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IN RE: AARON ZAHN-TERMINATION OF EMPLOYMENT
AGREEMENT WITH JEA

SWORN STATEMENT
OF
RYAN WANNEMACHER

DATE TAKEN: Friday, January 3, 2019
 TIME: 9:06 a.m. - 4:55 p.m.
 PLACE: Office of General Counsel
 117 West Duval Street,
 Suite 480
 Jacksonville, Florida

REPORTED BY: Heather M. Thomas,
 Court Reporter

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1 APPEARANCES FOR CITY OF JACKSONVILLE:
 2 STEPHEN J. POWELL, ESQUIRE
 3 SONYA HARRELL, ESQUIRE
 4 ADINA TEODORESCU, ESQUIRE
 5 SEAN GRANAT, ESQUIRE
 6 Office of General Counsel
 7 117 West Duval Street, Suite 480
 8 Jacksonville, FL 32202

9 APPEARANCES FOR OFFICE OF INSPECTOR GENERAL:
 10 ROBERT LINSNER, INVESTIGATOR
 11 Office of Inspector General-City of Jacksonville
 12 231 East Forsyth Street, Suite 470
 13 Jacksonville, FL 32202

14 ALSO PRESENT: NIELS P. MURPHY, ESQUIRE
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I N D E X

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 3 WITNESS: RYAN WANNEMACHER
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1 MR. LINSNER: This recorded interview is being
 2 conducted at the Office of General Counsel,
 3 City of Jacksonville. Today is January 3rd, 2020,
 4 and the time now is 9:06 a.m.
 5 MR. MURPHY: And I'll also be recording it,
 6 too, for my record.
 7 MR. POWELL: All right. With the
 8 understanding that this is a confidential
 9 proceeding and it's not subject to disclosure until
 10 the investigation is concluded.
 11 MR. MURPHY: I mean, I'll comply with whatever
 12 laws or regulations there are. If you're telling
 13 me you're not going to release any evidence of this
 14 interview to the press, then I'll agree to that,
 15 but as soon as I, you know, get an inkling that --
 16 MR. POWELL: No, that's a fact.
 17 MR. MURPHY: Okay. Well, I mean, there was
 18 already disclosures made by this office of -- how
 19 Mr. Wannemacher, so -- and his termination.
 20 MR. POWELL: Well, that's not anything to do
 21 with this investigation.
 22 MR. MURPHY: Well, anything from this
 23 interview that's disclosed, then I would reserve
 24 the right to use any of the recording to rebut that
 25 in the media.

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1 MR. POWELL: No, that's fine. I'm quite
2 confident we won't have a problem there.
3 MR. MURPHY: Okay.
4 MR. LINSNER: I'm Investigator Robert Linsner.
5 I'm employed with -- by the Office of Inspector
6 General, City of Jacksonville. The Office of
7 Inspector General is assisting the Office of
8 General Counsel with its investigation regarding
9 Aaron Zahn, former CEO of JEA.
10 Mr. Wannemacher, you are being interviewed as
11 a witness in this investigation. If at any time
12 your status as a witness changes, you will be
13 notified. The attorneys who will be interviewing
14 you are Stephen Powell, Adina Teodorescu, and Sonya
15 Harrell.
16 As a commissioned Notary Public in the State
17 of Florida, I'm authorized to administer oaths.
18 Please be advised that any false statements made
19 during your interview or attempts to obstruct the
20 Office of General -- Office of Inspector General's
21 investigation and Office of General Counsel's
22 investigation may be used in a subsequent
23 prosecution against you.
24 Please raise your right hand.
25 Do you, Ryan Wannemacher, swear to tell the

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1 truth, the whole truth, and nothing but the truth?
2 THE WITNESS: Yes.
3 MR. LINSNER: Okay. And have any promises,
4 threats, or inducements of any nature whatsoever
5 been made by me in order to obtain your consent to
6 this statement?
7 THE WITNESS: No.
8 MR. POWELL: Good morning, Mr. Wannemacher.
9 I'm Steve Powell --
10 MS. HARRELL: He wasn't finished.
11 MR. POWELL: I'm sorry. Excuse me.
12 MR. LINSNER: Do you understand that this
13 recorded interview will be subject to public
14 disclosure pursuant to Public Records Laws and
15 other laws of the State of Florida?
16 THE WITNESS: I do now.
17 MR. LINSNER: Okay. All right.
18 MR. MURPHY: And I also have just a statement
19 consistent with that, that this interview is being
20 conducted pursuant to Mr. Wannemacher's employment
21 agreement with JEA, and in providing the interview,
22 he is relying on his Garrity rights, including use
23 and derivative use immunity and the nondisclosure
24 obligations therein.
25 The City of Jacksonville has agreed to provide

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1 a Garrity disclosure, and Mr. Wannemacher has
2 agreed to such disclosure.
3 MR. POWELL: And here it is. Essentially it
4 says that pursuant to the limited waiver and
5 release of rights, benefits, and obligations
6 attached which you executed that you are being
7 ordered by the interim CEO to cooperate and answer
8 our questions.
9 This details your rights, if you'd like to
10 have a look at it.
11 MR. MURPHY: Yeah.
12 Okay. We've got to correct this, because it
13 says termination of his employment. So it's
14 already happened. Why don't we say --
15 MR. POWELL: That's all fine. I'll initial.
16 There are two. (Tenders.)
17 THE WITNESS: Okay.
18 MR. MURPHY: I'll take a picture of it once
19 you sign it so I'll have a copy.
20 MR. POWELL: I'll make a copy before we leave.
21 MR. MURPHY: Okay.
22 RYAN WANNEMACHER
23 having been produced and first duly sworn as a witness,
24 testified as follows:
25

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1 EXAMINATION
2 BY MR. POWELL:
3 Q Okey doke. Good morning again, sir.
4 A Good morning.
5 Q I'm Steve Powell. I'm with the
6 Office of General Counsel for the City of Jacksonville.
7 I'm the chief of the tort and employment department of
8 our litigation group.
9 I'm one of the -- one of the several of us
10 that are carrying out the directive of the JEA board of
11 directors from December 17 to investigate the tenure of
12 Aaron Zahn as CEO of JEA to determine whether grounds
13 exist to support the termination of Mr. Zahn's
14 employment contract for cause. That is the sole reason
15 that we are here today.
16 A Okay.
17 Q And in the course of our work, we have
18 identified several areas of interest to us in that
19 respect, and our only purpose today is to ask you
20 questions to learn what you know about various matters
21 and events as well as what you observed in relation to
22 those things and what your participation was in regard
23 to the decision-making that led to the events of
24 November and December and of obviously most recently
25 December 17th at the board meeting.

2 (Pages 5 to 8)

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1 All I ask -- all we ask -- and I'm going to be
2 assisted in this by Sonya Harrell, another of our
3 attorneys, Adina Teodorescu.
4 You are accompanied today by counsel as a
5 witness.
6 Do you want to introduce yourself --
7 MR. MURPHY: Yes. Niels Murphy from the law
8 firm of Murphy & Anderson.
9 BY MR. POWELL:
10 Q All right. All we ask is that you answer as
11 completely as you can. The events that we're going to
12 be talking about are really probably no older than 18
13 months, so it's all fairly current, it seems to me, so I
14 would hope that you'd have a pretty good recall. And if
15 there are things that you would need to look at a
16 calendar for that you either have or don't have -- I
17 don't know whether you've got information in your
18 phone -- be that as it may, if we get to the end of this
19 and need to follow up with you, we'll do that with -- if
20 you want, through Mr. Murphy, however you want us to
21 handle that.
22 Please let me know if any of my questions are
23 unclear, and I will be more than happy to attempt to
24 clarify them so that we get a clear question and answer
25 record that everybody can rely on.

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1 And lastly, because we have a court reporter,
2 and even if she's very good at what she does, she cannot
3 record two people at the same time, if you would please
4 let us finish getting our questions out before you
5 answer. I'll try to do the same so that we're not
6 stepping on one another. Okay?
7 A Okay.
8 Q All right. If you would just state your name
9 and what your most recent employment was and the
10 position you had at JEA.
11 A Sure. My name is Ryan Wannemacher.
12 Do you need me to spell it?
13 Sure. It's W-A-N-N-E-M-A-C-H-E-R.
14 Most recently I was employed as the chief
15 financial officer at JEA.
16 Q If you could please describe in a nutshell
17 your duties and responsibilities as CFO at JEA.
18 A Sure. So I was responsible for management of
19 treasury functions, both cash and debt, financial
20 planning, rates, accounting, budget, insurance,
21 corporate risk -- you know, like our FEMA receivables,
22 that kind of thing. And that was the extent of my
23 last -- you know, latest duties.
24 Q When did you become CFO at JEA?
25 A When Melissa was promoted to president in

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1 April of 2018, I was promoted to the CFO. I -- prior to
2 that I worked for Melissa. I was the director of
3 financial planning and analysis.
4 Q How long had you been in that position?
5 A About three years at that point.
6 Q Was that your entry position with JEA?
7 A Yes.
8 Q Have you had any contacts, either orally or in
9 writing, with Mr. Zahn since December 17th of 2019?
10 A I have not corresponded with him. He sent me
11 a text message when the news of my termination broke and
12 asked -- you know, I don't remember the specific -- you
13 know, what he asked. But he sent me a text message and
14 said, you know, something. But I didn't respond.
15 Q Do you still have the text?
16 A I probably do on my phone, yeah. I don't have
17 my phone with me.
18 Q Okay. Well, you laughed when you started to
19 answer that question. Was there something amusing in
20 Mr. Zahn's text?
21 A I don't recall the specifics of it, but it was
22 something to the effect of do I want to get a drink.
23 Q And you declined?
24 A I didn't respond.
25 Q All right. Have you had any -- same question

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1 with respect to Herschel Vinyard.
2 A The only conversation I had with Herschel was
3 a phone call about some kind of a legal invoice or
4 something like that that needed to get paid, but I don't
5 remember the specifics of it.
6 Q Sort of a carry-over --
7 A Yeah.
8 Q -- from your work responsibilities?
9 A Yes.
10 Q How about Melissa Dykes?
11 A I had some conversations with her related to
12 my termination. That was really it.
13 Q Shawn Eads?
14 A No.
15 Q Prior to Mr. Zahn being appointed to the JEA
16 board, did you have any history with him?
17 A No.
18 Q Prior to Mr. Vinyard coming on board as chief
19 administrative officer, had you had any dealings with
20 him?
21 A No.
22 Q Prior to Mr. Eads coming down to his position
23 in early 2019, had you had any dealings with Mr. Eads?
24 A No.
25 Q When do you recall your first in-depth

3 (Pages 9 to 12)

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1 interaction with Mr. Zahn after he was appointed to the
2 JEA board?
3 A Really, I didn't have any interaction with him
4 until he became CEO.
5 Q Was that in his interim CEO position or his
6 permanent position?
7 A Interim position.
8 MR. POWELL: Excuse me. I'm going to have to
9 step out for a minute. Can you carry on with some
10 preliminaries?
11 MS. HARRELL: Yes.
12 BY MS. HARRELL:
13 Q So was it shortly after he became interim CEO
14 that you first interacted with him?
15 A Yes.
16 Q And tell me about that interaction.
17 A It was a normal boss, you know, employee kind
18 of relationship.
19 Q Okay. Let me just go back to that first. The
20 first time you -- was that the first time you had met
21 him when he became interim CEO?
22 A Personally? Probably. You know, I didn't
23 really have any real interaction with board members.
24 Q Okay.
25 A So the first real substantive conversation I

1 would have had with him was when he became the CEO,
2 interim CEO.
3 Q Do you remember if you went to his office or
4 did he go to yours?
5 A I don't remember.
6 Q So what was the gist of that conversation? I
7 know it's a --
8 A I don't recall.
9 Q Okay.
10 A It was seemingly uneventful.
11 Q And at that time, were you interim CFO at that
12 time?
13 A Yes.
14 Q Okay. When did you become permanent CEO?
15 A CFO?
16 Q CFO. Sorry.
17 A Sometime in the fall of 2018.
18 Q After that initial interaction with Aaron
19 Zahn, you meet -- something -- you have a conversation,
20 did you have regular meetings with him thereafter?
21 A Yes. So he had staff meetings that he would
22 have regularly with his direct reports. He also had --
23 we also had larger SLT meetings that he would attend.
24 Q How often would the staff meetings occur?
25 A I don't -- every -- it seems to be every

1 couple weeks. I don't know specifically what the
2 timelines were, but --
3 Q Do you remember if they were a regular date,
4 say every Tuesday at noon, for example, or --
5 A No. They tended to bounce around depending on
6 calendars and what other meetings people were having and
7 that sort of thing.
8 Q And who else was considered part of the staff
9 that would go to those, or who was the direct reports
10 that would go to the staff meetings?
11 A So it was Melissa, myself, Herschel when he
12 joined, Julio Aguero was there when he joined, and then
13 Shawn Eads when Julio left.
14 Q Okay. And what was the title that Julio, then
15 Shawn had?
16 A Julio was, I think, chief innovation officer,
17 I believe was his title. And Shawn was -- so when Julio
18 left, Shawn kind of fulfilled that role. He didn't get
19 the title of it.
20 He -- Shawn was the chief information officer.
21 So we didn't really have a chief innovation officer
22 after Julio per se.
23 Q When you say per se, did somebody else assume
24 that role of innovation?
25 A It was never really a defined -- particularly

1 well-defined role. So I guess Shawn kind of took over
2 those duties, but for whatever those duties were, I
3 guess.
4 Q So you, Melissa Dykes, Herschel Vinyard, and
5 Julio and then later Shawn, y'all were all the direct
6 reports to Mr. Zahn?
7 A Yes.
8 Q How would those meetings arise? Would
9 Mr. Zahn send you an email? Did they just kind of occur
10 organically?
11 A Yeah, we had calendar invites that got sent
12 out. His assistant always managed his calendar, so ...
13 Q Would the invites originate from Mr. Zahn or
14 his assistant?
15 A Yes.
16 Q So you -- did you have the ability to call a
17 meeting of -- of the direct reports?
18 A I mean, I suppose.
19 Q You say you suppose. Did you ever?
20 A I don't recall ever calling a meeting of the
21 direct reports, no.
22 Q Where would those meetings take place?
23 A Generally in Aaron's office.
24 Q And I know this is a broad question, but what
25 were -- what did y'all discuss at those meetings?

