate to
5 understanding that the General Counsel is
6 the final arbiter of all disputes between
7 different branches of city government. And
8 my first would be a comment.

9 I would contend that the size of the
10 city and the government in 1968 looks
11 radically different in the level of
12 complexity and membership in 2019. But,
13 more specifically for me, there should be
14 some mechanism that, if an independent
15 agency, when engaging with the City in any
16 manner, has requested outside counsel and
17 Council has granted that, it almost would
18 appear to be a trigger that the City
19 Council's involvement would necessitate
20 outside counsel as well.

21 Does that make sense? And that I think
22 was the challenge for us in this situation.

23 JEA, the independent authority in
24 question, got outside counsel starting in
25 June. And we were able to finally get

1 outside counsel in September.

2 And so my question is, is there any
3 language in the Charter, or should there
4 perhaps be an amendment that there is
5 something looked at or some type of truthing
6 mechanism, if any independent agency or
7 another branch of government needs outside
8 counsel -- and you've said they're entitled
9 to have it -- that City Council is put on
10 notice or it then creates an opportunity at
11 that point for them to get outside counsel
12 as well?

13 JUDGE ARNOLD: You want me to answer
14 that?

15 MR. GABRIEL: (Indicating.)

16 JUDGE ARNOLD: If an independent
17 authority hires outside counsel to help them
18 with something, it doesn't automatically
19 create an adversary situation. They still
20 have to give them honest legal advice of the
21 way it is. That advice should be shared
22 with the Council fully, everything they tell
23 that independent authority should be.

24 So you don't -- you shouldn't have an
25 adversarial situation. The General Counsel

1 should be able to take care of every
2 question, legal question or otherwise,
3 dealing with that situation.

4 So my answer is, No, you don't need to
5 go hire another attorney. You can just --
6 you can rely on the General Counsel's
7 Office, unless they don't have the
8 expertise.

9 COUNCIL MEMBER JACKSON: And that's
10 actually this scenario.

11 So it really wasn't -- I'm not looking
12 at it as adversarial. And I know that our
13 General Counsel has been put in a different
14 position in terms of folks not agreeing with
15 necessarily whatever opinion you're giving
16 based on your legal research. So that's
17 created adversity for some. That's not my
18 position.

19 Mine is, in the case with JEA and this
20 nuance situation, they got outside counsel
21 because of different areas of expertise --

22 JUDGE ARNOLD: Right.

23 COUNCIL MEMBER JACKSON: -- that they
24 said they needed. General Counsel granted
25 that because there would be the presumption

1 that the 40 -- how many members in your
2 office?

3 MR. GABRIEL: 43.

4 COUNCIL MEMBER JACKSON: 43. 43 members
5 of the General Counsel staff lacked that
6 expertise.

7 So I would say if they lacked the
8 expertise with JEA, then the companion to
9 that is you lack the expertise with the City
10 Council.

11 Is there a mechanism or would it be
12 appropriate for any amendment to the Charter
13 or legislation to say in those scenarios.
14 I'm not talking about form shopping for a
15 different attorney to advocate a different
16 position. That's not what I'm saying.

17 But you made a finding that your office
18 did not have the expertise for JEA;
19 consequently, they were able to retain seven
20 different law firms.

21 So, to me, that would just almost be, by
22 default, an indicator that the City Council
23 needs outside counsel because you found it
24 in the scenario for that entity, and it's
25 just JEA today that we didn't have it.

1 Would it be appropriate via legislation
2 or a Charter amendment to say, at that
3 point -- which I'm not talking about bond
4 counsel; I'm not talking about some other
5 nuance environmental issue or something like
6 that; but would it not be appropriate if, in
7 that scenario, when you have deemed it
8 necessary for outside counsel because the
9 Office of General Counsel lacks the
10 expertise, should it not be some truthing
11 mechanism for City Council at that point
12 that we need to look at it, or City Council
13 needs -- and that's just the honest
14 question.

15 COUNCIL MEMBER BOYLAN: Mr. Gabriel,
16 before you respond to the question, to keep
17 us on time and task, I'd like to put this in
18 the parking lot, that question, and give you
19 a chance to address it at a subsequent
20 meeting, because I'm sure you're going to
21 want to give some thought to your response
22 to that question; because I think it's a
23 quite valid question to the extent, what
24 should the reaction or, you know,
25 consequence of an independent authority

1 reaching out for additional counsel beyond
2 what we have, because it does certainly
3 prompt that thought.

4 JUDGE ARNOLD: Well, since I'm going to
5 be through in a minute --

6 COUNCIL MEMBER BOYLAN: All right. In a
7 minute.

8 JUDGE ARNOLD: -- let me give a very
9 brief answer.

10 JEA is an independent authority. In my
11 opinion, they're still subservient to y'all.
12 Okay. Y'all --

13 COUNCIL MEMBER JACKSON: My opinion too,
14 just so you know.

15 JUDGE ARNOLD: You know, it used to be
16 the City Electric Department. It was a
17 whole lot easier then. You just told them
18 what to do. Now they got their own people
19 that tell y'all what to do.

20 In any event, those lawyers over there
21 that they hired, every one of those people
22 should be representing the City Council as
23 well. Everything they tell the JEA they
24 should tell you. Every opinion they have,
25 you should call them in front of the City

1 Council and ask them, How come this is your
2 opinion? And if they already got eight
3 expertise people, and you like the answers
4 they're giving you, fine; otherwise, you
5 have your own backup set of attorneys to
6 answer things too. Plus, you can have
7 Mr. Gabriel come in and cross-examine these
8 other lawyers if you want to.

9 So I still see it as one government.
10 That's my point, and they all work for you.

11 COUNCIL MEMBER BOYLAN: Well, that's the
12 perfect segue to our next conversation here.
13 And, quite honestly, Judge, and I appreciate
14 that, that's exactly what we're going to be
15 doing with this scenario.

16 We are going to be inviting the JEA
17 folks, the counsel and people who are
18 advising them in this process to come and
19 share with us their thinking for what they
20 advised to the JEA at the point in time we
21 need to do that.

22 But I do want to move on to the next
23 point of our presentation, which really is
24 focusing on the authority of the Council,
25 that line of demarcation I talked about

1 before. And we're going to give you 15
2 minutes, Jason, to make a presentation, and
3 then we'll open up the floor to questions
4 from the group.

5 MR. GABRIEL: Thank you, Council Member
6 Boylan. And I just want to say for the
7 record, I completely agree with what the
8 Judge has said and Council Member Brenda
9 Priestly Jackson.

10 JUDGE ARNOLD: It's always good to agree
11 with the Judge.

12 MR. GABRIEL: Yeah. I've got to say
13 that. I've got to say that for the record.
14 I'm agreeing with the Judge.

15 COUNCIL MEMBER BOYLAN: Well, allow me
16 to recognize for the record, too, that
17 Mr. Salem and Mr. Carlucci have since joined
18 the group, and I appreciate your taking the
19 time. And Former Mayor John Delaney is in
20 the back of the room, but I can't recognize
21 him.

22 UNIDENTIFIED SPEAKER: There he is.

23 COUNCIL MEMBER BOYLAN: All right, John.
24 There he is. Thank you for being here. I
25 appreciate it.

1 Mr. Gabriel.

2 MR. GABRIEL: So I kind of tailored this
3 presentation. I've got some slides up,
4 mostly not going to be too many pictorials.
5 There's going to be a lot of words on the
6 slides, but I think it's going to help with
7 sort of articulating the points I want to
8 make here today.

9 And I've tailored this, I mean, you
10 know, with consolidation, the Charter, the
11 City at-large, we can get into all sorts of
12 esoteric discussions, but I know Mr. Boylan
13 wants us to be short and sweet and succinct
14 and to the point. So that's what we're
15 going to do.

16 So I've tailored this in a way so that
17 we are talking about -- just to provide a
18 quick brief framework, I'm going to talk
19 about the City and the independent agencies
20 and identify all the independent agencies
21 under the Charter. But, of course, I'm
22 going to bring it to the JEA in particular,
23 because that's kind of the concentration of
24 this whole workshop and this program going
25 forward.

1 I want to start off, though, with -- and
2 it's a great segue from the discussion we
3 just had -- that all roads lead to City
4 Council, particularly -- so when we overview
5 the agencies and their interplay with the
6 City, particularly with respect to JEA --
7 and I'm going to get into the sort of
8 spectrum of independence that there is with
9 the agencies, but with respect to JEA in
10 particular, all roads lead to City Council.

11 No matter how this potential JEA
12 privatization goes, no matter what direction
13 is takes, even -- and we're going to go into
14 hypotheticals as to what directions it could
15 have taken, they all lead to City Council.
16 No way around it.

17 So just as a preface to this discussion,
18 I want to just outline real quick the
19 applicable laws. And I want to start from
20 the top and go down.

21 In addition to federal law, of course,
22 and state law, and statutes -- you know, the
23 statutes of Florida, the City of
24 Jacksonville is guided by really two major
25 sources of law: the Charter and the

1 Ordinance Code.

2 The Charter contains the general organic
3 principles by which the City must function,
4 including the City's foundation and general
5 legal framework. The Ordinance Code, on the
6 other hand, contains the official laws of
7 the City which provide the enabling
8 mechanisms to carry out the general
9 principles stated in the Charter.

10 So you can think of the Charter as kind
11 of like the local constitution for
12 Jacksonville, and you can think of the
13 Ordinance Code as sort of the local statutes
14 that carry out those concepts.

15 The City's -- and so this -- and then
16 this is the most important point in all of
17 this, because it underscores everything else
18 we're going to talk about, because people
19 scratch their head when they look at
20 Jacksonville. You know, it's truly unique.
21 It's truly the only true, pure form of
22 consolidation.

23 The constitution contemplates a few
24 different forms, Miami-Dade being another.
25 But even Miami-Dade has its own county

1 commission and separate city commission.
2 And even Miami-Dade, by the way, when you
3 transpose -- I'm going to get to the
4 Jacksonville consolidation amendment in a
5 second, which is in the Florida
6 constitution; but when you transpose the
7 Miami-Dade part of the constitution with the
8 Duval County one, they're very similar in a
9 lot of different ways, but Miami-Dade
10 retained this sort of two-layer county/city
11 type government.

12 And, by the way, they carved out the
13 School Board in Miami-Dade, unlike in
14 Jacksonville; deliberately carved out the
15 School Board in Miami-Dade. They have their
16 own separate School Board, but Jacksonville
17 did not do that. And that's an important
18 point in other venues.

19 So the Florida Constitution. A lot of
20 people and a lot of lawyers in Jacksonville
21 are very aware of all the articles and
22 sections which pertain to the School Board,
23 the county officers, Sheriff, Tax Collector,
24 Property Appraiser, all those folks, and
25 even other sorts of special districts.

1 I submit that until you work on a city
2 project, or until you work in the City
3 itself, you really don't come across what is
4 called the Jacksonville Consolidation
5 Amendment. But that exists. It's out
6 there. And, really, again, unless you're
7 doing something that's City related or in
8 the boughs of the City, you're really not
9 going to come across this thing that much,
10 but it's there. And it has the force of law
11 from the highest levels of the state.