1 A Day-to-day business, really. I mean, normal
 2 stuff. Like, I don't know.
 3 Q Did you ever use those meetings to prepare for
 4 board meetings?
 5 A Yeah, we talked about board agendas at those
 6 meetings. We -- again, it was day-to-day business,
 7 really. I mean, it was kind of normal course
 8 activities.
 9 MS. HARRELL: Okay.
 10 We started talking about staff meetings versus
 11 larger SLT meetings.
 12 BY MR. POWELL:
 13 Q Okay. How would you describe your working
 14 relationship with Mr. Zahn in the last -- and let's just
 15 use 2019, after he became the permanent CEO?
 16 A It was a pretty normal working relationship, I
 17 guess, with, you know, manager-employee type
 18 relationship.
 19 Q As CFO, you would have been a member of the
 20 senior leadership team; correct?
 21 A Correct.
 22 Q It's our understanding that Mr. Zahn made
 23 changes in the structure upon at least -- at least when
 24 he became permanent and changed the structure so that
 25 very few people reported directly to him and the other

1 members of the team reported to Melissa, or, in one case
 2 Mr. Vinyard, such that the senior leadership team
 3 evolved into a -- for want of a better way of phrasing
 4 it, a two-tier group.
 5 Would you agree with that?
 6 A So organizationally, that's correct, if you
 7 look at the org chart. I think functionally, I would
 8 not disagree -- I would not agree with that. It was
 9 a -- functionally, it functioned as really one team, in
 10 my view. We were all on the same floor. We, you know,
 11 operated as kind of one team, really.
 12 Q Did you and Mr. Zahn and Mr. Vinyard not meet
 13 as a three-party group on a fairly regular basis apart
 14 from meetings with the overall senior leadership team?
 15 A Aaron had -- so I was just discussing. Aaron
 16 had staff meetings with Melissa, myself, Herschel, Julio
 17 when he was there, and Shawn Eads after Julio left.
 18 Those were Aaron's direct reports.
 19 And as I said, organizationally, you know,
 20 from an org chart view, that was -- those meetings were
 21 every couple of weeks or so, so ... They were pretty
 22 normal meetings, though.
 23 Q All right. I would like to discuss the
 24 long-term incentive plan for a while now.
 25 A Okay.

1 Q Would you be able to describe what I view to
 2 be the evolution of the long-term incentive plan from --
 3 a long-term incentive plan to a long-term performance
 4 unit plan?
 5 A Sure. I can -- I can address that.
 6 So from my perspective on it, Aaron started
 7 talking about market-based compensation sometime around
 8 December of last year.
 9 Q Careful. We're now into 2020. So you're
 10 talking about December of 2018?
 11 A December of 2018, correct. Thank you.
 12 And that was really the first time that I
 13 remember him kind of bringing it up. The board had a
 14 policy on compensation to pay market 50th. He
 15 commissioned a study from Willis Towers Watson to look
 16 at what is the market 50th percentile for utilities.
 17 And so that study was undertaken, presented to the
 18 compensation committee.
 19 Q When?
 20 A I believe it was -- so I know there was a
 21 January compensation committee meeting. I don't
 22 remember if the compensation -- if that meeting was
 23 where it was presented or if it was a subsequent
 24 meeting. But sometime in either January or sometime in
 25 the spring, that study was presented to them.

1 It showed that short-term incentive was below
 2 market -- below market 50th. It showed that the
 3 long-term incentive plan -- you know, we had no
 4 long-term incentive plan, so that was clearly, you know,
 5 below market 50th in that it was zero.
 6 And so Aaron asked me to, you know, look at,
 7 well, if we were to do a long-term incentive plan tied
 8 to financial performance of the business, you know, what
 9 metrics would you use to determine that financial
 10 performance. Right?
 11 Q Can you help us with when that conversation
 12 took place?
 13 A I don't recall a specific date. I can say the
 14 time frame was probably May or June, something like
 15 that.
 16 Q All right. A minute ago you said that Aaron
 17 first started talking to you about a long -- I think you
 18 said a market-based compensation plan in December of
 19 '18?
 20 A Uh-huh.
 21 Q Do you recall that in January of '19, the
 22 compensation committee met and directed management,
 23 quote, to develop a compensation policy to align with
 24 talent market and guiding principles?
 25 A Yes. So as I said, I knew there was a meeting

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1 in January. I didn't recall what -- if the Willis
2 Towers Watson study was presented in January. It seems
3 as though they approved the framework, based on what
4 you're telling me now.
5 Q And does that -- do you recall that
6 development in early 2019, with respect to looking into
7 JEA's compensation policy?
8 A Yes.
9 Q All right. I believe it is true that shortly
10 after that, Willis Towers Watson was engaged to work on
11 that initiative and delivered an early -- an initial
12 draft sometime in March of 2019.
13 Does that sound about right to you?
14 A Yeah. It was sometime in the spring. I don't
15 remember a specific date, but yes.
16 Q Do you recall Mr. Zahn being particularly not
17 pleased with the long-term initiative component of the
18 Willis Towers Watson product?
19 A I don't recall anything specific.
20 Q Did you ever hear him use the term "they had
21 dropped the ball" with respect to the long-term
22 incentive component of the -- of their product?
23 A I don't remember -- I don't recall that
24 specifically. I do recall that he wanted them to -- he
25 wanted them to provide the data of what was market

Page 22

1 and -- and not design policy as it related to the
2 board's policy.
3 Q And you know this from direct conversations
4 with Mr. Zahn?
5 A I recall at the time -- I recall that at the
6 time, that he -- he specifically wanted them -- from
7 conversations at the time, I recall that he specifically
8 wanted them to provide the data and that was it.
9 BY MS. HARRELL:
10 Q What kind of data was he looking for?
11 A Market 50th percentile, what was -- what was
12 the market 50th percentile. So for base salaries,
13 short-term incentive, long-term incentive for utilities,
14 that was what he was looking for.
15 BY MR. POWELL:
16 Q Do you recall that -- I have to be careful
17 about my pronouns here.
18 Do you recall that Willis Towers Watson
19 informed JEA at the time of starting this work that all
20 of its data was based on private sector utilities?
21 A No.
22 Q All right. Do you recall Willis Towers Watson
23 informing that there is no comparable in the
24 industry's -- in the industry, in the utility industry,
25 for a long-term incentive plan benefiting all employees

Page 23

1 in a public utility?
2 A I do recall that.
3 Q Did Willis Towers Watson ever tell you that
4 there was even a single other public utility in the
5 United States that had a long-term incentive plan that
6 benefited all employees?
7 A Not that benefited all employees, no.
8 Q Do you know whether they informed Mr. Zahn
9 that there was such a utility in existence?
10 A I believe they did.
11 Q Did you have a conversation with Mr. Zahn
12 about that?
13 A Yeah. We -- so --
14 Q In other words, you're saying -- is it your
15 recollection that Mr. Zahn was informed that there were,
16 in fact, other public utilities in the United States
17 that had a long-term incentive plan that benefited all
18 employees?
19 A I'm sorry. Can you repeat the question?
20 Q I think you answered that no, you were not
21 told by Willis Towers Watson of another public utility
22 in the United States that had a long-term incentive plan
23 that benefited all employees; correct? You're not aware
24 of one?
25 A I'm not aware of one that benefited all

Page 24

1 employees. That's correct.
2 Q And I think you just then said that you think
3 Willis Towers Watson told Mr. Zahn that there were other
4 utilities in the United States --
5 A No.
6 Q -- did I understand you correctly?
7 A No, no, no. So Willis Towers Watson
8 communicated that there were no other municipal
9 utilities in the United States that they knew of that
10 had a long-term incentive plan that benefited all
11 employees.
12 Q And that never changed throughout 2019; is
13 that correct?
14 A That's correct. They did not update that
15 statement.
16 MR. POWELL: All right.
17 BY MS. HARRELL:
18 Q Did Willis Towers Watson ever communicate that
19 there were municipal utilities that provided LTIs to
20 some employees?
21 A Yes.
22 Q Tell me about that.
23 A I don't remember the specific examples that
24 they used, but they communicated that there were
25 long-term incentive plans at some public utilities.

6 (Pages 21 to 24)

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1 Generally those were cash-based incentives and typically
2 either tied to a combination of performance and/or
3 time-based, you know, thresholds. So you have to stay
4 for three years, for example; right? Like the
5 employment threshold.
6 Q And when you say performance-based, is that
7 the employee's performance or the utility's performance?
8 A Both. Yeah.
9 Q And when these were provided to some
10 employees, what kind of employees?
11 A Generally senior management appointed-type
12 employees. Managers and above, that kind of thing.
13 Q Do you know when Willis Towers Watson told
14 y'all this?
15 A It would have been in the context of the study
16 that they did in the spring of 2019.
17 BY MR. POWELL:
18 Q In or about that time, do you recall
19 describing your concept of this plan to include
20 something that could be called "phantom stock"?
21 MR. MURPHY: You said the word "you" with the
22 word "concept." You mean him personally or JEA's
23 concept --
24 MR. POWELL: Okay.
25 MR. MURPHY: -- or Aaron Zahn's concept?

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1 MR. POWELL: With respect, you're here as a
2 witness, and if he has any questions, I'll be more
3 than happy to answer your questions about my --
4 about the way I'm putting things. And if my record
5 is messed up because I've used pronouns
6 incorrectly, that's my problem.
7 BY MR. POWELL:
8 Q My question to you --
9 MR. MURPHY: I disagree with you, first of
10 all, that I don't have a right to clarify your
11 questions. He has a right to have a lawyer here --
12 MR. POWELL: He has a right to have a witness
13 here.
14 MR. MURPHY: Well, the witness can be a
15 lawyer. You're saying he's not allowed to have
16 counsel?
17 Let's just be clear. You're saying he's not
18 allowed to have counsel?
19 MR. POWELL: I'm not saying he's not allowed
20 to have counsel --
21 MR. MURPHY: Okay.
22 MR. POWELL: -- but your role is limited.
23 MR. MURPHY: I disagree.
24 BY MR. POWELL:
25 Q Mr. Wannemacher, did you ever use the phrase

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1 "phantom stock" in describing the long-term incentive
2 plan that was contemplated at JEA in the spring of 2019?
3 A I don't recall that. I mean, the performance
4 units -- the concept of the performance unit is akin to,
5 you know, a stock-type plan in a corporate-type sector.
6 It was consistent with long-term incentive plans that
7 give, you know, stock-based awards and that kind of
8 thing.
9 But I don't recall ever specifically referring
10 it to, you know, stock. I mean, it's not stock.
11 Q Do you recall having discussions with Mr. Zahn
12 in the spring of '19 in the early stages of
13 Willis Towers Watson's work that included a discussion
14 of something akin to or called performance units?
15 A Uh-huh.
16 Q Is the answer to that yes?
17 A Yes. Yeah, we looked at several different,
18 you know, ways to try to come up with a long-term
19 incentive-type plan. I don't really remember how we
20 ended up at performance units, but that was one of them.
21 Q Was this -- were the idea of performance units
22 arrived at in discussion between you and Mr. Zahn?
23 A Not specifically between the two of us, I
24 don't believe.
25 Q Where do you first recall hearing of a concept

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1 such as performance units in relation to the development
2 of this long-term incentive plan?
3 A Probably from Willis Towers Watson.
4 Q Do you recall the performance units being
5 described at that time by Willis Towers Watson?
6 A Yes.
7 Q And what -- how were they described to you as
8 how they would work?
9 A They were described as -- so they were
10 described as something that would be common in a private
11 sector incentive program where you don't have, you know,
12 publicly traded securities. Right?
13 So in the public company context, right,
14 long-term incentive plans typically include some form of
15 restricted stock or options or something of that nature.
16 If it's a private company, you can't really give stock
17 in that sense.
18 And so what they described is that JEA, as
19 somebody who doesn't have stock, is more similar to a,
20 you know, privately held entity, and so, you know, they
21 said this concept of performance units would be
22 something that you would typically see in that setting
23 where you didn't have publicly traded stock to -- or,
24 you know, restricted stock to be able to grant.
25 Q Did you take that information and description

7 (Pages 25 to 28)

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1 to Mr. Zahn and discuss it with him in the spring 2019
2 time frame?
3 A I believe that -- so I had pretty limited
4 interaction with Willis Towers Watson on my own accord.
5 Most of the interaction was in meetings, which had, you
6 know, multiple people in it. So I wouldn't have -- I
7 likely wouldn't have heard that individually.
8 Q Is it fair to say there came a time when you
9 and Mr. Zahn did discuss the performance units and
10 decided upon that as the route to go for your long-term
11 incentive plan?
12 A I didn't -- I wasn't really the deciding
13 factor on the performance units -- on the decision to,
14 you know, choose the performance units over, you know,
15 some other plan. I think it was -- it was a combination
16 of, you know, trying to come up with a long-term
17 incentive plan that worked in the public sector. And,
18 you know, it was frankly a lot of legal work.
19 My role in the development of the performance
20 unit itself was pretty limited to what financial metrics
21 would you use to tie, you know, financial performance of
22 the business to some kind of an incentive program.
23 And at some point along the way, he -- he
24 wanted me to come up with a formula to get to a pool of
25 10 percent for employees based on those financial

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1 metrics. 10 percent of value creation, you know, over
2 the performance period.
3 MR. POWELL: Let's go off the record for a
4 minute.
5 MR. MURPHY: We don't need to go off the
6 record. I was just pointing out that you had said
7 he has a right to have a witness --
8 (Reporter clarification.)
9 MR. MURPHY: The agreement that you handed to
10 Mr. Wannemacher clearly says that he has a right to
11 be present with counsel, so I just want to make
12 that clear.
13 MR. POWELL: That's fine. We won't have any
14 problems with this as long as you limit your role
15 to providing appropriate counsel.
16 MR. MURPHY: Which is what I was doing
17 clarifying your question and the word "you."
18 THE WITNESS: I'm sorry. Can we take a
19 bathroom break?
20 MR. POWELL: Sure.
21 (Recess taken from 9:50 a.m. to 9:54 a.m.)
22 BY MR. POWELL:
23 Q Mr. Wannemacher, before we broke for a few
24 seconds here, you were talking about metrics and
25 formula.