12 So just as a preface to this, the state
13 of Florida is governed by the Florida
14 Constitution of 1968, as amended. That's
15 the constitution that everyone refers to in
16 common legal parlance in Florida. And,
17 generally, local government units, as you
18 know, are broken down into two types of
19 units in Florida. You've got counties and
20 municipalities.

21 In every county but Duval, the Florida
22 Constitution creates a county government.
23 Every county has at least one city
24 government whereby the county and the city,
25 or cities, can exercise separate

1 governmental powers.

2 The City of Jacksonville Charter
3 established the consolidated form of
4 government, which I've referred to, and
5 that's in the 1967 approved -- legislatively
6 approved constitution; that basically what
7 the legislature did is it established the
8 Charter based upon specific authority in the
9 constitution.

10 And let me summarize it, because there's
11 a lot -- there's three different years, and
12 you keep hearing different years with
13 respect to the Jacksonville Consolidation of
14 Government -- or Jacksonville Consolidation
15 Government Amendment. And maybe -- I tried
16 to simplify it as much as I could, and
17 here's the best way I think I can say it.

18 The Jacksonville specific consolidation
19 amendment in the Florida Constitution was
20 put in place by voter approved amendment in
21 1934. But in 1934 there was the 1885
22 Constitution. So in 1934 there was an
23 amendment to the 1885 Constitution that
24 created this ability for Jacksonville to
25 completely consolidate. It's been in the

1 books since 1934 and was exercised in 1967,
2 and ever since 1968 has been in play.

3 So -- you know, if there's any questions
4 about that, we can go over that again, but
5 that's the case there.

6 I don't expect anyone here to be able to
7 read all the words on that slide, but I just
8 put it there because a couple of -- a few
9 Council Members were like, Give me the
10 specific code provision. Give me the
11 specific constitutional provision. Well,
12 there it is on the screen. So --

13 COUNCIL MEMBER DEFOOR: Can I ask --

14 MR. GABRIEL: Yes.

15 COUNCIL MEMBER DEFOOR: -- does anybody
16 have a copy of this? Because we don't.

17 COUNCIL MEMBER BOYLAN: No. I asked him
18 to create four copies for us because we had
19 our back to the screen.

20 MR. GABRIEL: And if you'd like, I can
21 have copies sent to everybody.

22 COUNCIL MEMBER BOYLAN: And it will be
23 published on the website as well.

24 MR. GABRIEL: Yeah.

25 COUNCIL MEMBER HAZOURI: Randy, you

1 still can't read it.

2 MR. GABRIEL: Well, I could print out
3 the Charter itself.

4 Well, the point of this is, again, it's
5 everything that I just described. But this
6 is the -- this is -- what's before you, the
7 words on that screen slide there, that is
8 the Jacksonville Consolidation Amendment
9 where it basically abolished, altered,
10 transferred all of the Commission's boards,
11 bodies and officers in existence at the time
12 and incorporated them under one unitary
13 municipal corporation called the City of
14 Jacksonville.

15 And that's an important thing to keep in
16 mind as we talk about the interplay of the
17 independent agencies and all these other
18 things: one unitary municipal corporation
19 called the City of Jacksonville.

20 So just as a quick sort of primer on the
21 Charter itself, because that sort of lends
22 itself to the foundation of the more
23 specific conversation, I just want to state,
24 you know, the Charter itself, again, sort of
25 the constitution, creates and establishes

1 these sort of broad-stroke concepts that
2 frame the government of the City of
3 Jacksonville.

4 What you have in there are -- and,
5 again, this is a legislatively approved, as
6 sanctioned by the constitution, Charter. It
7 includes provisions related to the
8 independent agencies, which we're going to
9 touch on in a minute. It includes
10 provisions related to what are commonly
11 known in the other 66 counties as
12 constitutional officers. They are
13 constitutional officers in Jacksonville, but
14 the species sometimes becomes a main source
15 of the vernacular employed when we talk
16 about these things because, inasmuch as the
17 Sheriff, Supervisor of Elections, Property
18 Appraiser, Tax Collector, and Clerk of the
19 Courts are constitutional officers, they're
20 also municipal officers in Jacksonville.
21 Unlike the other 66 counties, they're
22 municipal officers in Jacksonville.

23 And in addition to that, you know, the
24 Charter, as we know, contains these very
25 strong, traditional federal-type separation

1 of powers. We have a strong executive
2 branch of government, and we do have a
3 strong, I think, legislative branch of
4 government as well. So it pertains to those
5 provisions.

6 What is an independent agency? The
7 Charter itself doesn't have a definition.
8 But it has a provision. And I don't think I
9 have a slide on this, but I'll -- if you
10 want to write it down, it's in 18.07 of the
11 Charter. In fact, it's 18.07D, and it
12 defines -- and I'll get into it in a minute.
13 It actually defines who the independent
14 agencies are, and it's not exhaustive. And
15 I'll touch on that too, but it's in there.

16 But while these independent agencies, as
17 I'm going to touch on, have varying degrees
18 of independence, according to their
19 constitutionally sanctioned and
20 legislatively approved Charter articles,
21 they all bear some similar hallmarks. And
22 that's what I have up on the screen. And so
23 this is kind of a summary of what those
24 hallmarks are.

25 So, for example, each are considered

1 bodies, politic and corporate, with the
2 ability to sue and be sued. Each have their
3 own executive and policymaking powers with
4 respect to, you know, employment,
5 operational powers and duties and things of
6 that sort.

7 But an important point, even with that
8 independence, is that each has a
9 relationship with the City to some varying
10 degree. Each one has a relationship with
11 the City. Some are required to use all
12 central services, including our office.
13 Some are required to use procurement, some
14 aren't. You know, these are all set forth,
15 depending on the agency.

16 So, you know, notwithstanding the
17 independence, there's a certain level of
18 tethering. And, again, it's different for
19 each agency.

20 COUNCIL MEMBER BOYLAN: If I may
21 interject very quickly, we'll make sure it
22 gets on the website, but there was a
23 two-page summary that Mr. Clements had
24 created that spoke to each of the agencies
25 or authorities and their relationship to

1 other entities outside of the City of
2 Jacksonville.

3 MR. GABRIEL: Yes, yes. And it was a
4 good one. I have one, maybe, clarification
5 to it, but it was a good summary. So
6 hopefully everybody has that.

7 And so just to touch on the identified
8 independent agencies in the Charter, let's
9 start with the Duval County School Board.
10 It's in Article 13 of our City Charter.

11 That one is a little different from the
12 other ones in the sense that that's the only
13 one -- it's considered an independent
14 agency. I mention 18.07 in the Charter
15 defined -- it defines independent agencies;
16 School Board is one of them. But I will
17 tell you that that is the only one that has
18 its own elected body. When we get through
19 all the other ones, they're all appointed.
20 But that's the only one with an elected body
21 of seven members from -- you know, as
22 everybody knows, they come from nonpartisan
23 elected districts, seven districts, which
24 are comprised of, I think, every two of the
25 14 Council districts, as we all know.

1 So, you know, that's how they're set up,
2 and they have some -- they have quite a bit
3 of independence, obviously, by their very
4 nature and their function. There are some
5 tetherings in the Charter, and we can talk
6 about that later if you'd like. But,
7 anyway, I just wanted to note that.

8 The Police and Fire Pension Fund is
9 their -- the board of trustees. That one
10 consists of five members: two city of
11 Jacksonville residents appointed by the City
12 Council, one police officer elected by the
13 majority of the police officer members of
14 the pension, and then a firefighter elected
15 in the same manner, and then a fifth member
16 chosen by a majority of the other four who's
17 confirmed by Council.

18 You have a JAA Board that consists of
19 seven members: three appointed by the Mayor
20 and confirmed by Council; four appointed by
21 the Governor, confirmed by the Senate.

22 JPA is sort of the opposite -- same, but
23 the opposite in terms of the -- who picks
24 who. The JPA Board consists of seven
25 members: four appointed by the Mayor and

1 confirmed by the Council; three appointed by
2 the Governor and confirmed by the Senate.

3 And then you have a JHA Board. That one
4 comes by virtue of Florida Statute and
5 Chapter 421. That one consists of seven
6 members, all appointed by the Mayor,
7 confirmed by the Council.

8 The JTA, our transportation authority,
9 that one is unique in the sense that it's
10 well established in the Florida Statutes.
11 There's actually a whole chapter, 349,
12 that's dedicated purely to Jacksonville
13 Transportation Authority. And that one sets
14 up a board that consists of seven members:
15 three appointed by the Mayor, confirmed by
16 Council; three appointed by the Governor,
17 confirmed by the Senate; and then the last
18 person is the district secretary for DOT,
19 serving Jacksonville.

20 And then, last but not least, the JEA
21 Board. That one consists of seven members
22 appointed by the Mayor and confirmed by this
23 City Council.

24 So I think it's important that you have
25 that sort of framework so you can just see

1 sort of the variety and groupings of the
2 agencies that are involved.

3 And so now, at this point, I'd like to
4 quickly turn over to the articles that are
5 pertinent to JEA.

6 Am I doing okay on time, Council Member?

7 COUNCIL MEMBER BOYLAN: You've got --
8 we'll give you a couple extra minutes.

9 MR. GABRIEL: Oh, okay. All right. And
10 I'm almost done.

11 But I think these are important because
12 I think I saw several questions that came
13 up, and I think if you -- they're all kind
14 of similar in a way. And, of course, we'll
15 entertain the questions here as we speak.

16 But the three provisions I'm going to
17 bring up here -- or two, are very pertinent
18 to those questions.

19 So there have been some questions asked
20 whether JEA can do what it's doing in terms
21 of this privatization option that it's
22 currently looking at and undertaking. And
23 the answer to that is yes.

24 And, by the way, that's not the only way
25 that it can be pursued. There's a variety

1 of ways: one initiated by the Mayor; one
2 initiated by the JEA in a different format
3 that doesn't require procurement; or,
4 potentially -- I haven't studied it yet -- a
5 City Council Member could probably put
6 something in the hopper. I haven't reviewed
7 that yet, but that may be yet another. So
8 it's important.

9 But this theme of all roads lead to City
10 Council, the opening section of a potential
11 JEA sale, has some potential different ways
12 of how that can --

13 COUNCIL MEMBER CARLUCCI: What do you
14 mean by a JEA member -- I mean a City
15 Council Member could introduce something?

16 MR. GABRIEL: Yeah. Through the Chair
17 to Council Member Carlucci, what I mean by
18 that is -- my only point in that is that
19 there are potentially a variety of ways that
20 a privatization review could be initiated.

21 And I'm mentioning for the record, I
22 haven't studied that, but as I'm thinking it
23 through, certainly JEA has the ability to do
24 it; the City -- the Mayor has the ability to
25 do it; regardless, it has to come to City

1 Council. But what I am mentioning is that
2 perhaps a City Council Member could also do
3 that too. I only mention that --

4 COUNCIL MEMBER CARLUCCI: And I'll stop
5 with that.

6 COUNCIL MEMBER BOYLAN: Thank you, sir.

7 COUNCIL MEMBER CARLUCCI: And wait till
8 questions and answers.

9 COUNCIL MEMBER BOYLAN: I appreciate it.
10 Thank you.

11 COUNCIL MEMBER CARLUCCI: I have a
12 question when we get there.

13 COUNCIL MEMBER BOYLAN: Please.

14 MR. GABRIEL: So it's important to point
15 out the power. Where does that come from,
16 that power?

17 Well, it's in Article 21. It's in
18 Section 21.04(p). And, by the way, this is
19 just a section -- a subsection of that
20 overall section. And this was recently
21 approved by your predecessor City Council,
22 and I'll get into what exactly it was. But
23 initiated by Councilman Crescimbeni. There
24 was a straw ballot that spoke to this. So
25 this was a studied provision.

1 And what it says is, basically, that JEA
2 can transfer any function or operation which
3 comprises more than ten percent of the total
4 of the utility's systems by sale, lease, or
5 otherwise to any other utility, public or
6 private, without approval of the Council;
7 provided, however, that no approval by the
8 council shall become effective without
9 subsequent referendum approval of the terms
10 and conditions of the sale.

11 I'm sorry. But the way it reads --
12 maybe the way I read it might have sounded a
13 little off. They can't sell more than ten
14 percent without the approval of council. I
15 hope everyone caught that.

16 So the flip side of that is they could
17 sell less than ten percent. And there's got
18 to be some initiating factor into what
19 they're selling --

20 COUNCIL MEMBER BOYLAN: And I think
21 there's consideration about they can't
22 piecemeal it. Sell ten -- or nine today --

23 MR. GABRIEL: That's correct.

24 COUNCIL MEMBER BOYLAN: -- and nine
25 tomorrow and nine the day after.

1 MR. GABRIEL: That was a -- a previous
2 Council Member had asked that very question.

3 So, anyway -- and I'm sure we're going
4 to talk about that further when there's
5 questions.

6 I want to move on real quick to another
7 section, 21.05, which is -- the only point
8 of this is that the JEA has been given broad
9 plenary powers within the space of
10 utilities. So JEA is empowered under the
11 Charter with these liberally construed
12 powers to carry out their utility-based
13 operations and duties, 21.05 of the Charter.

14 Oh, and then I just want to mention
15 this. It's not on the slides. I'll mention
16 another provision.

17 21.09 of the Charter states that the JEA
18 is not subject to Chapter 126 of the City's
19 Ordinance Code, which is the procurement
20 code. It is applicable if JEA doesn't have
21 its own procurement rules; however, JEA does
22 have its own procurement rules. So that's
23 an important point.

24 Real quick, I just -- everyone, we've
25 gone over this, I think, over the summer --

1 the ways to amend the Charter. There's a
2 few different ways that that can be done. I
3 mention that because there are some
4 specified areas that can only be done by
5 referendum. The City Council has a lot of
6 home rule power on another -- on a whole set
7 of other areas; but that's important because
8 that's a backdrop for a specified provision
9 in the Charter unique to JEA that is unlike
10 any other provision anywhere in the Charter
11 where, with a few, very limited
12 restrictions, City Council with those -- a
13 bunch of words on there say, is, basically,
14 City Council can amend, really, any portion
15 of the article of JEA, anything in Article
16 21, with some limited exception, with a
17 two-thirds vote.

18 That's -- and so that point right there,
19 while there's varying degrees of
20 independence with all these various
21 agencies, the point of that and what that
22 provision underscores is that the JEA is the
23 closest to the City in terms of its
24 dependence and capacity for the City Council
25 to effect change, an amendment to the JEA,

1 the control, JEA's destiny, and those sorts
2 of things.

3 So I kind of rushed through this, and
4 I'll wrap up, and I'll basically say, as I
5 said at the outset of this whole
6 presentation, all roads lead to City
7 Council. And you have ultimate legislative
8 authority to do a lot, if not everything, in
9 this case. And we can talk about, you know,
10 those --

11 COUNCIL MEMBER BOYLAN: Thank you,
12 Jason.

13 Before we entertain questions, let me
14 just comment, for the benefit of the
15 audience here, that we advised and provided
16 the opportunity for City Council Members at
17 our meeting on Monday to provide questions
18 in advance. You know, there was hope that
19 they would be involved and incorporated in
20 the presentations that are being made today,
21 but not all of them did.

22 Those questions also will be posted
23 online for others to see as well. And in
24 future topics, we are providing information
25 well in advance to City Council Members so

1 they can generate their questions, and those
2 too will be put on in advance, as well as
3 the comments or questions raised by
4 individuals who utilize the website and
5 providing us with some comments on it.

6 With that I will ask, Mr. Ferraro.

7 COUNCIL MEMBER FERRARO: Thank you.

8 So, Mr. Gabriel, if I heard you
9 correctly in part of that, so if I, as a
10 City Council Member, wanted to put forth a
11 bill to put the electric authority back
12 under City Council, that would be something
13 I could put through and have it as a -- to
14 JEA's department? Then you could have the
15 electric department, the sewer department,
16 and the water department. What would that
17 end up doing with JEA? Would that be
18 getting rid of board members? How would
19 that be, of what you're talking about?

20 MR. GABRIEL: So through the Chair to
21 Council Member Ferraro.

22 The quick answer to your question is,
23 Yes, the City Council could do that. It
24 could dissolve JEA and bring it back under
25 the bosom of the City, and make it a City

1 department, a utility department. It could
2 do that. There's a -- you have the
3 two-thirds vote. You'd have to amend the
4 Charter. We'd have to look at some other
5 things. But that would be just a direct
6 answer to your question.

7 COUNCIL MEMBER FERRARO: I know we're
8 talking just about JEA, but would that be
9 with all the authorities, just as a
10 quick answer --

11 MR. GABRIEL: Actually, the answer to
12 that is, I believe, no, because, for
13 example, The Port and The Aviation Authority
14 were split in 2001 legislatively. They used
15 to be under one title. And those are
16 legislatively approved. I'd have to
17 research that, but something tells me that I
18 think some legislative -- some state
19 legislature approval may be required in that
20 case.

21 Again, underscoring the point that JEA
22 is much more under the dependence -- or
23 they're dependent on the City.

24 COUNCIL MEMBER FERRARO: Okay.

25 COUNCIL MEMBER BOYLAN: Mr. Carlucci,

1 you had a follow-up.

2 COUNCIL MEMBER CARLUCCI: Randy was
3 before me, but I'll -- I'll wait my turn.

4 COUNCIL MEMBER BOYLAN: All right.
5 Ms. DeFoor.

6 COUNCIL MEMBER DEFOOR: Thank you,
7 Mr. Chairperson.

8 COUNCIL MEMBER BOYLAN: Councilwoman
9 DeFoor.

10 COUNCIL MEMBER DEFOOR: I want to make a
11 statement, and then I'm going to ask a
12 question, because my question, I don't
13 think, was answered. So I'm going to re-ask
14 my question.

15 But as a statement, thank you, Judge
16 Arnold, for being here, because one of the
17 things that we find ourselves in and why
18 we're here today is that we have been kept
19 completely in the dark. So when these
20 outside counsel were hired for the JEA and
21 then memorandums of legal opinions were
22 given, we to this day have not received
23 those legal opinions. So we don't know what
24 was asked of them. We don't know -- you
25 know, we have no idea.

1 So I'm going to ask that we be provided
2 with those legal opinions so that that can
3 help us clarify where we are today.

4 Secondly, I have reviewed the Charter,
5 and specifically 21, and I did not see
6 anywhere in there where the JEA has
7 authority to seek to sell themselves. I
8 didn't see -- everything that I read talked
9 about keeping itself in existence.

10 So if you could show me where that is.

11 MR. GABRIEL: It's section 21.04(p) of
12 the Charter.

13 COUNCIL MEMBER DEFOOR: I read that, but
14 that referenced further existence of the
15 JEA. It did not represent selling itself.

16 MR. GABRIEL: I read it differently than
17 you.

18 COUNCIL MEMBER DEFOOR: Okay. Well --

19 MR. GABRIEL: Yeah.

20 COUNCIL MEMBER DEFOOR: Let's read it
21 together.

22 Nothing in this article shall authorize
23 or be construed to authorize JEA to transfer
24 any function or operation which comprises
25 more than ten percent without the approval

1 of City Council. What did I miss?

2 MR. GABRIEL: Right. So how does it
3 determine --

4 COUNCIL MEMBER DEFOOR: So how are they
5 able to do this today without our approval?

6 MR. GABRIEL: JEA today -- if this ITN
7 wasn't in play, they chose to choose a
8 procurement process as a channel to bring it
9 to City Council.

10 COUNCIL MEMBER DEFOOR: Okay. That
11 leads me to my second question.

12 A procurement process --

13 MR. GABRIEL: I wouldn't be able to -- I
14 wouldn't be able to --

15 COUNCIL MEMBER DEFOOR: Well, it's in my
16 stuff.

17 COUNCIL MEMBER BOYLAN: Okay. But let
18 her finish -- let him finish responding.

19 MR. GABRIEL: Well, I want to propose
20 that what JEA could have done is they could
21 have reached out to one vendor, or one
22 bidder, come up with a package, a sales
23 transaction, packaged it up, and brought it
24 to City Council without a procurement
25 process.

1 COUNCIL MEMBER DEFOOR: Okay. Well,
2 that led me to my second question, which you
3 were provided before we were here today.

4 A procurement process is the acquisition
5 of goods and services. I have never seen a
6 procurement process used to sell oneself.
7 Can you tell me how that's possible legally?

8 MR. GABRIEL: It's possible legally. I
9 mean, I don't know how to help you with that
10 basic understanding of the law. It can
11 certainly use the procurement process to
12 sell itself.

13 I guess one could argue that that's a
14 more objective and more aboveboard way of
15 trying to objectively look at what may be
16 out there as opposed to going directly to
17 any vendor and packaging a deal and bringing
18 it.

19 I mean, there's a variety of ways that
20 this could be taken up and brought to City
21 Council; but let's not lose sight of the
22 fact that City Council is the one with the
23 ultimate legislative approval to approve or
24 deny this whole thing. They have the right
25 to do that. They're an independent

1 authority.

2 If you want to change the controls and
3 the authority of JEA, do so in the -- with
4 the power I've just told you about, with a
5 two-thirds vote, change the JEA's Charter
6 and do it.

7 It was done recently under Council
8 Member Crescimbeni and his Charter amendment
9 to add that the voters have to actually
10 approve any sale. That wasn't in there
11 before. It ended with City Council. But
12 now the voters get to approve it.

13 So this was studied. This was
14 discussed. It's been debated and there's --

15 COUNCIL MEMBER DEFOOR: Where has it
16 been studied? Can you provide that to us?

17 MR. GABRIEL: It's on the website.
18 There's about two years' worth of literature
19 and the resources that -- from your
20 predecessors and so forth. Absolutely, I'll
21 send it to you.

22 COUNCIL MEMBER BOYLAN: And if I may
23 interject, too, we are going to obviously
24 reach out to the counsel of JEA through this
25 process. We will have a chance to speak to

1 them directly with respect to their opinions
2 and recommendations they have made to JEA
3 during the course of this process, but just
4 not today.

5 MR. GABRIEL: And, Council Member
6 Boylan, if I may just say, any memos that
7 counsel to JEA have provided, you're
8 entitled to.

9 COUNCIL MEMBER BOYLAN: Correct.

10 MR. GABRIEL: If that's what you want,
11 we'll get those packaged and get it over to
12 you because, as the Judge said earlier, he's
13 absolutely right -- and some of this has
14 been discussed. I think I mentioned it
15 before -- you're entitled to all the
16 information that JEA has in terms of all
17 this stuff.