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1 Do you recall providing a model of some sort
2 for the Willis Towers Watson folks in the March time
3 frame regarding these metrics?
4 A No. I may have -- I don't remember when we
5 came up with the financial metrics themselves. I mean,
6 the financial metrics themselves were essentially based
7 on earnings before dividends, which is pretty common as
8 it relates to, you know, an incentive plan.
9 Q Okay. Well, let me -- and this is not a
10 gotcha-type thing. I'm just trying to kind of
11 chronologically work through this process.
12 A Sure.
13 Q And I am obviously limited by documents, so to
14 speak.
15 But let me just show you a email from
16 David Wathen to Patricia Maillis March 27, 2019. I
17 don't see that you're copied on it, but there's a
18 reference to -- it reads: Pat, thanks for the update.
19 I think the model Ryan provided today is good for now.
20 We'll review that and let you know.
21 Would that help you get oriented to this time
22 frame? And this email trail goes on for a little bit.
23 I can share the rest of it with you.
24 Here's the ...
25 A I'll start back at the beginning.

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1 Good.
2 MR. MURPHY: Uh-huh.
3 THE WITNESS: Okay. I don't recall sending
4 them anything, but it appears, based on that email,
5 that I would have provided them with what they
6 asked for in the context of historical financials
7 and projections around, you know, net income and
8 some of the items that were requested there.
9 BY MR. POWELL:
10 Q And David Wathen is with Willis Towers?
11 A I guess so. I don't -- again, I had very
12 limited interaction with them. It was really more HR
13 who handled that relationship, so I don't --
14 Q So when he refers to a model that Ryan
15 provided today in his email to Pat Maillis, you don't
16 know what he's talking about?
17 A I don't recall, no.
18 MR. POWELL: For the record, these documents
19 that we were reviewing are the numbered JEA 0620
20 through 0626 of the materials provided to the --
21 Councilmen Diamond-Salem in response to their
22 request for records for the December 16th council
23 meeting, and we'll attach that as, I guess, our
24 first exhibit here today.
25 (Exhibit Number 1 was marked for

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1 identification.)
2 BY MR. POWELL:
3 Q You mentioned a formula. Can you elaborate
4 and educate me a bit on this formula that you were asked
5 by Mr. Zahn to develop?
6 A Yeah. He -- I don't remember the time frame
7 that he asked me to develop it, but he wanted to come up
8 with something that paid out 10 percent of excess value
9 creation above, you know, a certain threshold over a
10 three-year period to employees, and --
11 Q Do you know where he got that number from?
12 A I don't.
13 Q And by -- it was his number, not yours?
14 A Correct.
15 Q Were the thresholds left up to you, or did he
16 also provide you with thresholds?
17 A So I don't really recall how those got set
18 other than to say that we wanted the -- so there was
19 flexibility -- as the plan was drafted, there was
20 flexibility in the plan to change those thresholds each
21 performance period so that you -- if we were to look at
22 like our three-year projections, for example, over that
23 performance period, the intent was you didn't want
24 people to have, you know, long-term incentive based on
25 just kind of status quo operations of the business.

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1 You wanted to incentivize people to make
2 decisions to create value as opposed to just getting
3 paid to, you know, keep doing, you know, status quo, so
4 to speak.
5 So if you look at our projections, for
6 example -- if you look at our projections from '19 to
7 '22, which was the contemplated first performance
8 period, you know, the 10 percent threshold for the
9 challenge target that was contemplated was largely in
10 line with kind of the -- the threshold -- like with the
11 forecast for the three-year period.
12 Q And you're saying that that could be adjusted
13 every three years?
14 A Yeah. So each -- so what was contemplated in
15 the documents was that each performance period that
16 challenge target was something that would be set --
17 reset, you know, at that time based on, you know,
18 current projections and the board's approval.
19 Q But the performance period was three years;
20 correct?
21 A Correct.
22 Q And once the performance period began, could
23 the formula be adjusted?
24 A No.
25 Q So had the -- and I'm going to use the acronym

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1 PUP. When I use that, we're talking about the
2 performance unit plan; correct?
3 A Okay.
4 Q The same one that we've been talking about?
5 A Yes. Yes.
6 Q Had the PUP been launched -- and as I
7 understand it -- and am I correct that the intent, at
8 least until late October, was to launch the PUP in
9 December of 2019?
10 A Yeah, I think that was the intent, although
11 I'll say there was a ton of legal work going on to try
12 to make sure that we could do all this. Most of the
13 activity around the PUP itself was legal work.
14 Q Right. But had the PUP launched in
15 December of '19, the formulas that you had developed
16 would have been incorporated into the PUP and become
17 locked in for the first three-year performance period?
18 A Correct.
19 Q Okay. When you first developed the formula --
20 and let me -- I know that you don't remember
21 specifically. But do you remember having this
22 discussion with Mr. Zahn about developing a formula in
23 the spring of 2019?
24 A I don't.
25 Q How about prior to the June board meeting?

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1 A Prior to the June board meeting, yes.
2 Q All right. June 2019 board meeting?
3 A Correct, yeah.
4 Q And to be clear, you were not doing any of
5 this work associated with developing a long-term
6 incentive plan and a -- which became -- and effectively
7 in the spring of '19, it was now the long-term
8 performance unit plan, was it not?
9 A At some point it turned into that, yeah.
10 Q Heading into the June '19 board meeting?
11 A Yes, although honestly, I don't really
12 remember if the plan had really been drafted at that
13 point. I believe --
14 Q I understand it might have been drafted, but
15 it was being developed, was it not?
16 A Yes, I guess it was being developed. Again, I
17 don't know that we really had -- prior to the June board
18 meeting, I don't know that we had a draft of the
19 documents, or I don't really recall if I had seen a
20 draft of the documents prior to that June board meeting.
21 Q Well, but in the spring, Mr. Zahn was
22 expressing dissatisfaction with the Willis Towers Watson
23 work on the long-term incentive plan, was he not?
24 A I don't -- again, I don't recall that he -- I
25 don't recall specific dissatisfaction. I do recall that

1 he was -- he wanted them to provide the facts on market
2 50th, not necessarily policy. But I don't really recall
3 dissatisfaction, necessarily.

4 Q And to finish my question that I didn't
5 complete because I didn't ask it well, to be clear, you
6 were not doing any of this work on developing a
7 long-term incentive plan, later working on performance
8 units and formulas -- all of that was at the direction
9 of Mr. Zahn; was that correct?

10 A Correct.

11 Q Okay. So you were working on the formula
12 prior to the June board meeting; correct?

13 A Correct.

14 Q In the course of working on that formula at
15 that time, did you ever calculate the payouts from the
16 plan at the end of the first performance period?

17 A So the only thing that I did at that point --
18 so, again, the formula was designed to be 10 percent of
19 X, right? So fill in the blank for X --

20 Q Well, did you ever fill in the blank for X
21 based upon JEA's projected financials for the first
22 performance period?

23 A Yeah, so that was what was provided to the
24 council auditor. It was based -- those projections that
25 were based on our financial pro forma is what was

1 Q Was this 10 percent -- I'm sorry.

2 How would we characterize the 10 percent
3 component of the formula?

4 A So the challenge target that was set in the
5 formula -- that was the number that I referred to that
6 could change with each performance period -- was set
7 based on the three-year pro forma projections for -- you
8 know, at that time in July, you know.

9 And so we looked at -- again, we looked at
10 those pro forma projections, and it showed that it was
11 going to grow 10 percent. And so that was how we set
12 that challenge target.

13 Q All right. And so you're saying that it would
14 be easy for anybody to then take that formula, and -- as
15 long as they could get JEA's financial projections and
16 determine what? What would I be able to have determined
17 from that?

18 A Well, so from --

19 Q Assuming I could get all this other stuff.

20 A No, I mean, from JEA's financial projections
21 itself, you would have been able to calculate the
22 projected pool amount of the -- of the performance unit
23 plan at the end of that performance period.

24 So I mean -- and again, that was -- that was
25 what we used to set that 10 percent threshold for the

1 provided to the council auditor in the fall.

2 Q But not until the fall of 2019?

3 A Correct. But -- I mean, again, it was -- it
4 was a relatively simple formula.

5 So we have pro forma financials that we
6 project out, you know, on a regular basis and update
7 regularly. And so the way that we came up with that
8 10 percent threshold for the challenge target was to
9 look at those pro forma financials.

10 And, you know, you look at it and you say,
11 okay, three years from now, we expect that we were going
12 to make, you know, this much money as far as net income.
13 And so, you know, we need to set it at a level that's,
14 you know, at least there, right? You can't -- again,
15 that was the intent at that time.

16 So you could -- you could look at our
17 ten-year -- at our pro forma financials and, you know,
18 go to the balance sheet and say, all right, well, that's
19 our net position in three years, and so that grew
20 10 percent, so 10 percent will be the challenge target.

21 But I didn't have a spreadsheet to do that. I
22 mean, it was --

23 Q It was just in your head?

24 A Yeah. You could -- I mean, I can just look at
25 the paper and do that.

1 challenge target.

2 Q But no spreadsheet or calculations were
3 prepared by you until the fall of 2019?

4 A I don't think so. Again, I -- it was a pretty
5 straightforward calculation. I mean, you're talking
6 about ones and -- you know, tens and -- I mean, it's
7 just moving decimals.

8 Q What do you recall of the presentation of the
9 plan to the board in July of 2019?

10 A What do I recall? Can you be more specific?

11 Q Did you -- did you present the PUP to the
12 board?

13 A I did.

14 Q And what do you recall of that presentation?

15 A I recall presenting it. I mean, again -- I
16 mean, is there something specific that you're --

17 Q Well, did you take questions from the board
18 about what the payout would be for the PUP at the end of
19 the first performance period?

20 A Yeah, so it was described -- so I did describe
21 the performance unit plan. I described the
22 calculations. I described -- my recollection -- my
23 recollection is that I described, you know, generally
24 how the -- how the -- how the plan worked.

25 Q Do you recall informing the board that if

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1 there was a recapitalization event during the
2 performance period that that would effectively end the
3 performance period and you would perform the calculation
4 at that time?
5 A Yes.
6 Q Prior to that meeting, had you performed a
7 calculation assuming various returns to the City in the
8 event of a sale of the agency?
9 A No. But I mean it's -- so, again, it's
10 10 percent above the challenge target. So pick a number
11 and I could tell you the pool amount.
12 So just to -- just high math, right? The
13 challenge target -- based on the -- based on the board's
14 minimum requirements under the ITN, there would have
15 been no value to the performance units. They would have
16 been worth what people put in. They would have not
17 changed value at all.
18 To the extent that the sale amount exceeded
19 those minimum requirements that the board set, then
20 again, it would have been 10 percent of any excess value
21 above, you know, kind of those minimum requirements.
22 When you do the math on that, when you look at
23 those minimum requirements plus the debt that we owed,
24 it would have been somewhere around high 7s, probably.
25 Q High 7s what?

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1 A For the enterprise value. Call it just under
2 8 billion, would have been the minimum that you would
3 have had to sell the enterprise for in order to have any
4 value created by those performance units.
5 So -- but again, beyond that, it was
6 10 percent. So for -- so if you go from, you know, call
7 it 8 billion to 9 billion, it's 10 percent of that, is
8 what was contemplated. So \$100 million for the pool in
9 that instance.
10 Q So \$100 million for the performance unit pool,
11 and if there are 100,000 units -- if 100,000 units had
12 been purchased, help me on the math, what's the value
13 per performance unit?
14 A So --
15 Q 100 million divided by 100,000. Is that what
16 it is?
17 A Well, so the 100,000 units is what was
18 authorized under the plan. There was never any
19 discussion that I was a party to related to allocating
20 more than -- you know, what was contemplated with the
21 board was, you know, roughly a third of those units.
22 And so the plan was designed to be a multiyear
23 plan, but the allocations that were contemplated by the
24 board -- or what was presented to the board -- and
25 that's how you get to the 10 percent.

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1 Q Okay. So dividing 100 million by 100,000 is
2 1,000; right?
3 A Yeah.
4 Q And if we divide 100 million by 30,000, you
5 get 3,333, don't we?
6 A Uh-huh.
7 Q So the value per unit would have been -- even
8 had only 30,000 units been sold under your description,
9 a unit that one purchased for \$10 would have been worth
10 \$3,333?
11 A Yeah.
12 Q Did you have that awareness in July of 2019
13 when this plan was presented to the board and approved?
14 A Yeah, I -- again, the work that was done was
15 related to the calculation of the pool itself. Look, I
16 understand the optics of your statement.
17 Q Well -- and I appreciate that. But it is a
18 bit more than optics, and so let me just -- let me just
19 try to ask and get some -- we need to get a little
20 succinctness here, if you don't mind.
21 A Okay.
22 Q But I do want you to explain your answers if
23 you need to. I understand that.
24 A Yeah.
25 Q So when I ask if you had an awareness at the

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1 time this plan was presented to the board in July 23 of
2 this potential of a -- a return of \$3,333 on a \$10
3 investment in the event of a recapitalization event
4 within the performance period -- that's just a yes or
5 no. Did you -- did you appreciate that potential when
6 this plan was presented to the board in July of 2019?
7 A I appreciated that the pool was equal to
8 10 percent of whatever value creation was created and
9 that you could divide that by 30,000 to get the value
10 per unit.
11 Q All right. And had you ever run out that
12 calculation even in your mind and realized that there
13 would be this sort of return on a \$10 investment at the
14 time of the July board meeting?
15 A Yeah, so again, the -- it was -- it was never
16 positioned as an investment. It was intended to be a
17 long-term incentive plan.
18 The -- where it ended up where it did in the
19 context of the performance units being purchased as
20 opposed to granted and the calculations around what was
21 the purchase price and all that sort of thing was really
22 an outflow of the legal work that was done to try to
23 develop something that worked in the public sector.
24 So, again, the conversation from my
25 perspective was really more around how do you get to

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1 10 percent of the value creation above, you know, a
2 certain -- a certain challenge amount. And beyond that,
3 the legal work was done to try to shoehorn something
4 into something that was -- you know, would work, again,
5 in the public sector.
6 Q All right.
7 A It was never an investment plan. It was
8 intended to be a long-term incentive plan.
9 Q Was Mr. Zahn fully aware of your appreciation
10 of the potential of this plan when this was presented to
11 the board in July of 2019?
12 A Yes.
13 Q There was really nothing you knew about the
14 plan that he did not know; is that fair to say?
15 A Absolutely.
16 Q And although it's a completely other topic
17 that we will come back to, there is an overlap with the
18 issue of the recapitalization or sale of JEA; correct?
19 A Timing-wise, yes.
20 Q And the discussion of recapitalization or sale
21 of the agency was in the mix at the time of the July 23
22 board meeting, was it not?
23 A Yes.
24 Q And, in fact, it was one of the action items
25 presented to the board, was it not?