18 COUNCIL MEMBER BOYLAN: Correct.

19 Mr. Carlucci, you had another -- a
20 follow-up question.

21 COUNCIL MEMBER CARLUCCI: Yes.

22 Observation. I believe in the authority
23 system. I believe in it. It's there for a
24 reason and -- but somewhat dovetailing on
25 what Council Member DeFoor was saying, is

1 there a way -- I mean, there's always a way.

2 John Lanahan said, With 10 votes you can
3 get anything you want in Jacksonville. I
4 think it takes 13 now, but it used to be 10.

5 Can a council member introduce
6 legislation, an ordinance, to just pull the
7 plug on this whole thing? Because it's so
8 off track, and the trust level is so low,
9 that sometimes you just have to pull the
10 plug. That was done in the previous
11 administration when there was a pension bill
12 going through. And that's kind of where
13 we're at.

14 So can the Council, if somehow 10 votes
15 were to be gathered, or 13, pull the plug on
16 this whole process and take a breather,
17 because it's -- it is incorporating so much
18 of our time. And then we're going to have
19 Lot J coming down the pike. We're going to
20 have so many other City business issues
21 coming up, and this is absorbing so much of
22 our time of something that really the people
23 don't want.

24 So can a council member introduce an
25 ordinance to unplug this whole thing at

1 whatever time that might be?

2 MR. GABRIEL: Through the Chair to
3 Councilman Carlucci -- and, you know, I'm
4 not going to speak to trust levels and
5 what information --

6 COUNCIL MEMBER CARLUCCI: You don't have
7 to.

8 MR. GABRIEL: No, no, no. I know.

9 COUNCIL MEMBER CARLUCCI: I'm just --
10 I'm giving my observations from my
11 constituents.

12 MR. GABRIEL: Understood. Understood.

13 To answer your question, the answer is,
14 No, not during the pendency of a procurement
15 process, a valid procurement process. Now,
16 ultimately, if it makes its way to you, you
17 can vote it down.

18 I want to also say -- and this is in
19 relation that, I think, some conversations
20 I've had with Council Member Priestly
21 Jackson -- is you're also not -- as long as,
22 again, we're not talking about the integrity
23 or the specifics in a way that involve
24 bidders or things like that on the ongoing
25 procurement processes being undertaken,

1 there is the ability for you to change The
2 Charter of JEA today -- again, as long as
3 we're adhering to these rules we've talked
4 about -- to change those powers and
5 functions in a way so that in the future --
6 so in a way, so that in the future if there
7 were ever a discussion of potentially
8 selling JEA, they get your permission first;
9 or that only the City Council would be
10 involved with that process.

11 You could change the Charter to do that,
12 but there is an ongoing procurement process
13 right now. There's something called the
14 cardinal rule in procurement that we have to
15 adhere to, which is, You can't mess up the
16 ongoing integrity of a process.

17 Now, to answer your question, I think
18 one of the things you could do -- JEA is
19 right down the street. Y'all can -- are
20 more than welcome, within the confines of
21 Sunshine, to be talking to JEA Management
22 and others to talk about what you just said.
23 And if that's really an issue, convince JEA
24 to pull the plug. If that's such a hard
25 principle for you, then you're welcome to do

1 so.

2 COUNCIL MEMBER BOYLAN: Council Member
3 Carlucci, I certainly appreciate your
4 comments, and I'm hopeful that as a group
5 that we take this journey together and keep
6 an open mind in this process. I think we
7 have to be informed and engaged.

8 COUNCIL MEMBER CARLUCCI: I want to know
9 what all of our options are.

10 COUNCIL MEMBER BOYLAN: And I can't
11 be -- I don't know that we ought to be
12 specifically reactive to -- what all of us
13 need, we've got a lot of learning to do in
14 this process, and I'm hopeful that --

15 COUNCIL MEMBER CARLUCCI: Mr. Chairman,
16 I just want to know what our options are as
17 a council.

18 COUNCIL MEMBER BOYLAN: And I think we
19 understand that the options are that we have
20 an opportunity at this day to change the
21 Charter.

22 COUNCIL MEMBER CARLUCCI: I am not
23 interested in changing the Charter, unless
24 it's needed to be. I believe in our
25 Charter. I just think we've gone astray on

1 this issue.

2 COUNCIL MEMBER BOYLAN: So I understand
3 from your response then the Charter -- right
4 now, to stop the procurement process, the
5 only way we could do that is by making a
6 change to the Charter.

7 MR. GABRIEL: You could change
8 fundamental operational parts of the Charter
9 and make it so that only City Council could
10 initiate it.

11 COUNCIL MEMBER BOYLAN: Right.
12 Councilman Dennis was next in the queue.

13 COUNCIL MEMBER DENNIS: Thank you,
14 Councilman Boylan, and through the Chair.

15 Judge Arnold, thank you for being here.
16 I have, you know, one question specifically
17 for you, and then the other two questions --
18 two quick questions for General Counsel
19 Gabriel.

20 How do you feel about individuals
21 speaking to this body under oath and -- you
22 know, what's your view on that?

23 JUDGE ARNOLD: Well, as I recall, the
24 Charter does have a provision authorizing
25 you to administer oaths to folks.

1 My personal opinion is you ought to
2 reserve that and use it only very carefully
3 to people who you think may be coming in
4 here and lying to you. If they're just
5 folks that are coming here to provide you
6 information, you don't need to administer an
7 oath.

8 COUNCIL MEMBER DENNIS: Do you think
9 that this rises to the occasion to
10 administer oath? I mean, this is something
11 huge. And I know I received something last
12 night in the mail from -- I mean, an email
13 from the Civic Council where they've been
14 slow to get information from JEA, and I know
15 I've been slow to get information. And it
16 just -- you know, not to talk about the
17 trust factor; but do you think this major
18 transaction with the entire city watching on
19 what we do, does this rise to the level of
20 anyone that comes before us take an oath?

21 And all due respect, when someone comes
22 to your courtroom, you know, regardless of
23 if they're -- you know, are they under oath?

24 JUDGE ARNOLD: Well, everybody is when
25 you go to court. That would be a decision

1 for the majority of the Council to decide.
2 If you want to place everybody under oath,
3 that's certainly up to y'all to do and you
4 certainly can do it. Whether you should or
5 not I think is y'all's decision. I just
6 hate what they do in Washington, so it
7 bothers me, but...

8 COUNCIL MEMBER DENNIS: Yeah. I totally
9 understand that.

10 My next question: I was always under
11 the impression that only 19 people in the
12 City of Jacksonville can file legislation,
13 not the executive branch, not independent
14 authorities. Is that true? Can JEA file
15 legislation? Can the School Board file
16 legislation? I thought only 19 people in
17 the City can file legislation.

18 MR. GABRIEL: Through the Chair to
19 Council Member Dennis. So it would have to
20 be introduced by a council member. So, I
21 mean, just like a bunch of different
22 legislation that the Mayor's office does
23 from time to time, the Mayor's office could
24 pack- -- conceivably package something and
25 introduce it through the Council President,

1 and then it would be before you. That's how
2 that would work.

3 And then on the JEA side, they have a
4 board. They can pass a resolution, whatever
5 the proposition, and they can request that
6 the Council President introduce it, or I
7 suppose a council member.

8 But, yes, I mean, your -- Council is in
9 charge of your legislation, that's correct.

10 COUNCIL MEMBER DENNIS: So even when the
11 Mayor files legislation, the Mayor cannot
12 file legislation. He has to have a sponsor,
13 whether it's the Council President or one of
14 the other 18 members. So the Mayor alone
15 cannot file legislation?

16 MR. GABRIEL: To answer your question,
17 yes, there is the requirement that it be
18 introduced, and there's some code provisions
19 that speak to introducing by the Council
20 President and it not be in --

21 COUNCIL MEMBER DENNIS: So to one of my
22 colleagues, one of my colleagues said that
23 it has to be -- I think a question -- JEA
24 cannot file legislation.

25 So JEA can put a package together, bring

1 it over to Council, but if none of the 19
2 introduces it, it's dead on arrival. Am I
3 correct?

4 MR. GABRIEL: You are correct, except
5 that the Council -- there's a provision in
6 the Charter -- I think it's in the Ordinance
7 Code, that speaks to if there's a
8 resolution -- there's an administrative
9 operational duty on the Council President
10 that when -- you know, when any of the
11 collegial bodies pass something, it's
12 introduced; and even goes on to say, Just
13 because the Council President is introducing
14 it, doesn't mean he's endorsing it or she's
15 endorsing it. But there is that in there.

16 COUNCIL MEMBER DENNIS: So the Council
17 President is required to file legislation
18 that is brought to --

19 MR. GABRIEL: I believe so, yeah, under
20 the ordinance --

21 COUNCIL MEMBER DENNIS: Shall or may?

22 COUNCIL MEMBER BOYLAN: All right. Can
23 we move on? Did you get your answer --

24 COUNCIL MEMBER DENNIS: Yeah. And my
25 last question: Through the procurement

1 process, is there a clause in the
2 procurement process that at any point the
3 City of Jacksonville can pull a bid or RFP
4 or ITN off the street even in the middle of
5 the process?

6 MR. GABRIEL: I don't have it before me.
7 It's been a while since I've looked at it,
8 but I believe -- and now we're talking about
9 City specified procurements. I mean, I
10 think --

11 COUNCIL MEMBER DENNIS: Government
12 procurement.

13 MR. GABRIEL: I think there is an
14 ability for the City to pull -- I guess you
15 called it pull the plug. I think they can
16 reject all -- you've got to be, obviously,
17 fair play on all of it. You've got to, you
18 know, do it across the board. But I think
19 there is a requirement to that degree, I
20 think.

21 COUNCIL MEMBER BOYLAN: So we'll
22 identify that and make sure that information
23 comes to you, Mr. Dennis.

24 COUNCIL MEMBER DENNIS: Thank you.
25 Thank you.

1 COUNCIL MEMBER BOYLAN: Mr. Hazouri.

2 COUNCIL MEMBER HAZOURI: Thank you.

3 Just a quick question.

4 Just for clarification, earlier you
5 said -- and I think Chuck may have said
6 it -- that we can put our ears to whatever
7 the -- the JEA attorneys are really working
8 with us too, or work for us, or however you
9 want to describe it.

10 But if -- how do we do it in sync
11 without waiting to read the minutes or
12 reading whatever? How do -- our attorney,
13 maybe our outside attorney, or y'all, how do
14 we find out what they're saying at the same
15 time that they're saying it?

16 MR. GABRIEL: So, you know, let's be
17 careful.

18 COUNCIL MEMBER HAZOURI: I just think
19 it's important --

20 MR. GABRIEL: No, no, no.

21 COUNCIL MEMBER HAZOURI: Well, what you
22 said a while ago --

23 MR. GABRIEL: I want to respond to that.

24 COUNCIL MEMBER HAZOURI: I mean, that's
25 important. I think Councilman Bowman

1 mentioned something alluding to that
2 earlier, and you've mentioned it right now.
3 So I just --

4 MR. GABRIEL: I think Council Member
5 Priestly Jackson brought it up earlier on,
6 and it's a good point.

7 COUNCIL MEMBER HAZOURI: Yeah. Tell us
8 how that works.

9 MR. GABRIEL: I think -- you've got to
10 be careful what -- you know, be careful what
11 you wish for because --

12 COUNCIL MEMBER HAZOURI: I don't wish
13 for it. I just want to know how we do it.

14 MR. GABRIEL: I'm just saying, by
15 automation, if you want just everything,
16 you're going to get inundated with a bunch
17 of different stuff, I would suspect.

18 What I recommend -- but I'm open to your
19 input on this. What I'd recommend is that
20 it's on a case-by-case basis. I understand
21 there's a little bit of a -- well, how does
22 counsel know that something's happening, you
23 know, when JEA is the one leading the
24 charge?

25 Well, I mean, maybe we can think of a

1 way -- and we can come back to this, but
2 think of a way, like on a case-by-case
3 basis, if it's something that's going to
4 involve or be of interest to you, then maybe
5 we -- on a case-by-case basis you get that.

6 You may not want all the -- you know,
7 the sort of rote things that are happening
8 on a daily basis, but you may want the
9 bigger ticket type opinions and things like
10 that.

11 COUNCIL MEMBER HAZOURI: Well, just to
12 finish this up, we may be asking the
13 question of our attorney, or you, and we
14 don't know if they're responding in a
15 different way or not. How will they know
16 what we're concerned about, as well as us
17 knowing what they're concerned about?

18 MR. GABRIEL: So it's going to be very
19 important when we engage legislative counsel
20 here. We're going to have to come up -- and
21 I'll talk to the Council President about
22 this, but some good protocols, because,
23 again, the collaboration goes both ways.

24 You want the collaboration, the
25 cooperation, because you want them to work

1 with those attorneys and get -- there may be
2 answers that the board even -- there may be
3 some opinions that have already answered
4 some questions. Certainly legislative
5 counsel can get it. They may have some
6 other varieties of, you know, ways to look
7 at it, and that will come before you, so --

8 COUNCIL MEMBER HAZOURI: I hope you can
9 help us with that, because I don't know at
10 what point that -- I don't want something
11 coming to us, one way or the other, at the
12 end, and they ask all these questions that
13 are contrary to some of the things that
14 we're considering.

15 MR. GABRIEL: There's going to have to
16 be collaboration of operation --

17 COUNCIL MEMBER BOYLAN: Well, I'm very
18 comfortable. Two parking lot items, the
19 first of which was the one that Council
20 Member Jackson brought forward with respect
21 to the timeliness of adjacent counsel, let's
22 call it.

23 And then the second one, with respect to
24 some clarity as to the procurement and when
25 in the process a procurement process can be

1 stopped or deferred or however.

2 So those two we'd like to see addressed
3 at a subsequent meeting.

4 Council Member Priestly Jackson, the
5 floor is yours. And we'll try and keep this
6 brief because we're over the time.

7 COUNCIL MEMBER HAZOURI: We're going to
8 need a parking lot garage before this is
9 over.

10 COUNCIL MEMBER BOYLAN: All right.
11 Well, probably so.

12 COUNCIL MEMBER JACKSON: Through the
13 Chair, thank you so much.

14 And I just want to say, General Counsel
15 Gabriel, I believe sincerely you are sharing
16 with us your legal opinion based on
17 understanding.

18 I'll tell you the challenge, and I just
19 want to say in the room, the Council is in
20 the unique position for the first time, I
21 think, in history of having four attorneys
22 on the body politic. What fun.

23 And so -- but I think the challenge for
24 me under 21.04, the authorization for JEA
25 doing this, that section is called Powers.

1 And the first one, Subsection A, says, To
2 construct -- JEA shall have the following
3 powers, in addition to powers otherwise
4 conferred. To construct, own, acquire,
5 establish, improve, extend, enlarge,
6 reconstruct, reequip, maintain, repair,
7 finance, manage, operate, and promote the
8 utility system. It doesn't say sell.

9 And so I think that -- my running joke
10 has been, I don't think the framers, Judge
11 Arnold, contemplated -- of our Charter,
12 contemplated an independent authority
13 selling themselves right out of the Charter.
14 I don't think they contemplated that.
15 That's been a little running joke of mine.

16 But I think that that's the challenge.
17 So that's the first -- that's Subsection A.
18 And then when we get on to Subsection P,
19 which you've referenced, it then talks about
20 transfer, sell, finance, lease, otherwise
21 provide services or products, or byproducts,
22 developed or used by JEA.

23 It still -- there's a contemplation in
24 these powers of parts or items that they're
25 going to receive or they need services

1 provided, not the very entity itself. I
2 think that that is the rub for us.

3 And further down I know you referenced
4 if they're going to sell more than ten
5 percent. Well, yeah, that still will
6 connote 90 percent of the majority is still
7 held hold and harmless, so it's less than
8 that.

9 I think that that's our confusion. I
10 know it's my confusion. And I know we've
11 been referencing procurement. Procurement
12 means acquiring. It means acquiring, not
13 selling, in my understanding of it.

14 And so I think that that's why we are
15 challenged with a procurement process that
16 authorized the JEA Board to advance an ITN,
17 to sell -- you know, recapitalize, you know,
18 sell itself, but because it -- that's not
19 the understanding of procurement. They're
20 not -- I mean, are they going to acquire
21 another entity to buy them? I don't -- I
22 mean, that's the stretch of the term
23 acquire.

24 And so I don't want to put you on the
25 spot today, but I think we have to look at

1 what are the powers that 21.04 is actually
2 saying JEA has. I, too, find trouble
3 finding any authorization to commence for
4 the recapitalization, the results and the
5 sale of the entity under a power. And
6 that's the rub. So if we could feature --

7 COUNCIL MEMBER BOYLAN: I think the
8 question in there is the viability of
9 this having the right and opportunity to
10 sell themselves.

11 MR. GABRIEL: Can I give a hypothetical?

12 COUNCIL MEMBER BOYLAN: Please.

13 COUNCIL MEMBER CARLUCCI: David and
14 Goliath.

15 MR. GABRIEL: The hypothetical is -- and
16 just for purposes of this hypothetical,
17 imagine that water is ten percent of the
18 operations of JEA, just for purposes of this
19 exercise.

20 If it is ten percent, could JEA sell it
21 under that provision? I ask that. You can
22 ponder that, and we can talk about it
23 another day.

24 And if they could, well, then certainly
25 they could undertake a process to do so,

1 whether they want to undertake a procurement
2 process or a direct solicitation, or some
3 other way of going about it, I'd submit that
4 at a minimum it would allow you to do that.

5 And so how does one even figure out what
6 ten percent is of their assets? There's got
7 to be a calculus. Who's in charge of doing
8 the calculus? JEA.

9 And so there's got to be some
10 preliminary process that's undertaken at
11 some point. And if JEA is charged with
12 running the utility, they're certainly the
13 first in line to be able to make that
14 calculus; and hence, the reason why they
15 could make the calculus and then decide, You
16 know what? Let's give this a shot, and then
17 we'll take it to Council and see what
18 Council does with it.

19 Anyway, with that being said, I can
20 certainly --

21 COUNCIL MEMBER JACKSON: Well, let me --
22 can I please?

23 COUNCIL MEMBER BOYLAN: Very quickly.

24 COUNCIL MEMBER JACKSON: And I
25 appreciate it, and we can have further

1 conversations because I think -- I differ
2 with the legal understanding of procurement
3 in the (inaudible), but I like the example
4 you just gave of the ten percent, because I
5 think one of our issues is what's the actual
6 valuation of the asset. We don't really
7 know.

8 Before you get to the provision that
9 says, Nothing in this article shall
10 authorize or be construed to authorize JEA
11 to transfer any function or operation,
12 before the issues of being enough, it says,
13 Provided, however, that JEA will not enter
14 into any activity pursuant to this section
15 in addition to those activities listed
16 herein without first providing written
17 notice of such activities to the council
18 auditor no less than 30 days before the
19 commencement of the activity, which would
20 envision for me, before you could determine
21 ten percent, the auditors must say what the
22 ten percent is.

23 And so I don't know if that happened,
24 but -- so I think that there were fail-safes
25 put in this. I think that there was a

1 question on interpretation. Before you say
2 ten percent can be sold, it seems that the
3 council auditor is supposed to tell us
4 what's the value, what's the ten percent.
5 And then there would likely be, from that
6 point, that language saying, This is the ten
7 percent or less that we want to sell or the
8 more. That's all.

9 COUNCIL MEMBER BOYLAN: Thank you,
10 Council Member Jackson. I appreciate that
11 very much.

12 Let me offer a couple perspectives, if I
13 may, before we move on.

14 Number one, obviously, I understand and
15 appreciate the objects that we're focusing
16 on, the possible recapitalization of JEA.

17 Keep in mind there are five scenarios on
18 the table which might change the structure
19 of the organization. And, quite honestly, I
20 do appreciate the fact what JEA is doing;
21 it's exploring all five. But you really are
22 exploring all five in this process.

23 So I appreciate the fact that we are
24 very focused on one of the scenarios, and
25 probably the most likely scenario as

1 presented to us down the road. Let's not
2 lose sight of the opportunity to explore all
3 five of those as we go through this process.

4 And, number two, I think a lot of the
5 questions, issues, concerns that are raised
6 today will be and can be addressed both
7 again by Jason or his office down the road;
8 and then, secondly, obviously, from the
9 perspective of the folks at the board and
10 management of JEA.

11 So we have clearly demarcated today what
12 we -- our concerns are, and I do appreciate
13 that in the context of this process.

14 I do want to provide ourselves the
15 opportunity to hear from Ms. Miller. I,
16 first of all, want to thank you, Judge, for
17 your time and resources today, and,
18 Mr. Gabriel, for your input in this process.

19 Again, all the contents that we -- and
20 materials that we are working from,
21 including the entire Article 21, is
22 available online, and some of the other
23 items, too. We will make sure it's all
24 there for you all to see and make decisions
25 of your own accord in this process.

1 So I want to quickly invite Ms. Miller
2 to come up and share very quickly, if she
3 can, with us the --

4 JUDGE ARNOLD: While she's on the way
5 up, I just wanted to say -- because every
6 time I come over here I say this: I want to
7 thank each and every one of you for building
8 our wonderful courthouse. Some of you
9 weren't here when it was built, but you
10 continue to support it and spend a lot of
11 money over there maintaining it. And it is
12 absolutely the finest courthouse in the
13 country. And you should be very proud what
14 you did for us. Thank you.

15 COUNCIL MEMBER HAZOURI: And that number
16 was \$150 million.

17 JUDGE ARNOLD: Well, I did.

18 COUNCIL MEMBER BOYLAN: All right.
19 Thank you. I appreciate you both for your
20 time.

21 Ms. Miller.

22 And I appreciate the patience and
23 indulgence of my colleagues in this process.
24 We're trying to keep this as concise as
25 possible. And for the opportunities for us

1 to have further conversation about any of
2 these items, we can move them forward. The
3 process is very fungible. All right. We
4 just set a course. It's a wire frame, as I
5 mentioned before. It can change as we move
6 forward through this process.

7 Ms. Miller, if you would quickly --
8 yesterday you sent out from the Civic
9 Council three items.

10 For the benefit of those listening who
11 may not be as familiar with the Civic
12 Council as some of us are, could you quickly
13 give us a thumbnail of what the Civic
14 Council is and then specifically to the
15 letter that was forwarded from the
16 subcommittee.