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1 A Correct.
2 And to be clear, what was presented to the
3 board at the July 23rd board meeting was a request,
4 really, to allow us to explore nongovernmental ownership
5 structures.
6 Q I appreciate that clarification.
7 A Yeah.
8 Q But it was also at that board meeting that the
9 performance unit plan was presented for approval, and it
10 was approved, was it not?
11 A It was.
12 Q Prior to that meeting, the July 23 board
13 meeting 2019, did you and Mr. Zahn have a discussion
14 about that interplay between the performance unit plan
15 that you were proposing and the authority you were
16 seeking to pursue the recapitalization or restructuring
17 of JEA?
18 A Yes.
19 Q Did you discuss the potential that should the
20 agency sell within the performance unit period, prior to
21 the end of it, for -- let's use your 8 or \$9 billion
22 target, that the performance units would have this
23 higher value relative to what they were purchased for?
24 A I don't know that we discussed the -- I don't
25 recall if we discussed the specifics around the -- that

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1 interplay specifically, around the purchase price and
2 the purchase -- and the unit price at the end. We did
3 discuss the -- we were all fully aware of the fact that
4 it was 10 percent of value creation.
5 Again, it was -- it was never intended to be
6 an investment plan. It was a long-term incentive plan.
7 The --
8 Q But would you agree that when you intertwine
9 the recapitalization event with the plan during the
10 performance period that it effectively becomes an
11 investment plan? I mean, isn't that the end result of
12 it?
13 A Well, so -- look, even the concept of having
14 them purchased developed very late in July as the
15 lawyers were working to try to develop the plan. It
16 was -- the original concept of it was that they would be
17 granted to employees.
18 The -- for whatever reason, it was determined
19 that it would -- there were some legal -- again, I'm not
20 a lawyer, so I -- for whatever reason, the lawyers
21 determined that there was some legal reason why
22 purchasing it would be better. Again, and I don't know
23 what the reason for that was.
24 I relied on attorneys a lot as it related to
25 the documents themselves. I mean, there were -- we had

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1 literally dozens and dozens of attorneys looking at all
2 aspects of this from both OGC and specialty counsel.
3 BY MS. HARRELL:
4 Q When you say that the concept of having them
5 purchased was developed in late July, was that before or
6 after the July 23rd board meeting?
7 A Before, but it was -- as the documents were
8 being drafted in July, the concept of purchasing them
9 kind of grew some legs, and then the question was just,
10 well, what's the right number, what's the right dollar
11 amount for the -- I mean, again, you could have done
12 \$100 units and done, you know -- you know, 10,000 units
13 instead of 100,000 units. It was just -- again, you're
14 kind of just moving numbers, right? So --
15 Q So how was the \$10 amount?
16 A I don't -- I remember that there was some
17 discussion at a meeting in July that was at the -- so as
18 we moved into the July board meeting, all of the -- all
19 of the July agenda items really kind of came together
20 like the second or third week of July. And so we had
21 kind of an all-hands meeting here in Jacksonville with,
22 geez, probably 40 or 50 people.
23 BY MR. POWELL:
24 Q Would that have been the meeting at the
25 Club Continental?

12 (Pages 45 to 48)

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1 A Yes.

2 Q And that meeting was attended by you,

3 Mr. Zahn, Mr. Vinyard, Ms. Dykes, and Mr. Hendricks; is

4 that right?

5 A Kendrick?

6 Q Kendrick.

7 A Yeah. And I believe that -- I believe John

8 McCarthy was there.

9 Q Do you remember anybody else from the senior

10 leadership team being there?

11 A Boy. Let me think.

12 I don't recall anybody else from the senior

13 leadership team being there.

14 Q While we're on the topic, can you tell me

15 what -- you were about -- I think you were describing

16 that meeting.

17 Could you share what that meeting was all

18 about and --

19 A Yeah. It was basically to get all the

20 documents in order for the July board meeting. So

21 essentially everything that you saw on the agenda at the

22 July board meeting really kind of came together those

23 couple of days.

24 Q Do you remember the dates of the

25 Club Continental gathering?

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1 A It was the middle of July, probably that week

2 after the 4th. You know, second or third week in July,

3 something like that.

4 It was an all-out sprint, I mean, to get

5 everything from -- I mean, from where we stood in June,

6 we basically had nothing done as it related to the July

7 items. And so, you know, it was all hands on deck to

8 try to get everything put together.

9 Q Sort of begs the question. Why the rush?

10 A Aaron was concerned about leaks.

11 Q About leaks?

12 A Yeah. He --

13 Q Explain, please.

14 A So he was concerned that the longer we took,

15 the more likely it was that, you know, somehow

16 information would get out about the work we were doing

17 and that, you know, you'd have public records requests

18 and all of that. So he wanted to act efficiently and,

19 you know, pull everything together.

20 Q Why would public awareness have been a bad

21 thing?

22 A I think he was concerned -- I mean, obviously

23 public awareness was a given. It's a public entity. I

24 think he was concerned about drafts and that kind of

25 thing. I mean, as work's being done, things are going

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1 back and forth. I think he was concerned about

2 incomplete documents kind of getting out and not having

3 control necessarily of the narrative, if that makes

4 sense.

5 BY MS. HARRELL:

6 Q When you say "the work we were doing," what

7 do you mean, "the work we were doing"?

8 A All the work that we were doing related to the

9 July board agenda, the items on the -- that were

10 presented in July.

11 BY MR. POWELL:

12 Q What narrative was Mr. Zahn trying to control?

13 A What you saw at the July board meeting. He

14 wanted to present it as a package.

15 BY MS. HARRELL:

16 Q So when you talk about "the work we were

17 doing," are you talking about Scenario 1, Scenario 2,

18 Scenario 3 that was presented at the July 23 board

19 meeting?

20 A No. All the documents -- well, so partially,

21 I guess, it was the whole thing, right, all the

22 documents that were prepared up to that. We had WARN

23 notices ready to go out. We had -- I mean, we had a

24 list of employees, you know, that were going to be

25 RIF'd. I mean, so that's all really sensitive

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1 information, right?

2 We already had employees that were on edge,

3 and so, you know, it was that whole package, right?

4 Again, he didn't want the employee list to get

5 requested, given the fact that there were names on that.

6 Q And the whole package included the long-term

7 incentive plan?

8 A Yes.

9 Q And all the Willis Towers Watson stuff?

10 A I don't remember if we presented Willis Towers

11 Watson again in July. I think the compensation

12 committee report out was in June, if I recall correctly,

13 to the board, and then the board directed us to put

14 together a plan that was consistent and bring it back.

15 And so that was what was presented in July.

16 I don't know there was anything regarding

17 Willis Towers Watson that was presented in July.

18 BY MR. POWELL:

19 Q I'm going to ask if you could look at a

20 document for me and clarify something. This is a

21 document that's -- and, again, this is from the

22 Diamond-Salem production, and these are JEA documents

23 Number 0295 through 0335, and the first page is a cover

24 sheet of Total Market Compensation Strategy. It says

25 June of 2018.

13 (Pages 49 to 52)

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1 A Yeah.
2 Q Is that a typo?
3 A That is a typo, yeah.
4 Q Okay.
5 A Yeah, I believe --
6 Q So this is the 2019 --
7 A That's correct. Yeah.
8 Q That was my understanding.
9 A Yeah.
10 Q I appreciate you clarifying that for me --
11 A Yeah.
12 Q -- because I've been scratching my head for --
13 I didn't know who to ask, but I figured I could ask you
14 and you'd straighten it out for me.
15 A I believe that was a typo.
16 Q All right.
17 So if we go over here to Page 0305, this is
18 the Long-Term Incentive Plan Design; correct? That's
19 what it says?
20 A That's what it says.
21 Q And you roll down through it, and we see at
22 the bottom an Estimated Cost. And by the way, it
23 includes the payout range you've talked about, the
24 threshold 50 percent of target, maximum 150 percent of
25 target.

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1 Is that a cap?
2 A So that slide was a slide that
3 Willis Towers Watson did. That was their
4 recommendation, I believe. We didn't -- we didn't -- or
5 at least to my knowledge, we didn't make that slide. I
6 think that's a Willis Towers Watson slide.
7 Q This was presented to the compensation
8 committee in June of '19; correct?
9 A Yes, according to that presentation.
10 Q All right. And you agree that the typo --
11 A Yeah, it's a typo. Yeah, that's right.
12 Q Do you remember these slides being presented
13 to the compensation committee in June of 2019?
14 A I believe they were, based on the package of
15 information here. I don't really recall the specific,
16 but I believe they were.
17 Q All right. And do you see at the bottom down
18 there where it also says Estimated Cost, it reads:
19 Estimated cost of annual performance unit awards to all
20 employees based on current incumbent base salaries is
21 \$3.4 million.
22 A Uh-huh.
23 Q You see that?
24 Was that \$3.4 million a year in annual cost of
25 this plan going forward?

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1 A That's what they wrote there, yes.
2 Q All right. And do you know where they got
3 their number?
4 A No.
5 Q Was any other number presented to the board of
6 directors prior to their approval of the plan in July
7 regarding the estimated cost of the performance unit
8 awards at the end of the performance period?
9 A I don't know. I don't -- I don't -- I don't
10 recall.
11 Q After the -- let's move beyond the July 23
12 board meeting for a moment.
13 Do you recall in late August getting an email
14 from Jessica Lutrin with the Pillsbury firm regarding
15 conversations with Michael Kirwan at Foley indicating
16 that based on his calculations, the PUP formula is
17 spitting out much larger numbers than we anticipated?
18 A I do recall that email, yes.
19 Q All right. Did you ever see these
20 calculations that Mr. Kirwan -- I'm sorry -- the --
21 these calculations by Mr. Kirwan that Ms. Lutrin is
22 talking about?
23 A I don't believe so.
24 Q The email replied -- and so she sent that on
25 August 23 at 10:11 a.m., and you replied at 10:37:

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1 Jessica, thanks for following it up. I agree that it
2 makes sense to clarify that the contribution to the City
3 should not include the debt payoff. It should be any
4 amounts after the payment of debt.
5 And to me, that's a disconnect. I don't
6 understand the response to the concern expressed by
7 Ms. Lutrin, and I was hoping you could explain it to us.
8 A Yeah, so she followed up. We had a
9 conversation. I don't -- I think it was both with her
10 and the Foley attorney that you referenced.
11 Q Within that 16-minute period?
12 A Yes. So they had a -- they were misapplying
13 the formula. He was -- I don't remember the specifics
14 of like what he was doing, but he was doing something
15 with the debt where he was kind of counting that as
16 value to the City, the debt being paid off or some way.
17 And so he was just -- he was misapplying the formula.
18 And so we talked about it. I said, okay,
19 well, I understand how you got that. It's not -- it's
20 not what's intended. And so we agreed to try to clarify
21 that formula in the -- in the plan document.
22 Q Was that done?
23 A I believe so. Again, I --
24 Q I know, the lawyers --
25 A Much of this -- yeah. I mean, again, I didn't

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1 draft any of the document and frankly really didn't
2 have -- I wasn't in the loop on the drafts going back
3 and forth or anything like that.
4 To the extent I needed to get engaged on
5 something, they would reach out, but generally didn't --
6 again, it was lawyers, mostly, at that point.
7 Q Well, but were you and Mr. Zahn kept informed,
8 kept abreast of developments by the lawyers?
9 A Again, only to the extent that it was
10 something I needed to provide input on. I don't know
11 what -- I don't know what they were doing with Aaron as
12 far as the documents and that kind of thing.
13 But, again, from time to time they would reach
14 out and say, hey, can you make sure this is
15 characterized correctly or whatever, and, you know, I'd
16 respond.
17 Q Is it -- so the -- to your thinking, the
18 formula got fixed in -- after this exchange with
19 Ms. Lutrin?
20 A As it related to those -- to that email, yes.
21 Q All right. So the formula that was ultimately
22 evaluated by the council auditor in October and into
23 November was, from your perspective, the correct
24 formula?
25 A Correct.