17 MS. MILLER: Yes. First of all, thank
18 you for the invitation and, through the
19 Council President to all of you, thank you
20 also for taking on this process.

21 The Civic Council is a group of 80-plus
22 CEOs in the Northeast Florida region
23 organized around essentially mobilizing the
24 collective voice of the CEO to study and
25 analyze difficult public policy issues in

1 our region and hopefully move those forward.

2 So it is a 501C(6), a membership
3 organization. All members are -- pay dues.
4 We do not accept any public funding. We
5 fund all of our own research. And the idea
6 is to fund research, develop facts, and then
7 from those facts, as we study issues, then
8 to proceed with presenting those facts and
9 information to the public, to the
10 policymakers primarily, and then hopefully
11 draw conclusions and work toward positive
12 public policy change.

13 So with that in mind, in 2017 the Civic
14 Council came out with a strategic plan.
15 There were two strategic objectives. I
16 think one of which you're familiar with, and
17 as I've been before you before regarding
18 education reform, conducted several studies
19 regarding education reform nationally with
20 other groups. And then the second was
21 analyzing the state of the City's public
22 finance structure.

23 We are in the process of conducting a
24 study that, for the very first time,
25 actually looks at the comparative tax base

1 of Duval County and the City of Jacksonville
2 and compares it to other cities and counties
3 throughout the state of Florida. And that
4 work has never been done. And it's a work
5 in progress, I will say. We have had it
6 peer-reviewed. We are working with
7 professors at JU and UNF.

8 Now, in the course of that research --
9 and it has gone on for some time -- we
10 recognize the JEA is a very key funding
11 source for the City of Jacksonville. And so
12 when you look at the amount of funds coming
13 from JEA, not just from franchise fees and
14 utility tax, but from a direct
15 contribution -- and at the time we started
16 the study, JEA's contribution was close to
17 20 percent of the close to \$1 billion
18 budget. Now it's obviously a smaller
19 percentage, but still quite a significant
20 contribution. And it's one of only two in
21 the state of Florida that actually makes a
22 contribution to the city. The other is the
23 Orlando Utility Commission.

24 So with that said, the executive
25 committee -- when there was discussion about

1 the potential sale or change of JEA, the
2 executive committee convened a subcommittee
3 of our public finance task force to study
4 JEA. That was in January of 2018. This has
5 been a very long road.

6 Using the relationships and reaching out
7 across the nation to investment bankers, to
8 utility experts, to -- I can't even tell you
9 how many different financial experts,
10 lawyers, a lot -- like rating agency
11 individuals, a lot of people in the finance
12 and energy sector will tell you this is a
13 highly, highly complex issue. It is
14 extraordinarily complex. It's like an
15 onion. You keep peeling it back.

16 So as we commence, we set out an
17 analytic framework for ourselves to say,
18 Here's what we are going to study. It was
19 going to be how do you optimize this asset
20 for the City of Jacksonville? That was our
21 question to ourselves and to the public. We
22 shared that with the former special
23 committee on JEA of this Council.

24 As we went down that road, we collected
25 a lot of information, but part of our

1 analysis was going to be developing a
2 particular value, a value of JEA looking at
3 various factors.

4 During the time of our analysis and as
5 we began collecting information, there was a
6 seat change at JEA, both in leadership and
7 in strategic direction. That change
8 resulted in a completely different set of
9 financial projections than were originally,
10 and it was in the form of -- you know, the
11 McKinsey study, and that process. That
12 process took quite a long time.

13 And we initially worked very closely
14 with JEA with our external consultants and
15 received a high level of cooperation in
16 working to get, you know, financials by line
17 of business and just a lot of information.

18 So suffice it to say, it has been a long
19 road. It's been 18 months. I do note it's
20 been a highly complicated process. And as
21 the Civic Council continued on in its work,
22 we came to several conclusions. And one
23 was, because this is a complicated process,
24 the only true way to get your arms around
25 the value of JEA is to conduct a full review

1 of JEA. And a full review, like an
2 appraisal, would take -- it would take a
3 team of folks -- and this is what's done in
4 other communities.

5 It would take a team of people, finance,
6 investment bankers, utility experts, if it's
7 water, if it's sewer, you know, different
8 people, and lawyers. So -- and that takes a
9 whole team of people. It usually costs
10 quite a lot of money. It's not unlike what
11 JEA is going through now, right, in some
12 ways, but it would be by the City.

13 And so we knew, as an organization
14 funded through member dues, we did not have
15 the resources for that. We actually priced
16 it out through several different investment
17 firms who one of which is actually working
18 on the workout for the L. A. Power Company
19 publicly. And it was upwards of 500- to --
20 500,000 to a million dollars to conduct that
21 type of study. So we knew we were unable to
22 do that, but we wanted to stay involved and
23 abreast of what was going on.

24 We were approached in the spring by JEA
25 and asked -- they asked us to endorse their

1 status quo numbers. And our task force and
2 subcommittee said, We'll be happy to look
3 at this. We need to look under the hood.
4 We need to understand your financial
5 assumptions. You know, we'll be happy to
6 look at it.

7 So we had a scheduled meeting in June,
8 and the plan for that meeting was to, as
9 somebody said, put the green eyeshade crowd
10 together to look at the numbers.

11 Unfortunately, that meeting did not turn
12 out that way for a variety of reasons, and
13 we were never able to obtain the underlying
14 financial assumptions and the documents to
15 look at that. We have folks -- we have both
16 members and others and engaged financial
17 experts who were retained for that purpose.

18 And then, as you know, in July, the JEA
19 issued an ITN, which appeared to deviate and
20 was, frankly, a surprise, I think, for
21 everyone.

22 And so our executive committee said,
23 Given the change of direction and given the
24 fact that this appears to be moving so
25 quickly already, let's regroup and retain

1 experts to look at the process -- look at
2 this process. What would any municipality
3 want to go through? What would any
4 municipality do in a process like this if
5 there were a disposition or sale or even
6 just an evaluation of your assets?

7 And our experts, the -- I've sent you an
8 original report from Gerry Hartman, who's a
9 double board-certified engineer, as well as
10 an opinion from the Gray Robinson Law Firm.
11 Mr. Jason Burnett is here from the Gray
12 Robinson Law Firm. And -- but we asked the
13 question, you know, what would any
14 municipality want to know if they were -- if
15 there was a process to dispose of an asset?
16 You know, what would you want to know? What
17 would the public want to know? And what do
18 you have to go through? What are those
19 requirements?

20 And so that was the task ahead. And,
21 fortunately, Mr. Hartman has been a part of
22 over 635 different transactions to sell or
23 transfer or restructure a utility. So he's
24 very familiar, in 36 states around the
25 United States. And then Mr. Cloud, of the

1 Gray Robinson Law Firm, has been practicing
2 in this area for 40 years primarily in the
3 state of Florida and has worked with, I
4 mean, just -- since the '70s on municipal --
5 primarily municipal disposition. So we
6 examined that process.

7 What you have -- and there is no time
8 today to go through that, but I would
9 strongly encourage you to call upon
10 Mr. Hartman and Mr. Cloud for that. And --
11 but out of that came several things.

12 We also have looked at the financials,
13 and engaged experts to look at the
14 financials, talked with the Florida
15 Municipal Power Association and talked with
16 private sector, like the, you know, bond
17 rating agencies and analysts who previously
18 worked for bond rating agencies.

19 So across the board we were told if --
20 JEA is not in a financial crisis. Is it
21 hitting, you know, some headwinds? Yes.
22 Does it need to potentially restructure?
23 Possibly. And so how do you combat that?
24 How does a public utility -- what are the
25 options available to a public utility or a

1 municipality if you have concerns?

2 So looking at that, we believed, and
3 based on our research, based on the opinions
4 of these individuals, we're recommending
5 that this Council -- and based on a reading,
6 as Mr. Gabriel said, all roads lead to City
7 Council.

8 Now, Mr. Cloud knows Tom Welch, also a
9 former General Counsel, who he's consulted
10 with in rendering his opinion who said that
11 JEA is absolutely -- JEA can absolutely go
12 through the exercise it is going through.
13 It is exploring one of what it has laid out
14 for itself five options. Right? There are
15 five options in the McKinsey report.

16 So it can go through this process, but
17 it is one part of a larger process. And
18 really the duty, the ownership, under
19 Florida law, of the municipality, is the
20 City. And you are the elected officials of
21 the owners of the -- of the owners of that.
22 Right? The owners of the utility have
23 elected you to office and the right -- I
24 mean, this City essentially gave JEA the
25 franchise to operate. And so -- if you

1 think of it that way -- as well as to
2 operate water and sewer.

3 And so when you think about it, it's a
4 bit of a nuance -- you know, it's nuance.
5 So JEA can continue its work, but its work
6 is not the only consideration. This Council
7 should take control of the entire process.

8 There is a duty under Florida law for
9 whoever has to approve the sale, you have to
10 undergo very specific requirements, public
11 hearings, analyses, making a business case,
12 and those are outlined in the letter that we
13 sent to you.

14 So while JEA can conduct this and
15 certainly present you with an option, you
16 are not limited to that option. And one
17 would say that your duty is to explore all
18 options and to make sure that you have
19 before you all of the information.

20 So I again applaud you for convening
21 this. I will close with this: That when we
22 look at this and come down to it, it appears
23 that the primary motivation in all of this
24 is funds for the City. And if that is
25 correct, if that's correct, and if the City

1 needs \$3 billion, then the primary question
2 here is, how much money does the City need,
3 what do we need it for, and, you know, then
4 lay out a plan to get that, because it's a
5 very healthy exercise to analyze your
6 assets. You should always understand how
7 much you own and your value. Very healthy.

8 And our experts will tell you, you
9 should at least go through this process
10 every 10 to 20 years to understand your
11 value. But it's not your only asset. There
12 are other ways and other triggers if the
13 City needs money. And that process should
14 be a very public process.

15 And this community has had a very long
16 and successful history under Mayor Hazouri,
17 under all of our mayors, the recent mayors,
18 under Ed Austin and John Delaney, and even
19 Mayor Curry, in responding to a need. Our
20 citizenry understands the need for pension
21 reform. They understood that after years
22 and years of complexities, and they
23 responded and they voted.

24 So we would encourage you to take a step
25 back and examine what are the needs of the

1 City. If we need to sell an asset or
2 consider other assets, then what are the
3 right mechanisms for that?

4 COUNCIL MEMBER BOYLAN: Well, I
5 appreciate your comments. I certainly --
6 Mr. Wilson, I don't want to chair that
7 committee.

8 Mr. Diamond.

9 COUNCIL MEMBER DIAMOND: Thank you,
10 Jean, for being here. It's a great deal of
11 respect for you, and I love that you're
12 getting all sorts of new friends in the last
13 24 hours. That's good stuff.

14 I guess I'm kind of a bottom-line guy.
15 And I understand what you're saying about
16 process and procedure and the City Council.

17 I have to assume that there's probably
18 some number. Let's say somebody offered us
19 a hundred billion dollars for JEA. I would
20 assume that the Civic Council would say,
21 Yeah, every day we sell it right now,
22 immediately, here you go. And then at \$500
23 million the answer is, No way, not a chance.
24 It doesn't make any sense at all.