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1 Q All right.
2 A Yeah. And I verified that with them. And I
3 think that's what you have there.
4 Q So there was an email exchange between you and
5 Kim Taylor, November 13. You returned the updated
6 spreadsheet. You said your methodology is correct. You
7 filled in a table with 2019 unaudited and projected 2022
8 numbers, and at the end of this performance period, your
9 formula generated a value per performance unit of
10 \$167.78.
11 Do you recall that?
12 A I recall that spreadsheet, yes.
13 Q Okay.
14 A So to put it into context --
15 Q And again, just so I'm understanding --
16 A Yeah.
17 Q -- that would mean that if I had purchased
18 a -- if I had been eligible to purchase a performance
19 unit and I had purchased one at the end of 2019 for \$10
20 that it would have been worth \$167.78 at the end of the
21 first performance period?
22 A Correct. And so, again, just to put some
23 context around that, so if you do the math on 167 or
24 \$168 times 30,000 units, you're talking somewhere around
25 5 million bucks or so, which is 1 percent of payroll

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1 over that three-year time period. We pay about
2 \$500 million to employees over three years.
3 So it was functionally zero as it related to
4 the long-term incentive as, you know, a percentage of
5 payroll -- in the context of the pool, it was, you know,
6 one -- again, about 1.6, \$1.7 million per year if you
7 were to annualize it. On an annual salary budget of
8 165 million or so, somewhere in that ballpark. It goes
9 up about 10 million a year.
10 Q So is this a number that's comparable to the
11 3.4 million that we were talking about a minute ago, the
12 annual cost of the performance unit plan that had been
13 estimated by Willis Towers?
14 A Again, I don't know where the \$3.4 million
15 came from, but again, if you take \$5 million, which is
16 the value of what this would have been, assuming the
17 30,000 units, divided by 3, yeah, it's \$1.7 million
18 annually would have been the cost.
19 And that was really how I viewed it. It was a
20 long-term incentive plan.
21 Q Up until the -- I'm just going to use the end
22 of October as a benchmark, but -- because I know it
23 leaked a little bit into November.
24 But at least at the end -- at the end of
25 October, would you say that it was the prevailing

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1 thought among the senior leadership team that JEA would
2 be sold pursuant to the ITN?
3 A I can't speak to what the prevailing thought
4 amongst the senior leadership team was. I guess, I --
5 Q All right. I'll --
6 A I'm not --
7 Q Sure. That's fair. All right.
8 On the other hand, you are a member of the
9 senior leadership team --
10 A Right.
11 Q -- and you interact with them, so I didn't
12 think it was an entirely unfair question.
13 But let me ask you this -- the same question
14 then about your conversations with Mr. Zahn. During
15 October, leading to the end of October, in your
16 conversations with Mr. Zahn, were the two of you of a
17 view that JEA would most likely be sold pursuant to the
18 ITN?
19 A So I can speak for me personally. I thought
20 that there was a lot of wood to chop.
21 Q A lot of what?
22 A A lot of wood to chop as it related to getting
23 to an outcome under the ITN. If you go back to the
24 time, right, you had -- you had a City Council that
25 seemed to be very against it. You had a lot of articles

1 in the media. It's no secret that Aaron was -- had a
 2 lot of articles -- you know, negative articles written
 3 about him and the process and all of that.
 4 So I think that there was a hope that we would
 5 get to a proposal. As far as whether or not the utility
 6 would be sold pursuant to that proposal, boy, I didn't
 7 think the chances were all that high, because you had to
 8 go through City Council and then you had to go to a
 9 referendum. And so, you know, hard to say I expected
 10 all of that to sort of line up, really.
 11 Q Was it Mr. -- would you -- based upon your
 12 conversations with him, would you say that it was
 13 Mr. Zahn's at least hope and expectation during the
 14 October time frame that JEA would be sold pursuant to
 15 the ITN?
 16 A I don't know. So we had a lot of
 17 conversations about the initial public offering as an
 18 option. Personally, I thought that was a pretty good
 19 option in that it kept JEA, you know, as JEA. So --
 20 Q But that would privatize JEA?
 21 A Correct. It would change the form of
 22 ownership, but it wasn't -- it wasn't pursuant to the
 23 ITN. So --
 24 Q Fair enough.
 25 A -- again, we were looking at -- just to

1 clarify your question.
 2 I'm not sure that anyone, you know, had a --
 3 had a view that like the result of the ITN was going to
 4 be the ultimate answer. I think it was an answer. I
 5 think it was a possible answer. I don't know what Aaron
 6 hoped for or what he thought was the likely outcome.
 7 There's no way for me to know that.
 8 Q You know, I appreciate your answer there,
 9 because you are reminding me that all of these possible
 10 outcomes are all under the -- under the interesting
 11 umbrella of the recapitalization event; correct?
 12 Because you could recapitalize through an IPO --
 13 A IPO, concession. There was one proposal that
 14 was proposed that would put the assets into a pension
 15 fund. There's a -- there's a utility in Indiana that's
 16 a public trust, public charitable trust. There -- we
 17 looked at co-op structures where you give ownership
 18 directly to customers.
 19 Q All right. So let me ask the question more --
 20 perhaps more accurately.
 21 Based upon your conversations with Mr. Zahn --
 22 and you -- you were right there. You were a daily
 23 conversant with Mr. Zahn, were you not?
 24 A Yes.
 25 Q All right.

1 A Yeah.
 2 Q Was there anybody in the group that worked
 3 more closely with Mr. Zahn than you?
 4 A I don't know about more closely. I would say
 5 equally as close. Anybody that reported directly to
 6 him --
 7 Q Okay.
 8 A -- likely talked to him on a daily basis.
 9 Q And you would agree that Mr. Zahn's
 10 overriding -- or would you agree that Mr. Zahn's
 11 overriding focus and attention as CEO was the strategic
 12 future of JEA? Correct?
 13 A Correct.
 14 Q He was not a day-to-day hands-on with the
 15 operations of JEA; fair to say?
 16 A Correct.
 17 Q All right.
 18 A Fair to say.
 19 Q Based upon your working -- your close working
 20 relationship with him, as we've established, would you
 21 be of the view that in the August, September, October
 22 time frame that Mr. Zahn's hope and expectation was that
 23 JEA would get to a recapitalization event in the --
 24 within a one- or two-year period?
 25 A I think that Aaron saw the recapitalization

1 event as the most likely way to remove the constraints
 2 impacting the business, principally, you know, related
 3 to government ownership.
 4 Now, as far as which recapitalization event, I
 5 don't know.
 6 Q And that's why I asked the question --
 7 A Yeah.
 8 Q -- the second time the way I did.
 9 But you would not disagree, would you, that
 10 Mr. Zahn's driving objective as CEO of JEA was to
 11 accomplish this fundamental change of the agency --
 12 A I don't think --
 13 Q -- through -- through a recapitalization event
 14 of some kind?
 15 A I don't know that it was his driving intent to
 16 recapitalize the business. My observation in working
 17 with him was that he wanted to lay out all of the
 18 options and say, look, here are the -- here's the menu,
 19 do what you want, and we'll -- we'll do whichever
 20 direction you want us to.
 21 For example, my team worked a lot on -- you
 22 know, we did cost of service studies on, you know, what
 23 kind of rate changes we would need in the future,
 24 specifically around the plant Vogtle obligation, you
 25 know, falling sales and what that looked like, how we

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1 would need to, you know, change the rate structure as a
2 government. We had plans on how that would work.
3 And frankly, from my standpoint as the CFO --
4 look, my job is to balance the books, right? So you
5 sort of give me the constraints that I'm working under,
6 and I -- you know, here's the answer, right?
7 Q Mr. Wannemacher, I'm not suggesting that you
8 were the driving force of any of this. I just know
9 that -- I mean, I only have a few people that are
10 working closely day to day with Mr. Zahn, and you're
11 working with him on these matters.
12 I understand you have all those other
13 responsibilities and perhaps more fundamental
14 responsibilities, but --
15 A Yeah.
16 Q -- you were working hand-in-hand with him
17 through the spring and summer of 2019 to develop not
18 only the long-term incentive plan that became the
19 long-term performance unit plan and presenting proposals
20 to the board and developing them in, you know, a all-out
21 push effort in July of 2019 to get this package of
22 proposals and concepts and plans to the board for
23 approval on July 23, were you not?
24 A Yes, I worked with him.
25 Q All right. And did you-all obtain -- did the

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1 board provide you with the outcomes you were seeking on
2 July 23, 2019?
3 A To authorize us to explore additional
4 scenarios related to nongovernmental ownership
5 structures.
6 Q Plus the PUP; correct?
7 A Oh, yes.
8 Q And plus a host of employment contracts?
9 A Employment contracts and -- yes.
10 Again, to answer your question specifically
11 around my observations of working with Aaron, I believe
12 from my observations of working with him that there was
13 an honest assessment done of all of the possible
14 scenarios as it related to strategic planning. I didn't
15 see a predetermined outcome as it related to the end of
16 the road there.
17 Q Did the -- were the board's decisions at the
18 July 23 meeting with respect to authorizing work to
19 reconstitute the agency in a nongovernmental fashion,
20 was that Mr. Zahn's desired objective at that meeting?
21 A The board's approval was -- I'm sorry.
22 Can you maybe repeat the question or clarify
23 it again?
24 Q Well, how about you tell me what the board did
25 on July 23 with respect to the recapitalization options

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1 for JEA.
2 A So the board authorized us to look at what the
3 options would look like under a nongovernmental -- you
4 know, how a nongovernmental ownership structure might
5 look and what -- you know, what that path might look
6 like.
7 Q And Mr. Zahn desired that authority, did he
8 not?
9 A Correct.
10 Q Okay.
11 A There was no functional way that we could have
12 done that work without board approval. I mean, it's
13 Sunshine. I mean, there was no -- we needed so much
14 effort to do that work to actually get to an answer
15 that --
16 Q No, I know that. But Mr. Zahn wanted the
17 authority to do that work, did he not?
18 A Yes, he did.
19 Q And that was the principal focus of all that
20 effort in July, including the gathering at
21 Club Continental, was it not?
22 A Yes.
23 So I will say the gathering at
24 Club Continental was more than just the nongovernmental
25 ownership discussion. There was a lot of work done

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1 that -- well, it was the entire board package, right?
2 So there was a lot of work done that was related to the
3 rest of the board package at that meeting. So it was --
4 it was the whole meeting, really, yeah.
5 Q I appreciate that. But there was no other
6 component of what you were asking the board to
7 authorize, was there, in the -- what I would call the
8 bucket of JEA's future structure?
9 A No, we did, we asked them to either authorize
10 us to do the traditional utility response, which would
11 have included layoffs, rate increases, you know, other
12 cost cuts, that kind of thing, or -- because we
13 presented that plan, right -- or, you know, pursue other
14 options to try to remove the constraints.
15 Q And was it not Mr. Zahn's preferred outcome
16 that the board approve the other option to pursue other
17 structural forms to move forward?
18 A Yeah, I think it was all of our preferred
19 outcomes to not lay people off. And raise rates without
20 at least exploring those.
21 Q All right. So --
22 THE WITNESS: I'm sorry. Can we take another
23 break?
24 MR. POWELL: Sure. And, in fact, we've been
25 going -- let's go off for a minute.

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1 (Recess taken from 11:05 a.m. to 11:13 a.m.)
2 BY MR. POWELL:
3 Q I know we covered this a little bit, but I
4 can't recall what you said in terms of timing here.
5 At the time of the July 23 board meeting, do
6 you recall being aware -- and I know it was the lawyer's
7 problem or issues, but do you recall being aware at that
8 time that employees would be required to purchase the
9 performance units as opposed to them being granted to
10 them?
11 A Yes.
12 Q And so the \$10 per unit figure had been
13 arrived at prior to the July 23 board meeting?
14 A Yeah, it was arrived at in that meeting at
15 the -- in Orange Park at Continental Club or
16 Club Continental?
17 Q Club Continental?
18 A Yeah.
19 (Discussion off the record.)
20 MR. POWELL: I'm going to turn this over to
21 Ms. Harrell for some questions, and I think
22 Ms. Teodorescu at the end will have some as well --
23 on this topic, on this topic of the --
24 MS. HARRELL: On the PUP.
25 MR. POWELL: -- long-term incentive plan and

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1 the PUP.
2 BY MS. HARRELL:
3 Q I believe you said earlier that Mr. Zahn was
4 not happy with Willis Towers Watson because he wanted
5 them to provide data, not design policy; is that a fair
6 statement?
7 A Again, I don't -- I don't really remember him
8 being necessarily agitated or anything like that. He --
9 I do remember him making a comment that he wanted them
10 to provide the data for what is market 50th. He didn't
11 want them to develop policy around, you know, the
12 board's decisions.
13 Q Okay. Do you know what kind of policies they
14 were providing?
15 A I think it was around recommendation -- I
16 think there was some discussion around recommendation
17 around how to get to, you know, market 50th, and what
18 that looked like. Again -- but I don't really remember
19 the specifics, I guess, around what -- what they were
20 saying --
21 Q Okay.
22 A -- what Towers Watson was saying.
23 BY MS. TEODORESCU:
24 Q Are you basically saying there was a
25 disagreement over the definition of the market?

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1 A No. It was -- it was around plan design and
2 the board's policy around, you know, the overall
3 philosophy.
4 Q Was Towers Watson saying it doesn't have to be
5 50th percentile?
6 A No. They didn't have an issue with the 50th
7 percentile. I think it was just a function of how you
8 get there, right? So it was do you do it all at once,
9 or do you do it over a long period of time, or do you
10 kind of ignore long-term incentive altogether or -- you
11 know, is it multiyear, multistep. It was that kind of a
12 discussion that Aaron was pushing back on.
13 BY MS. HARRELL:
14 Q Okay. I'm going to show you what was part of
15 the notebook at the Diamond-Salem hearings. It's hard
16 to tell from here, but it was labeled as JEA 0306.
17 Does that look like one of the Willis Towers
18 documents?
19 A This does -- yeah. So given the color scheme
20 here, it does appear to be a Willis Towers slide,
21 although it does say, Market data provided by JEA. So I
22 don't know what that is, but --
23 Q Okay. I'm going to show you another copy of
24 that. It looks like it's a -- it looks like it's from
25 the compensation committee. It's dated June 18th, 2019,

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1 and it's also marked as Page 32, as is JEA 0306. And it
2 has information on it that says it was provided by
3 Willis Towers Watson.
4 A Right.
5 Q So does that -- is that consistent with you
6 looking at the color scheme on the one that's in color
7 and it's a Willis Towers Watson document?
8 A Yeah, again --
9 Q Okay.
10 A -- so this purple shading was their formatting
11 and all that, so that's why I believe it was a Willis
12 Towers Watson, although, again, I note that the note
13 says, Market data provided by JEA, so ...
14 Q Okay. And the reason I'm asking you about
15 this other one is it also says, Note: Market data
16 provided by JEA, and it's got Willis Towers Watson's
17 logo and copyright on there and all that too.
18 So why -- did you provide the market data to
19 Willis Towers Watson at any time?
20 A No.
21 Q Okay. Do you know who would have provided it
22 to them?
23 A I don't. Maybe someone in HR.
24 Q Okay. Do you know --
25 A No, I wouldn't have had that data.

1 Q Okay.

2 A I mean, as part of my job, I don't really do

3 compensation, I mean, as far as individual -- individual

4 employees.

5 Q Okay.

6 A Yeah.

7 Q That makes sense.

8 Do you know if that was the data that Mr. Zahn

9 was concerned about or that he had said he wanted

10 Willis Towers Watson to provide rather than policy?

11 A He -- so I don't know about this data

12 specifically. Again, he -- the nature of the request to

13 Willis Towers Watson was what is the market 50th

14 percentile for, you know, our employees.

15 Q Okay. And why would you need to hire an

16 outside firm to get that?

17 A Because they -- that's what they do. I mean,

18 they do market compensation studies.

19 Q Okay. JEA wouldn't have that information?

20 A Not in -- I mean, I guess we could

21 theoretically do our own study somehow, but I don't know

22 how we would get that data.

23 Q Okay.

24 A Again, that's principally what they do for

25 business is market compensation studies.

1 Q And then --

2 A And we've used them for years prior to this.

3 Q Yeah.

4 A I mean, this is a long-term kind of

5 relationship.

6 Q And so is it your understanding that once

7 Willis Towers Watson provided JEA with the data, then

8 JEA senior leadership team, direct reports to Aaron

9 Zahn, would design the policy to meet the compensation

10 goals?

11 A The board designs the policy. I mean, that

12 was completely in their arena.

13 Q Okay. Well, did the board design the PUP?

14 A Not the specific plan, no. But the board sets

15 the policy around market compensation. As the board --

16 the compensation committee's directive around how JEA

17 shall, you know, compensate employees was -- was what we

18 were operating under.

19 Q And that's done with input from senior

20 leadership; right?

21 A I guess to some degree. Again, it's -- I

22 don't know where that board policy originated. I mean,

23 it had been in place for a number of years. Aaron

24 worked with the compensation committee to update it to

25 reflect the four measures of value and sort of make some

1 edits to that respect, but -- so I -- it goes back

2 probably before I even arrived at JEA, frankly. Yeah.

3 Q Okay. You said earlier that y'all were

4 looking at several different ways for long-term

5 incentives.

6 What other ideas were tossed out other than

7 performance units?

8 A So at one point we looked at whether or not we

9 could -- we could give employees bonds. So, again, we

10 don't have stock as a public entity, but we do have

11 bonds.

12 And so it was a question of whether or not we

13 could do something similar and design a bond that, you

14 know, had, you know, some coupon that would pay out and

15 act as compensation.

16 We did chase that down at least on a high

17 level. I don't know that we did a ton of work on it.

18 But it was pretty clear that that wasn't going to work

19 for a number of reasons. We had bond counsel look at

20 it. And so --

21 Q Do you know when that took place, when, for

22 instance, bond counsel looked at it?

23 A It was in the spring of '19, you know, kind of

24 around the same time period. April, May, somewhere in

25 there, maybe.

1 Q Okay.

2 A I don't know exactly, but it was sometime in

3 the spring.

4 Q What were some of the other things that were

5 looked at, if you remember?

6 A Looked at time-based awards, you know, just if

7 you stay for three years, you will get a payment of X,

8 right? That was, I think, dismissed because it didn't

9 provide -- provide incentive as a -- it provided

10 incentive to stick your, you know, butt in the seat, so

11 to speak, but it didn't provide incentive to create the

12 value related to the four measures of value, you know,

13 that the board laid out in the framework.

14 Q Okay. Is there anything else you can think

15 of?

16 A Not specifically that I can recall right now.

17 Q Do you remember if the bonds, the time-based

18 awards, anything else, any of those were discussed at

19 the Club Continental meeting?

20 A No. I think by that point we had ruled out

21 those options.

22 Q Y'all -- your focus was on --

23 A On the PUPs, yeah.

24 Q I know you said the formula is simple and

25 you've got it in your head; is that correct? Is that

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1 fair to say?

2 A Again, you can -- it's numbers on the balance

3 sheet. You add them up. It's pretty -- in my

4 perspective, pretty straightforward.

5 Q If you were going to tell -- let's say I'm

6 starting a business and I want to give a long-term

7 incentive program.

8 A Yeah.

9 Q And I want to do something like the PUP that

10 was proposed. I want to use your formula.

11 How would you tell me to calculate it?

12 A So you take -- you can look at the balance

13 sheet. You can look at your net position.

14 Q Okay.

15 A You can look at the change in net position

16 over that three-year period. You look at any dividends

17 that were paid to the City in terms of the contribution,

18 and the change in dividends, so you look at the

19 contribution to the City day one versus the contribution

20 to the City, you know, year three. You add those two

21 together, and then any additional amounts paid to or

22 distributed to customers.

23 And those are the three numbers you add

24 together, and any -- you know, any amount above that

25 challenge target, 10 percent of that's the pool.

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1 Q Okay. And your challenge target was

2 10 percent above your --

3 A Current.

4 Q -- current --

5 A Yeah.

6 Q -- value?

7 A Current value.

8 Q So in three years, your goal is to --

9 A Exceed 10 percent.

10 Q -- is to get the combination of the net

11 position, the dividends to the City, and the payments to

12 customers --

13 A Higher than --

14 Q -- higher than 10 percent?

15 A Yeah. 110 percent of the, yeah, original --

16 Q Okay.

17 A -- number.

18 Q And then anything over that 110 percent gets

19 paid out as the PUP?

20 A Gets -- yeah, it would get allocated to the

21 performance units -- 10 percent of that would get

22 allocated to the performance units.

23 Q Okay. You've got two 10 percents.

24 A Yeah, I know. It's a little -- that's

25 correct. You've got two 10 percent numbers.

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1 MS. HARRELL: Okay.

2 BY MR. POWELL:

3 Q Was there any consideration given to excluding

4 any windfall from a recapitalization event as part of

5 the redemption price or value of the performance units?

6 A Not that I can recall. Again, the incentive

7 was designed to incentivize value creation, ostensibly,

8 right? To incentivize employees to maximize that

9 financial value of JEA.

10 Q Were you not principally thinking of or

11 contemplating that employees would work to improve the

12 year-to-year operations of JEA as opposed to working for

13 some difficult-to-define, unknown concept of total value

14 in the event of a recapitalization event?

15 A I'm not sure I understand the question.

16 Q Well, you have year-to-year performance and

17 you can measure that, correct, of the company?

18 A Financial statements, yes.

19 Q Excuse me, of the agency.

20 A Yes, you have financial statements that

21 measure financial performance.

22 Q And wasn't it the -- your primary thinking

23 that employees would be working to improve the bottom

24 line, so to speak, year to year with their effort, and

25 in return for that, they would be compensated or

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1 rewarded through this incentive plan at the end of each

2 performance period?

3 A Yeah, that was the concept of the plan.

4 The -- so --

5 Q Did it ever occur to you in the runup to the

6 July 23 board meeting and into the fall that you had

7 this potential windfall return through the performance

8 incentive plan that was really unrelated to an

9 employee's year-to-year performance?

10 A Well, I don't know that they're unrelated.

11 There was a lot of action that was taken by employees as

12 it related to the strategic planning that people were

13 doing. So I don't know --

14 Q Well, I agree that there were a lot of

15 employees on the 16th floor working on strategic

16 planning, but the employees that are out there fixing

17 things and making the lights stay on and the water

18 running had nothing to do with strategic planning, did

19 they?

20 A As it related to operating the utility well,

21 they sure did. I mean, you know -- and it wasn't

22 just -- I mean, I would -- I would -- I wouldn't

23 characterize the strategic planning as just being, you

24 know, SLT. There was -- you know, there was a lot of

25 people involved in a lot of aspects of this,

20 (Pages 77 to 80)

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1 particularly on my team, far down in the organization
2 that -- you know, on many aspects of the strategic
3 planning exercise.
4 And so I -- but, you know, to say that it
5 wasn't for effort on behalf of employees, I'm not sure
6 that's a correct characterization.
7 Q I hear what you're saying.
8 But you would agree that there's a more direct
9 correlation between effort and year-to-year results than
10 effort and the downstream value that somebody decides to
11 pay for JEA?
12 A It would have been a whole lot easier to focus
13 on year-to-year results than go through the process we
14 just went through.
15 Q Yeah, I can hear that.
16 So did you and Mr. Zahn at any point in the
17 runup to July 23 and then frankly beyond until things
18 ended have a discussion about the fact that you had this
19 potential windfall built into the performance unit plan
20 in the event of a recapitalization event?
21 A I don't -- I guess -- I don't know what you
22 mean by windfall. It was --
23 Q Mr. Wannemacher --
24 A -- it was known that it was going to be
25 10 percent of anything above the challenge target.

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1 Q We talked earlier about a \$3,333 value per
2 performance unit on a \$10 investment. Do you recall
3 that?
4 A Yes.
5 MR. MURPHY: With a lot of assumptions.
6 THE WITNESS: So yeah. Again, I --
7 BY MR. POWELL:
8 Q Well, those were your assumptions, and you
9 provided them to me.
10 So do you not consider 3,333 back on a \$10
11 investment to be a windfall?
12 A It was never -- it was never contemplated as
13 an investment plan.
14 Q I understand that.
15 A It was contemplated --
16 MR. MURPHY: Let him finish, Steve.
17 THE WITNESS: It was contemplated as an
18 incentive plan.
19 BY MR. POWELL:
20 Q I do understand that, but that wasn't my
21 question. My question was, did you and Mr. Zahn have a
22 discussion -- call it an aha moment -- in the runup to
23 the July 23 board meeting that because you were pursuing
24 dual tracks, the performance unit plan on the one hand
25 and you were also seeking authority from the board to

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1 pursue efforts to restructure JEA and get it out of its
2 governmental -- out of its public sector into the
3 private, at the same time, that if those both moved
4 along at the same time and you had the recap event, that
5 you would have this extreme -- this high return on a \$10
6 performance unit? Did you have that discussion?
7 A I don't recall having the discussion around
8 the price of the performance unit specifically, because
9 it wasn't an investment plan; it was a incentive plan.
10 So there was conversation around the size of the pool
11 being 10 percent of anything above the -- the challenge
12 target.
13 But again, it was speculative to know -- I
14 don't know what that pool was, I mean, because it was --
15 it was 10 percent. We hadn't received bids.
16 Q So y'all never talked about carving out --
17 making some sort of exception in the return to the --
18 return in value on the performance units in the event of
19 a recap event? You never talked about that?
20 A On the price of the performance unit?
21 Q Okay, we'll use -- okay, fine.
22 If you want to call it that, fine. But it's
23 the same question, isn't it?
24 A Can you repeat the question?
25 Q Just simply this, so are you telling me -- are

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1 you telling the board of directors, because when you're
2 answering here today, that's who you're talking to.
3 Are you telling the board of directors that
4 you and Mr. Zahn never had a discussion about a change
5 or modification to this performance unit plan that would
6 have carved out that windfall in the event of a recap
7 event that would have yielded the kinds of returns that
8 we talked about earlier that you gave me in your
9 analysis of the numbers?
10 A So we didn't have a discussion -- I don't
11 recall having a discussion around any caps, you know,
12 prior to that July board meeting.
13 Q All right. Do you remember coming over and
14 meeting with the council auditors on October 31 to talk
15 about the PUP?
16 A Yes.
17 Q Do you remember any discussion at that meeting
18 about excluding the recapitalization receipts from the
19 PUP plan payout?
20 A I don't recall that specifically. There was
21 some conversation around a cap at that meeting. Based
22 on the council auditor's follow-up to that meeting,
23 they -- you know, they had some recommendations and that
24 kind of thing.
25 We went back and sat down those with --

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1 Herschel and I sat down. We called -- we had a phone
2 call with Foley to go through them. And there was some
3 discussion around putting a cap in at that time, around
4 some of the changes that they recommended.
5 They had a number of changes. A lot of them,
6 frankly, I think were good suggestions. You know, one
7 of them was to have the -- have, you know, independent
8 auditors sign off on the calculation. We -- you know,
9 we agreed that that was a good change to make.
10 There was some work being done by Foley after
11 that as it related to, I think, those suggestions, or
12 they -- there were some takeaways that they were going
13 to look at.
14 Q After the October 31 meeting?
15 A After the October 31 meeting.
16 But at some point in the time frame between
17 the October 31 meeting and any of those changes coming
18 to fruition, OGC, you know, determined that they
19 couldn't get there from a structure standpoint of the
20 plan.
21 And again, there was -- there was lawyers
22 continuing to look at this, you know, all over the
23 place. And so ultimately the plan got pulled and so,
24 you know, those -- those changes to the documents never
25 materialized.