25 Does the Civic Council have a number

1 where they feel that this would make sense
2 for us? And, if so, what is it?

3 MS. MILLER: Yeah. So through the Chair
4 to Council Member Diamond.

5 The Civic Council has not considered and
6 we have not studied. So we have not studied
7 that. And the letter is clear that we are
8 not opining on whether a sale should take
9 place and on what terms. We are not opining
10 at this time.

11 At this time the concern is regarding
12 the process and the concern that it is -- it
13 lacks fundamental transparency. And as we
14 know now from Florida law, there are certain
15 requirements for that.

16 So if this Council wants to do this,
17 then the process is salvageable. It's
18 salvageable. Mr. Cloud and Mr. Hartman will
19 tell you, if you want to save the process,
20 you can do that. But there are certain
21 things you need to go back and cover.

22 So we don't have an answer to that.
23 That, if that question comes up, then the
24 Council will apply its resources and analyze
25 it to the best of its ability.

1 COUNCIL MEMBER BOYLAN: But to the
2 extent that the conversation you and I had
3 yesterday, the process we are undertaking
4 right now is certainly in line with the
5 expectations and -- as part of that process;
6 correct?

7 MS. MILLER: It would seem to me,
8 without, you know, knowing more and looking
9 at your -- the titles, but I would encourage
10 you to -- again, Mr. Cloud is available --

11 COUNCIL MEMBER BOYLAN: Sure.

12 MS. MILLER: -- and others and -- yes.

13 COUNCIL MEMBER BOYLAN: Mr. Bowman.

14 COUNCIL MEMBER BOWMAN: Thank you,
15 through the Chair.

16 Thank you, Ms. Miller. Civic Council
17 has been an amazing resource for me, and I
18 appreciate what you all have done.

19 A question for you, and maybe we don't
20 have to answer today, but with the expertise
21 you have, my family is in a position where
22 we're selling a piece of property right now.
23 And there's two ways we can do it: We can
24 go get it appraised, or we can go see what
25 the offers are, and it gives us an idea of

1 that market value. And it sounds like you
2 all are looking at doing the appraisal part.

3 And so my question is that, given that
4 we've got, I think, 15 people that are
5 groups that are offering something on that,
6 at the end of the day will that give us a
7 good idea of what JEA is really valued, or
8 would we need to -- is there still value in
9 going out and getting an appraisal done on
10 it even though we've got -- we know what the
11 market is willing to purchase it for.

12 MS. MILLER: And thank you, through the
13 Chair to Council Member Bowman.

14 This question came up yesterday. We had
15 a special member meeting to discuss that.
16 And Mr. Hartman is best to answer this
17 question for you.

18 But the short -- let me clarify. We are
19 not conducting an appraisal. An appraisal
20 would require the expertise of cross
21 disciplines, and that would be the duty of
22 the City. So let me be clear about that.
23 And that would cost quite a bit of money.

24 But Mr. Hartman examined and said, Look,
25 an appraisal is the typical part of what you

1 would do to understand the value. The ITN
2 as structured is wide open. It does address
3 the value of real estate. It does not
4 address lots of different types of values,
5 and there are different values that are
6 important in this process. There's the
7 PS -- the Public Service Commission in
8 determining what's called rate base.
9 They're going to look at a value. And then
10 you can have your appraised value.

11 So to extend your analogy of selling
12 your property, I'm assuming you have some
13 sense of what the market will bear when you
14 go out to offer. Let's say I want to buy
15 your property, and I come to you and say,
16 I'd like to buy your property, and other
17 people have and you have some competitive
18 bids. But I have to finance your property.
19 So I go to a bank. A bank is going to
20 require an appraisal, or I might, if I'm
21 buying it for cash, want to know an
22 appraisal.

23 You go through a due diligence period if
24 you're buying something. You would do a
25 Phase 1. I'd like to know the

1 environmental. I'd do an inspection. I'd
2 want to know what I was buying and be fully
3 informed as a purchaser.

4 So if you think about it that way, then
5 that would be the role. If you are a seller
6 or a buyer, you want to know.

7 Mr. Hartman would tell you he has been
8 in several situations where -- and most
9 recently in the City of Vero Beach, where
10 the city was -- where a -- one of the
11 bidders offered I think a hundred million.
12 I'll use round numbers because I don't
13 recall. It's a very small -- so let's say
14 it was 50 million.

15 He came in with an appraisal that he did
16 with a team. And this is not to promote his
17 services with that regard. This is more to
18 say, with the team, analyzed some of the
19 additional assets that the property had --
20 that the utility had that weren't taken into
21 consideration in the bids. So although the
22 original bids were 50 million, it eventually
23 sold for a hundred million.

24 So you want to have a thorough
25 understanding of what it is you're selling

1 and the value of that. And that would be, I
2 would suggest, a duty as public servants and
3 as part of your fiduciary duty. But I hope
4 that answers your question.

5 COUNCIL MEMBER BOWMAN: It does.

6 COUNCIL MEMBER BOYLAN: Mr. Salem,
7 Ms. Cumber.

8 MR. SALEM: Thank you, Mr. Chair.
9 Through the Chair to Ms. Miller.

10 I was confused by a comment you made
11 about -- at one point you were requesting
12 financials on the JEA, and they were not
13 responsive to that.

14 MS. MILLER: That's correct.

15 MR. SALEM: And then at some point it
16 sounds like you got that financial
17 information in order to do this analysis.

18 Can you clarify that for me?

19 MS. MILLER: Sure. Yes.

20 MR. SALEM: And can you explain more
21 what you requested? Emails, who you sent
22 them to --

23 MS. MILLER: Yes.

24 MR. SALEM: I'm very curious about that.

25 MS. MILLER: We have all that.

1 So in the initial stages we wanted to
2 get a consolidated and a consolidating bank
3 balance sheet for all lines of business.
4 That did not exist. So JEA went to the
5 effort of actually putting that together.
6 It took many, many hours. But they actually
7 said they found it useful.

8 You may be familiar with Howard Serkin
9 and Heritage Capital who donated his, you
10 know, pro bono time to assist us in
11 developing what we wanted to get was some
12 type of estimated value and a discounted
13 cash flow analysis for the various lines,
14 but also together.

15 So that was in the spring of 2018. As
16 you know, everything changed during that
17 time. So leadership changed, and then the
18 interim leadership told us we can do all of
19 this for you, but -- because there was some
20 additional information that we asked for,
21 but it is not -- these are not good
22 projections. We are going to reevaluate
23 these projections. We are engaging a
24 consultant.

25 So we stopped. I mean, there's not much

1 more you can do when they say -- because
2 they say, We're about to re-forecast with
3 the assistance of a nationally recognized
4 consulting agency. So we stopped on that.

5 Then McKinsey came out with its own --
6 its status quo projections. So when we
7 were -- we asked for the data and the
8 underlying assumptions. We asked to speak
9 to McKinsey. We asked repeatedly. And we
10 were asked to actually endorse that in May.
11 And our membership said, you know, We don't
12 do anything without doing research. So we
13 want to look under the hood. So let's look
14 under the hood.

15 So a meeting that was supposed to be
16 about three or four people to look under the
17 hood, talk to McKinsey, get the underlying
18 data, trying to understand that so we could
19 come forward with some opinion, but we were
20 not provided with that.

21 And then Mr. Hartman, in doing his
22 analysis, asked Mr. Zahn and his team for
23 specific documents. We had an hour-long
24 interview with him, you know, very
25 graciously provided, and there were specific

1 requests. And then they promised to provide
2 some certain information, and there were
3 follow-up requests that were unanswered.

4 I will give you a very specific example.
5 We asked for the McKinsey RFP. We asked for
6 the McKinsey proposal to say, What have they
7 proposed? What's the scope of services and
8 what's the cost of that?

9 We were sent back a very heavily
10 redacted document. Under Florida law, when
11 you redact something, you have to state the
12 reason why. It was not.

13 So I asked. I sent an email back and
14 said, What is the basis for the redaction?
15 And we received later a letter from
16 McKinsey, not from JEA, claiming trade
17 secret.

18 Now, this is a deal that's already
19 closed, that's already moving forward on
20 purchase. And so it was -- but we didn't
21 press the issue anymore; but suffice it to
22 say, I don't know what McKinsey was asked to
23 do, and I don't know how much they paid for
24 it.

25 So that was difficult, because we wanted

1 to understand. We didn't want to duplicate
2 McKinsey's process. We wanted to be
3 additive to it. So that was the purpose of
4 asking for the RFP.

5 COUNCIL MEMBER BOYLAN: Thank you. I
6 need to tidy it up. I'll go through three
7 or four more questions here, and make it
8 very quick.

9 MR. SALEM: Did you follow up with any
10 City Council members that could have
11 facilitated that?

12 MS. MILLER: No.

13 MR. SALEM: You strictly went Civic
14 Council to JEA.

15 MS. MILLER: That's correct.

16 MR. SALEM: Thank you.

17 COUNCIL MEMBER BOYLAN: Council Member
18 Cumber.

19 COUNCIL MEMBER CUMBER: Thank you, and
20 thanks for being here.

21 So was the letter and everything you're
22 voicing, is that a unanimous feeling of the
23 Civic Council, or are there Civic Council
24 members who have a different view or take a
25 different tact on this?

1 MS. MILLER: So one way to answer that
2 is our -- the Executive Committee of the
3 Civic Council is the policymaking body, and
4 the Executive Committee is 10 to 12 people
5 along with the -- and then the task force
6 chairs are ex officio members.

7 As for the Executive Committee, it is
8 unanimous. The members were given an
9 opportunity to review, to provide input, to
10 receive feedback. And some of the
11 members -- as even with education, some
12 members do not agree. But when members
13 agree to participate in the Civic Council
14 and pay dues, they agree and they understand
15 that the organization has its own values.
16 So -- and the values intend to advocate.

17 So I can't speak for another member, but
18 I -- and we did not take an
19 organization-wide vote because the process
20 is through the Executive Committee.

21 COUNCIL MEMBER CUMBER: Okay. Thank
22 you. And then you said that the process is
23 salvageable. Can you like kind of go
24 through the specifics of what you think
25 Council hasn't done to this point? And I

1 know, you know, you mentioned public
2 hearings, and we have 15 or so public
3 hearings set up in addition to our regular
4 Council process.

5 So you seemed to imply that there are
6 things that we should have done to date that
7 we haven't done or that we haven't set up.
8 So if you could kind of list those out so
9 we're clear on what you --

10 MS. MILLER: Well, I can direct you to
11 the PowerPoint presentation by Mr. Hartman,
12 and he presented for almost an hour
13 yesterday. So that would take a lot of
14 time. And out of respect for your time and
15 everyone else's, I would encourage you to --
16 we can help, you know, arrange for
17 Mr. Hartman to be here to present that to
18 you, on what would typically happen in a
19 municipality if you were undertaking this.

20 So I don't have that list off the top of
21 my head. But Mr. Hartman has that as well
22 as Mr. Cloud.

23 COUNCIL MEMBER BOYLAN: And it's laid
24 out in PowerPoint that you provided us
25 yesterday; correct?

1 MS. MILLER: There is some. And so --
2 there is, and then you'll also see a flow
3 chart. So there's a lot of details packed
4 into that, if you see the larger report from
5 May 2018.