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1 Q Was Mr. Zahn involved in these discussions
2 after the October 31 meeting about potential changes to
3 the plan?
4 A So Herschel and I briefed him on the
5 conversation with the council auditor and their
6 suggestions and -- and talked through some of that with
7 him. He was not on the call with Foley, I don't
8 believe. I think Pillsbury was on that call too.
9 Q Did you assist Mr. Zahn in writing his
10 November 12 letter to the General Counsel regarding the
11 plan?
12 A No.
13 Q Okay. Did you ever read it?
14 A I don't recall if I ever read -- I'm aware of
15 the letter. I don't know that I ever really read it.
16 Q Okay. I'm going to read to you a sentence
17 from that letter and see if you can explain it to me.
18 Quote: The decision to not implement the plan
19 is based in the incongruity of the plan's long-term
20 nature and the very real potential short-term
21 implications of the JEA's strategic planning process.
22 A I don't know that I can -- I'm not sure I can
23 speak for Aaron as to what that means.
24 Q I'm just trying to figure out from an English
25 language standpoint what that means. I was hoping that

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1 maybe there was some financial magic in it that I didn't
2 understand and you could help me with.
3 A No, there's not.
4 Q Does that sentence make any sense to you?
5 A Can you read it again?
6 Q "The decision to not implement the plan is
7 based in the incongruity of the plan's long-term nature
8 and the very real potential short-term implications of
9 the JEA's strategic planning process."
10 A I can guess, but I mean -- I can't
11 speculate -- I don't want to speculate.
12 Q All right. So let's not speculate.
13 Did you and Mr. Zahn talk about the decision
14 that he reached that is -- was communicated in this
15 November 12 memo to the General Counsel?
16 A Yeah, I think the short answer is that the
17 lawyers couldn't get comfortable with it, and so we had
18 to pull it. Again, you know, there was -- there was
19 attorneys --
20 Q Well, there's nothing in that sentence --
21 MR. MURPHY: Let him finish, Steve. He was
22 middle of his answer.
23 MR. POWELL: All right.
24 THE WITNESS: There was attorneys looking at
25 this thing, you know, all over the place. And, you

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1 know, we were -- we were relying on them,
2 essentially, to be able to design a plan that
3 worked and was, you know -- you know, doable under
4 our -- under our structure. And so I think
5 ultimately, you know, they couldn't figure out how
6 to get there.
7 BY MR. POWELL:
8 Q Is it fair to say that nothing was done at JEA
9 by Aaron Zahn, to your knowledge, to address this
10 potential high-value return to the performance units, as
11 we've been discussing, between the July 23 board meeting
12 and the end of October?
13 A Other than the conversation that we had based
14 on the council auditor's feedback where we did talk
15 about, you know, their comments, including the cap,
16 those -- that was really the only conversation --
17 frankly, there wasn't a whole lot of conversation that I
18 can recall between the July board meeting and the
19 council auditor's questions.
20 Q Well, thank you. You've reminded me of
21 another thing I wanted to understand.
22 So were you aware of the intent of Mr. Zahn to
23 brief the members of the senior leadership team
24 one-on-one about the performance unit plan to explain it
25 after the board approved it on July 23?

22 (Pages 85 to 88)

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1 A I don't think so. I don't recall.
 2 Q You and Mr. Zahn never talked about the need
 3 to educate the members of the senior leadership team on
 4 how the performance unit plan was going to work?
 5 A There was -- it wasn't -- I don't recall it
 6 being specific to the senior leadership team. There
 7 was -- there was some discussion around -- it's a little
 8 bit fuzzy.
 9 I do remember there was some discussion around
 10 how you explain this to employees and, you know, what
 11 steps does that look like broadly. Again, I don't
 12 remember it being specific to SLT members.
 13 But as far as I know, our communications folks
 14 really kind of handled that. They were working on some
 15 employee communication plans around, you know,
 16 explaining it.
 17 Q Because my understanding is correct, is it
 18 not, that the individual members of the senior
 19 leadership team and what we've talked about being that
 20 second tier level of members were not educated along the
 21 way on the development of the performance unit plan?
 22 A I think that's correct.
 23 Q All right. So your upper tier -- are you
 24 telling me that your upper tier -- you and Mr. Zahn and
 25 Mr. Vinyard and Ms. Dykes -- never talked about the fact

1 Q Did you ever have any discussions with
 2 Mr. Zahn or -- let's just say with Mr. Zahn for the
 3 moment, about the number of shares that members of the
 4 senior leadership -- I'm sorry -- number of units that
 5 the members of the senior leadership team would be
 6 entitled to purchase?
 7 A No.
 8 Q Did you ever have any discussions with anybody
 9 inside JEA about the number of shares that members of
 10 the senior leadership team -- units -- excuse me --
 11 would be allowed to purchase?
 12 A No.
 13 Q Any discussions outside of JEA on that topic?
 14 A No.
 15 Q Up to and including when the plug was pulled
 16 on the plan; is that right?
 17 A I know Aaron was working on allocations, but
 18 he never shared the information with me.
 19 Q Okay. How do you -- if you could elaborate.
 20 How do you know he was working on allocations, and what
 21 does that mean? What do you mean by that?
 22 A He was working on allocating the performance
 23 units to -- you know, what his recommendation would be
 24 as it related to those performance units.
 25 Q How do you know that?

1 that as you're going to move forward and roll this plan
 2 out that it wouldn't be important to at least make sure
 3 that the second-tier level of senior management
 4 understood this plan so that they could respond to folks
 5 sending questions up their way?
 6 A Again, I think it was part of the overall
 7 communication plan with employees.
 8 And by the way, I need to correct. Our HR --
 9 you know, Jon Kendrick, our chief HR officer, and Angie
 10 Hiers, before Jon -- Angie left somewhere in the middle
 11 here of this -- they were aware of the program. And
 12 that HR role is -- was part of that SLT, so ...
 13 And also, Kerri Stewart was aware. She worked
 14 on the -- she was our communications person, so she was
 15 working on the communications elements.
 16 And Lynne Rhode with OGC was obviously heavily
 17 involved in the legal elements of it and, you know, that
 18 whole part of it.
 19 Q But suffice it to say, you don't know whether
 20 Mr. Zahn intended to go around and have a meeting
 21 one-on-one with each member of the team to bring them up
 22 to speed after the board action?
 23 A Individually?
 24 Q Yes.
 25 A No, I don't know if he intended to do that.

1 A Because he told me. And he asked for a list
 2 of employees from Melissa. He was -- again, he asked
 3 for -- I'm trying to think what else he asked for.
 4 He asked for employees and their rating --
 5 performance ratings and rankings. It was after -- it
 6 was right around the same time it got pulled is when all
 7 this was happening.
 8 Q When it got pulled?
 9 A When the -- when the program got pulled. We
 10 had just finished our end-of-year performance reviews.
 11 He communicated that he planned to in some way factor
 12 performance rating and ranking into the allocations.
 13 But again, he never shared those allocations with me or,
 14 to my knowledge, with anyone.
 15 Q As the chief financial officer -- and I know
 16 that you weren't going to be administering the plan.
 17 But as chief financial officer, as you're moving into
 18 late October, you were aware, were you not, that the
 19 goal was to launch this plan in December; yes?
 20 A Yes.
 21 Q At any point up to the point where -- I mean,
 22 you understood that Mr. Zahn was working on allocations,
 23 did it -- did it occur to you that this really needed to
 24 get done and there needed to be clarity so that this
 25 plan could actually be implemented on schedule?

1 A Yeah, there was a lot of wood to chop on
 2 getting it to where it could be implemented in December,
 3 again, particularly around the legal work. As we -- as
 4 we moved in and they were -- they were still making
 5 changes to the documents, they were -- I believe they
 6 had asked the State Attorney General for an advisory
 7 opinion at that point. There was a discussion around
 8 then asking the State ethics office for an opinion.
 9 The -- so I think there was a -- there was
 10 a -- there was a goal to try to get it done in December
 11 because you had to. It was -- it was structured as a
 12 deferred compensation program, so you had to make the
 13 deferral the year before.
 14 But to my knowledge, they weren't going to do
 15 anything until they got all the legal boxes checked.
 16 Q All right. Well, I'm looking at a email dated
 17 October 3, 2019, from Lynne Rhode to Jessica Lutrin.
 18 It's JEA document 0666 in the Diamond-Salem package.
 19 "Kevin and Jessica, attached are the" -- all
 20 caps -- "final versions of the plan and the plan
 21 agreement."
 22 And you can see the attachments, JEA form of
 23 long-term performance unit agreement as revised, final.
 24 JEA long-term performance unit plan as revised, final.
 25 "Going out October 3. It's -- the plan is

1 done October 3. Legal is finished."
 2 So no discussions even at that point through
 3 the end of October until the time when the plan was
 4 pulled, you had no discussions with Mr. Zahn about
 5 allocations of the units?
 6 A As I said, I know that he was working on the
 7 allocations of the units. I asked him for the
 8 spreadsheet. He said he was working on it, and he
 9 wasn't providing it.
 10 Q Did he -- do you know that he actually
 11 prepared a spreadsheet, that something -- that a
 12 spreadsheet actually exists?
 13 A So I have to assume there's something, but
 14 it's an assumption. Again, I -- he was working on it.
 15 He asked for employee, you know, lists from Melissa.
 16 And I believe -- again, I believe he asked for the
 17 ratings and rankings -- you know, performance ratings
 18 and rankings and all that, bargaining units and all that
 19 information. So he was working on something.
 20 Q How could there be a final version of the plan
 21 if the allocation of units had not been determined?
 22 A Well --
 23 MR. MURPHY: Calls for a legal conclusion.
 24 You want to show him the document too? You're just
 25 reading from something that he hasn't presumably

1 seen.
 2 MR. POWELL: I'm just looking at -- I just
 3 read the email. I don't have the attachment.
 4 BY MR. POWELL:
 5 Q I'm just asking you, how can there be a final
 6 version of the plan if the allocation of the units
 7 hasn't been determined?
 8 A Well, it's two separate things. The plan is
 9 the legal documents. The operation -- or, you know,
 10 administration of the plan is a separate, you know,
 11 item.
 12 Q Okay. So the plan might have said the units
 13 will be allocated by the plan administrator? I mean,
 14 that may be the answer to that; yes?
 15 A I don't know what the plan said specifically.
 16 But the plan was the framework for the plan. The
 17 implementation is a separate work product.
 18 Q All right. Would -- were you aware that as
 19 far as Lynne Rhode was concerned, the plan was done as
 20 of October 3?
 21 A Not that -- not that I can recall. And the
 22 reason I say that is because there was a lot of
 23 conversation about like Attorney General opinion and --
 24 like there was a lot of stuff still going on.
 25 So I'm a little confused by you reading that

1 email, I guess. I don't -- again, I wasn't part of that
 2 email. I mean, you'd have to ask Lynne as to what
 3 she --
 4 Q I grant you that, you're not copied here.
 5 A Yeah. Yeah, you'd have to ask Lynne as to
 6 what she meant by that.
 7 But there was a lot of work that was, from my
 8 perception, still going on related to making sure we,
 9 you know, did all the legal work around it.
 10 Q Okay. What would you have had to have done as
 11 CFO? What -- would you have had a role in the rollout
 12 of this plan?
 13 A I don't know. I don't know what my role
 14 necessarily would have been, specifically. It would
 15 have been to calculate the -- you know, as designed in
 16 the document, I would have had to calculate the starting
 17 point based on the audited financials as those came in
 18 in December. And we would have set the challenge target
 19 based on those, you know, which would have been the 10
 20 percent, you know, higher number. And I think that
 21 really would have been my principal role in that.
 22 MR. POWELL: Okay. Well, that does get us to
 23 a breaking point, as far as I'm concerned --
 24 MR. MURPHY: Sure.
 25 MR. POWELL: -- at noon. And so let's take a

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1 break for now if we can.
2 THE WITNESS: Okay.
3 MR. POWELL: And rather than rush too hard,
4 why don't we target 1:15 and --
5 MR. MURPHY: Let's just do 1:00. I think an
6 hour's long enough for lunch.
7 MR. POWELL: Well, let's --
8 MR. MURPHY: I know how you work at the City,
9 but an hour's fine with us.
10 MR. POWELL: Well, I need until 1:15. So
11 we'll --
12 MR. MURPHY: Okay.
13 MR. POWELL: -- come back here at 1:15.
14 (Recess taken from 12:00 p.m. to 1:10 p.m.)
15 BY MR. POWELL:
16 Q Mr. Wannemacher, I just have, I hope, a few
17 short questions, and then I'm going to turn it over to
18 Ms. Harrell for some questions.
19 So we had talked kind of early in our
20 discussion, you went through the -- back in the
21 napkin-type calculation of a sale at -- I think it was 8
22 or 9 billion, and you ended up with \$100 million in the
23 plan to be paid out.
24 Do you remember that discussion?
25 A Yes.

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1 Q At some point within the -- you know, in
2 October or November, did you also do a calculation that
3 arrived at \$60 million that would be available to be
4 paid out in the plan?
5 A In October or November?
6 Q Or even prior to that.
7 Did you ever do a calculation that resulted in
8 a plan pool of \$60 million?
9 A I don't recall.
10 Q Okay. Harking back to the document, the slide
11 from Willis Towers Watson that was in the June 2019
12 compensation committee presentation that's JEA Number
13 0305 -- and we'll copy this and attach it because we've
14 referred to it a couple of times.
15 And this was the one that had the \$3.4 million
16 annual at the bottom.
17 Recall also that it had a maximum 150 percent
18 of target on it. Was that effectively a cap on the --
19 on the payout?
20 A So I don't recall talking to Towers Watson
21 about this slide, so I couldn't answer that. I mean,
22 I --
23 Q Well, I mean --
24 A -- from looking at the slide, yes, I think
25 that that --

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1 Q Because it has a payout range.
2 A Right.
3 So I think from looking at what's noted on the
4 slide, I agree that that seems to suggest they're
5 suggesting a cap.
6 Q All right. And in the plan that was presented
7 to and approved by the board in July of 2019, there was
8 no cap on the plan; is that correct?
9 A That's correct.
10 Q Do you know why there was no cap on the plan?
11 A I do not.
12 Q Did you and Mr. Zahn discuss whether -- in
13 advance of the July 23 meeting, whether there should be
14 a cap on the plan?
15 A I don't recall. I do recall having a
16 conversation with him about the cap in October after the
17 council auditor's suggestions.
18 (Exhibit Number 2 was marked for
19 identification.)
20 BY MR. POWELL:
21 Q Okay. You were present at the Diamond-Salem
22 hearing on December 16, City Council; correct?
23 A Correct.
24 Q At that hearing, in response to questions from
25 Councilman Salem regarding the -- this very issue, the

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1 3.4 million and the cap, in response to Councilman
2 Salem, you know, there was a back and forth about the
3 plan and approval and so on.
4 At the 1:03:50 mark in the hearing, Mr. Zahn
5 refers to an error in judgment that the board --
6 referring to the board also considering the recap at the
7 same time that it considered the PUP plan, correct, in
8 July?
9 A Sorry. I don't understand the question.
10 Q Well, there's no question yet.
11 He refers to the board having considered the
12 recapitalization option or restructuring option that we
13 talked about at the July meeting at the same time that
14 you-all were presenting the PUP plan for approval;
15 correct?
16 A They were presented at the same board meeting,
17 yes.
18 Q And he says: There was a lot going on at that
19 time. And then, quote: The long-term nature of the
20 plan had short-term implications. And he says that he
21 as CEO should have pulled back the PUP and recommended
22 it not be approved at that time and come back with a
23 final plan later.
24 Do you recall him saying that?
25 A In the meeting?