6 COUNCIL MEMBER BOYLAN: Well, I need
7 just a brief answer because --

8 COUNCIL MEMBER CUMBER: Yeah, a super
9 quick follow-up.

10 So there's nothing specifically that the
11 Civic Council, the executive body of the
12 Civic Council, thinks that Council isn't
13 doing right now. It's more the consultant
14 that is looking -- looking at like these
15 sort of situations at large.

16 MS. MILLER: No. The Executive
17 Committee has approved the letter that you
18 received yesterday, and there are seven
19 recommendations there. There are seven
20 observations.

21 So I would say that I think those are
22 fairly direct and -- if you question any of
23 those. So, yes, they have, based on our
24 research and the observations from that
25 research.

1 COUNCIL MEMBER BOYLAN: Council Member
2 Becton.

3 COUNCIL MEMBER BECTON: Thanks. Through
4 the Chair to Ms. Miller. Thanks for being
5 here.

6 MS. MILLER: Thank you.

7 COUNCIL MEMBER BECTON: I just got
8 really one question, but it's based on my
9 observation, having been through a lot of
10 these meetings and so forth: Is that this
11 whole process is -- we're here because at
12 the heart of the JEA reasoning for going
13 through this process is not because we need
14 cash.

15 MS. MILLER: Right.

16 COUNCIL MEMBER BECTON: That has never
17 kind of been on the table. But it's been
18 for two things: that the future forecast, as
19 it relates to its revenue projections; and,
20 number two, the constraints on any future
21 solutions that addresses those revenue
22 projections.

23 So you mentioned that the Civic Council
24 started exploring at least the first point
25 there.

1 MS. MILLER: Right.

2 COUNCIL MEMBER BECTON: Have y'all given
3 up on that initiative, whether it's doing it
4 in parallel or, as Mr. Salem mentioned, you
5 know, through open records, Sunshine Laws --

6 MS. MILLER: Yeah.

7 COUNCIL MEMBER BECTON: -- provide us
8 the data because, from what I understand, it
9 is there and that is hopefully part of what
10 we're going to set our sights to do. Are
11 you guys going to keep up that initiative?

12 MS. MILLER: No, not at this time. And
13 here is the problem: The -- at least, I
14 mean, at this time.

15 We asked for all of the underlying
16 information. So when the new projections
17 came out in May, we immediately asked for
18 the underlying financial assumptions and to
19 speak directly with McKinsey so we
20 understood what went into that. We were
21 going to have to unpack a lot of
22 information. We were not provided with that
23 opportunity.

24 And so -- but as part of that
25 conclusion, whether it's going through

1 scenario one, two, three, four, that is the
2 duty -- or scenario six, seven or eight,
3 whatever those scenarios look like for this
4 city, it's the duty of this group to
5 consider that, as well as the needs of the
6 city.

7 And I would submit -- so I can't sit
8 here today and tell you that the financial
9 projections are correct. I can't tell you
10 what they think because I don't know.
11 Everything is based on an assumption and we
12 don't have that. That has been part of
13 this.

14 So that was the reason why the
15 organization decided -- the Executive
16 Committee decided to weigh in on the process
17 at this time and, to the extent we can, be
18 additive to your process and your analysis.
19 Based on what we have collected to date,
20 we'll be happy to do that.

21 But I -- beyond the process right now,
22 there's not been a decision on what the next
23 step will be.

24 COUNCIL MEMBER BOYLAN: I believe there
25 were two questions, and we're going to limit

1 it to that. Mr. Hazouri first and then
2 Mr. Carlucci.

3 COUNCIL MEMBER HAZOURI: Ms. Miller, you
4 can answer yes or no, and I think you've
5 kind of answered part of my question.

6 On the financials, have y'all been
7 working on that since y'all started 18
8 months ago?

9 MS. MILLER: Financials?

10 COUNCIL MEMBER HAZOURI: Yes.

11 MS. MILLER: So we started when
12 Mr. McElroy was here and working with
13 Melissa Dykes, and then that changed. And
14 then we were told -- that was January,
15 February, March, April, May. Then we were
16 told that the financials, May, June, those
17 would be -- they were no good, that they
18 were restructuring the financials so we
19 should wait. We should not do a continued
20 analysis based on those financial
21 projections because they're wrong. That's
22 what we were told.

23 So we stopped. We did not want to
24 add -- so then we received the new
25 financials, and that goes to Mr. Becton's

1 question. But in order to understand
2 financials, you have to get into the
3 assumptions.

4 COUNCIL MEMBER HAZOURI: Right.

5 MS. MILLER: And we have not been
6 provided that.

7 COUNCIL MEMBER HAZOURI: Well, the only
8 reason I'm saying, because at the very
9 beginning of the conversation, your
10 conversation, was that we didn't -- that
11 everybody that y'all talked to would tell
12 you that they're okay.

13 MS. MILLER: Yes.

14 COUNCIL MEMBER HAZOURI: I mean, that's
15 basically what you said.

16 MS. MILLER: Right.

17 COUNCIL MEMBER HAZOURI: Now, that tells
18 me, the headline today, that we're in a
19 spiral. I know y'all didn't write that.
20 But that the JEA is not in a spiral.

21 MS. MILLER: Actually, that is in our
22 letter.

23 COUNCIL MEMBER HAZOURI: That would be
24 your conclusion from talking to whoever you
25 talked to.

1 MS. MILLER: Correct.

2 COUNCIL MEMBER BOYLAN: Based upon
3 Mr. Hartman's assessment.

4 MS. MILLER: But based on the
5 information available to us.

6 COUNCIL MEMBER HAZOURI: Right. If you
7 can send us whatever financials that y'all
8 have done or studied.

9 MS. MILLER: Well, it was from over a
10 year ago, and we've already been told by JEA
11 that they are --

12 COUNCIL MEMBER HAZOURI: So nothing new
13 that -- okay.

14 MS. MILLER: We've not been provided
15 with that information.

16 COUNCIL MEMBER HAZOURI: The other thing
17 I want to mention, Mr. Hartman can be
18 reached how?

19 COUNCIL MEMBER BOYLAN: I've got his
20 contact.

21 COUNCIL MEMBER HAZOURI: You've got it,
22 okay.

23 The other question, you know, again, it
24 goes back to him. When you said that, you
25 know, the whole reason -- and he didn't say

1 that that was the reason, the JEA, because
2 they get nothing out of it. It comes to us
3 and we make the decision -- was the assets
4 and, you know, what we get out of it.

5 Well, that's the other -- that's part
6 two. That's the elephant in the room. If
7 all this takes place and comes to us and we
8 vote, it goes to a referendum, the whole
9 thing, then that's going to be the bigger
10 question among all of us, the Council, the
11 Mayor, and everybody else.

12 I think what we're looking at is what --
13 I think the JEA is doing fine studying it.
14 That's fine. I have a position on it; but
15 if they come forth with something that, you
16 know, that we all think is good for the City
17 and the taxpayers and the ratepayers, that's
18 fine. But as far as the assets, that's
19 another new animal that we're going to have
20 to deal with a long time from now, if we
21 have to do it at all.

22 COUNCIL MEMBER BOYLAN: Mr. Carlucci,
23 you've got the closing question.

24 COUNCIL MEMBER CARLUCCI: Okay. Well,
25 I've got two questions real quick. You just

1 said haven't been provided with that
2 information.

3 MS. MILLER: Yes.

4 COUNCIL MEMBER CARLUCCI: Okay. What
5 kind of information? Is it public
6 information?

7 MS. MILLER: It's listed in Exhibit A.
8 It's listed in Exhibit A of the --

9 COUNCIL MEMBER CARLUCCI: Is it public
10 information?

11 MS. MILLER: This is what I don't know.

12 So we asked for certain information. So
13 I don't know if it either doesn't exist or,
14 if it exists, why it wasn't produced. So
15 that was unclear. We were just told, no,
16 we're not going to answer that and then go
17 to the --

18 COUNCIL MEMBER CARLUCCI: If it's public
19 information, they should turn that over.

20 MS. MILLER: I agree. But our quandary
21 at this point in time is we were just told
22 no, and then move on to the next question in
23 the interview.

24 So I don't know if it's available and --
25 whether it exists. So it would be available

1 or, if it doesn't exist, then it doesn't
2 exist. No is an answer.

3 COUNCIL MEMBER CARLUCCI: Yeah. With
4 that quandary right there, I'd like to get
5 an answer from the JEA on --

6 COUNCIL MEMBER BOYLAN: And you will.

7 COUNCIL MEMBER CARLUCCI: -- as to why
8 it has not been provided.

9 Now, the second thing I wanted to ask,
10 you've got -- on the second page here, it
11 says, However, the disposition of our City's
12 largest taxpayer-owned asset is far too
13 important to be considered and legally
14 flawed closed door negotiations that
15 contradict current nationwide trends and
16 could potentially result in negative
17 consequences for the community.

18 Are those current nationwide -- what are
19 those -- I think I know what they are.

20 MS. MILLER: They're nationwide.

21 COUNCIL MEMBER CARLUCCI: What's the
22 nationwide trends you're talking about?

23 MS. MILLER: Through the Chair to
24 Mr. Carlucci, the most recent Florida
25 example is when the City of Winter Park

1 voted, by overwhelming referendum, to take
2 back their utility. And I think you've --
3 in California there are several examples.

4 COUNCIL MEMBER CARLUCCI: That's fine.
5 Thank you.

6 COUNCIL MEMBER BOYLAN: Thank you,
7 Ms. Miller.

8 Well, I've failed miserably in managing
9 the clock today. I apologize to all
10 concerned.

11 COUNCIL MEMBER CARLUCCI: You did a good
12 job.

13 COUNCIL MEMBER BOYLAN: We have one blue
14 card.

15 Mr. Parker, do you want to defer till --

16 MR. PARKER: Mr. Chairman, I can just
17 speak with you and Mr. Billy after the
18 meeting.

19 COUNCIL MEMBER BOYLAN: I look forward
20 to that conversation.

21 Any other comments? Thank you all for
22 your time and your patience, your interest
23 in staying aboard. This is a marathon, so
24 please bear with us. And we will go through
25 this very carefully and cautiously. Thank

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you all. We are adjourned.

(Meeting adjourned at 12:59 p.m.)

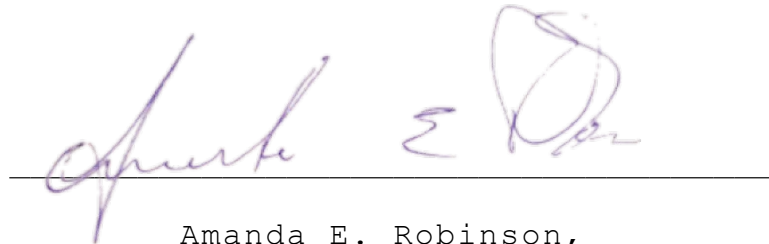
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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF DUVAL

I, Amanda E. Robinson, Registered Professional Reporter, do hereby certify that I was authorized to and did report the foregoing proceedings; and that the transcript, pages 1 through 129, is a true record of my stenographic notes.

DATED this 19th day of November, 2019.



Amanda E. Robinson,
Registered Professional Reporter