25 (Pages 97 to 100)

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1 Q Yes.
2 MR. MURPHY: You mean --
3 THE WITNESS: At the -- at the --
4 MR. MURPHY: At the --
5 (Simultaneous crosstalk.)
6 MR. POWELL: At the Diamond-Salem hearing,
7 yes.
8 MR. MURPHY: You mean the City Council
9 meeting?
10 MR. POWELL: Yes.
11 MR. MURPHY: Okay. I didn't know -- I didn't
12 know you refer to that as a two-commissioner
13 meeting. Is it a council meeting or --
14 BY MR. POWELL:
15 Q It was the Diamond-Salem hearing. You were
16 there where --
17 A I know the meeting you're referring to, yeah.
18 I don't recall --
19 Q Sent your attorney the link to watch it
20 yesterday. Okay.
21 A Yeah.
22 MR. MURPHY: That's what you're referring to?
23 THE WITNESS: I don't recall Aaron's specific
24 comments at that meeting.
25

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1 BY MR. POWELL:
2 Q Sitting here today, what is your reaction
3 to -- assuming that this is true, and I'm going to
4 represent to you that we transcribed it as accurately as
5 we could -- that he told that hearing that the long-term
6 nature of the plan had short-term implications and that,
7 I guess in retrospect, he should have pulled the PUP
8 back at that time and not have it approved at the time
9 of the other proposals.
10 Do you have a reaction to that statement by
11 Mr. Zahn?
12 A No.
13 Q As the CFO and as somebody who was intimately
14 involved in developing this plan, do you agree with
15 that?
16 A That it should --
17 Can I see the statement, please?
18 Q (Tenders.) It's right here. And I have a
19 note when he reached that conclusion, but (indicates).
20 MR. MURPHY: This is --
21 MR. POWELL: Okay.
22 MR. MURPHY: Just for the record, this is not
23 a transcription. Just to --
24 MR. POWELL: Okay.
25 MR. MURPHY: -- be clear, you represented this

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1 as a transcription. This is not a transcription.
2 Those are handwritten notes by some person that
3 created them later.
4 MR. POWELL: Okay.
5 MR. MURPHY: So let the record reflect that
6 you misrepresented what you were reading from.
7 MR. POWELL: It was our transcription of the
8 minutes. All right.
9 MR. MURPHY: It's not --
10 MR. POWELL: I don't know why you're behaving
11 as you are, Counselor. Here's the --
12 MR. MURPHY: You're asking questions that are
13 inappropriate --
14 MR. POWELL: -- question -- here's the
15 question, Mr. Wannemacher, do you agree --
16 MR. MURPHY: And you're essentially bullying
17 him into certain answers that aren't accurate.
18 BY MR. POWELL:
19 Q Are you feeling bullied, sir?
20 A I don't understand --
21 Q That's all I'm asking. If you don't
22 understand my question, tell me. I'll start over.
23 A Yeah.
24 Q My simple question is this, do you think that
25 the PUP proposal should have been pulled back from the

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1 board at the July 23 meeting because you were also
2 asking the board to consider the other restructuring
3 option that we've talked about?
4 That's it. You don't need to read anything to
5 answer that question.
6 A I think in hindsight, there's probably a
7 number of things that we would have done differently.
8 Q All right. Did you ever discuss with Mr. Zahn
9 his second thoughts on the timing and the presentation
10 to the board on -- in July of 2019?
11 A Prior to July of 2019?
12 Q No, subsequent to it. And frankly, before
13 this meeting that was chaired by Council Members Diamond
14 and Salem.
15 A I did not talk to him about it before
16 July of 2019. I don't recall -- I don't recall any
17 conversations that we had up to that meeting
18 specifically, no.
19 Q All right. And that was sort of a natural
20 follow-on to the -- to my question. Did you have any
21 meetings with Mr. Zahn to prepare for the December 16
22 meeting -- public meeting that was chaired by Council
23 Members Diamond and Salem?
24 A Unfortunately, not really. So we were -- I
25 was frankly completely unprepared for that meeting.

1 I -- the first time I saw the documents was when I
 2 walked into that meeting.
 3 And so there was a meeting that was scheduled
 4 where we did get together the weekend before, and it was
 5 at that time that we became aware of the conversations
 6 around the board getting ready to fire Aaron. That
 7 was -- it was the weekend before the -- I think it was
 8 the Sunday, Saturday or Sunday, before that board
 9 meeting on -- the Tuesday that he was -- that he was --
 10 that he was let go.
 11 So you had the weekend, and then you had the
 12 Diamond-Salem meeting on Monday, and then the board
 13 meeting was on Tuesday.
 14 That was -- I think it was the intent -- the
 15 intended purpose of that meeting was to kind of get
 16 together and chat about the hearing, but it got
 17 sidetracked pretty quickly with the news of Aaron.
 18 Melissa ended up leaving because she was a
 19 little bit shaken, and, you know, it just -- it never
 20 really -- frankly, it never really amounted to much of a
 21 conversation.
 22 Q Okay. So you did not get with him and prepare
 23 for the meeting, other than --
 24 A Other than that, that's correct, yeah.
 25 Q Do you know -- and I think I did ask you

1 whether you had talked to Mr. Zahn about his rethinking
 2 of the timing of the presentation of the PUP to the
 3 board, and you're saying you don't remember talking to
 4 him about that before the hearing here?
 5 A I don't recall before the hearing. And I'm --
 6 and I'm pretty sure that we didn't talk about it before
 7 July.
 8 Q So if he had reached that second thought place
 9 in his mind, you don't know when he reached that
 10 conclusion?
 11 A I do not.
 12 Q I'm aware of -- we -- we are aware of four
 13 off-site meetings at Ponte Vedra in 2019 to work on what
 14 I'm going to globally call the strategic plan and
 15 long-term incentive plans and such; recapitalization,
 16 restructuring of JEA, all of that stuff; correct?
 17 A Yes, everything that was encompassed in the
 18 strategic planning process generally was discussed in
 19 those off-sites.
 20 Q Just out of curiosity, why the need to meet
 21 off-site with your senior leadership team to do this
 22 work?
 23 A I don't know. It wasn't my decision.
 24 Q Whose decision was it?
 25 A I assume it was Aaron's, but I don't know that

1 for a fact.
 2 Q Okay. Were these meetings in the budget?
 3 Were these budgeted expenses?
 4 A So we don't budget down to like line item -- I
 5 mean, you know, we wouldn't budget like to that level of
 6 granularity.
 7 We have a \$1.8 billion annual budget, so --
 8 but yes, they were within the budget that was approved
 9 by the City Council as far as the authorized, you know,
 10 appropriations. They were within that 1.8 billion.
 11 Q Well, I'm sure that's true. But obviously
 12 within the 1.8 billion, you have a more detailed budget,
 13 do you not?
 14 A We do, but not to that level of detail.
 15 Q Well, I can appreciate that. But where --
 16 what account would expenses for meetings like this be
 17 paid out of? You are the CFO.
 18 A It would probably be in Aaron's cost center.
 19 Q And do you know whether the total expenses for
 20 these four meetings, April 4, June 11, August 19 and 20,
 21 were within his cost center budget as approved by City
 22 Council?
 23 A I don't know.
 24 Q Okay. Same question with respect to the costs
 25 of the Club Continental meeting in July?

1 A So I believe that was -- I believe Foley
 2 booked that, maybe, and billed it through as a -- you
 3 know, on their invoice, you know, as far as --
 4 Q Yes, I used to work in a private firm.
 5 A Does that make sense?
 6 Q Sure.
 7 A So I believe Foley billed that through, and
 8 that would have hit our legal -- it's professional
 9 services. I mean, there's a broad bucket of
 10 professional services.
 11 Q All right. Speaking of outside expenses
 12 through the law firms, are you aware of a second
 13 contract that McKinsey entered into with Pillsbury to
 14 provide services associated with the strategic planning
 15 process?
 16 A I know that -- yes, I'm aware of it. I don't
 17 know the details of it. I didn't negotiate that
 18 contract.
 19 Shawn Eads worked with McKinsey. He was kind
 20 of the McKinsey, I don't know, liaison, if you will, in
 21 terms of the -- that relationship, so he would probably
 22 have been much more intimately familiar with it than I
 23 was.
 24 Q All right. But to be clear, JEA entered into
 25 a contract with McKinsey to work on the strategic

1 planning; correct?
 2 A Uh-huh.
 3 Q And do you recall that there were a couple of
 4 amendments to that?
 5 A I believe there were, yeah. I don't -- I
 6 don't know the specifics of it, because I think it was
 7 pretty narrowly focused at the very beginning, and then
 8 I think as the strategic planning process progressed,
 9 there were probably some needs for changes.
 10 Q Do you recall what the maximum authorized
 11 amount of that contract was through May of 2019?
 12 A I do not.
 13 Q Would it surprise you that it was slightly in
 14 excess of \$1 million?
 15 A No.
 16 Q Okay. The billing by Pillsbury to McKinsey in
 17 late August and September of 2019 -- there may be more,
 18 but I've seen two billings of \$100,000 where those
 19 charges are being passed back to JEA through Pillsbury.
 20 Do you know what it was McKinsey was doing for
 21 Pillsbury when it came to the strategic planning
 22 process?
 23 A McKinsey was working on our behalf. The
 24 contracting was through Pillsbury as a subcontractor.
 25 But McKinsey was working on our behalf. I don't know if

1 they were performing additional work for Pillsbury
 2 outside of that, that, you know --
 3 Q Well, JEA was being billed for it if they
 4 were. So that's my question, why was it necessary for
 5 there to be a contractual relationship between Pillsbury
 6 and McKinsey following on the million-dollar-plus
 7 contract that JEA had with McKinsey for strategic
 8 planning? Do you have any --
 9 A I don't know.
 10 Q -- idea? All right.
 11 A Yeah, I don't know.
 12 Q Are you familiar with the innovation summit
 13 that took place back in 2018?
 14 A Uh-huh. Yes.
 15 Q Do you recall the date of that event?
 16 A I don't recall the date. It was sometime in
 17 the fall is my recollection.
 18 Q Do you recall a consulting bill having been
 19 presented to JEA by Deno Hicks for services associated
 20 with that -- the planning for that work, for that
 21 summit?
 22 A I don't recall that.
 23 Q So you don't have a recollection of being
 24 presented with a consulting -- a bill to pay Deno Hicks
 25 for \$25,000 of consulting services for the innovation

1 summit?
 2 A I don't recall that, no.
 3 Q Don't have any recollection of that being
 4 passed over to the Jacksonville Chamber of Commerce to
 5 pay and then rebill JEA?
 6 A No.
 7 Q Okay.
 8 A I was pretty -- I don't think I was really
 9 involved in that innovation summit planning in any real
 10 material capacity.
 11 Q I'm simply asking as the --
 12 A Yeah.
 13 Q -- CFO and whether something like that would
 14 come to your attention if it was a special --
 15 A Yeah.
 16 Q -- discrete bill of that nature.
 17 A No. Generally something that size would not
 18 rise to -- you know, on an individual basis.
 19 Q Do you have any recollection of JEA
 20 contracting with Deno Hicks to provide consulting
 21 services for the innovation summit?
 22 A No.
 23 Q Are you familiar with a monthly stipend that
 24 was contracted to -- for with Susie Wiles to provide
 25 consulting services during Mr. Zahn's tenure?

1 A I'm aware that Susie performed some work for
 2 us. I don't -- I don't recall what she was paid,
 3 necessarily.
 4 Q All right. Is there a maximum amount that
 5 someone could be paid for such services within the
 6 procurement rules at JEA on an annual basis?
 7 A Not specifically. It depends on the nature of
 8 the contract, how it was awarded. I mean, there's --
 9 it's subject to the P code.
 10 Q All right. Do you have any recollection of a
 11 consulting agreement with Susie Wiles hitting the
 12 ceiling, so to speak, necessitating the need to pay her
 13 for her services via invoice to Holland & Knight?
 14 A No.
 15 Q Where would I find those records, if they
 16 exist at JEA?
 17 A The records of having to -- what, I guess?
 18 Q Well, to pay an invoice from Holland & Knight
 19 for Susie Wiles' services for JEA, to be specific.
 20 A So she was working on plant Vogtle litigation.
 21 So she was helping us with -- specifically in Washington
 22 with the Department of Energy around trying to, you
 23 know, come to some kind of resolution on our plant
 24 Vogtle dispute.
 25 And so my assumption would be that the reason

1 that she was paid through Holland & Knight in that
 2 instance was because that's what she was doing.
 3 Q Do you recall being directed by Mr. Zahn to
 4 approve payment of an invoice to Holland & Knight for
 5 Susie Wiles' services?
 6 A I don't recall being directed by Aaron to do
 7 that, but legal invoices would typically come to me. I
 8 would see them.
 9 They ran through OGC first, and typically the
 10 OGC attorney reviewed it with -- reviewed the
 11 documentation and the invoice and all that and provide
 12 sign-off as far as the validity of the expenses and --
 13 that those services were indeed received.
 14 And then it would also come to me for, you
 15 know, kind of a check clearance.
 16 Q Did you work closely enough with Mr. Zahn that
 17 you would recognize his hand notes on a -- on a typed
 18 document?
 19 A I don't know. I've seen his handwriting
 20 before. I don't know that I could -- I'm not a
 21 handwriting expert. So I'm not sure that I could stand
 22 here and definitively tell you what is or is not his
 23 handwriting.
 24 Q All right. I'm going to show you a document
 25 and -- that's got some hand notes on it. And my simple

1 question is whether you recognize these notes to be by
 2 Aaron Zahn.
 3 A Okay.
 4 Again, I'm not a handwriting expert, so I
 5 don't think that I can definitively say whether or not
 6 these were written by Mr. Zahn.
 7 Q All right. Do you think -- do those appear to
 8 be Aaron Zahn's notes?
 9 MR. MURPHY: It calls for speculation. He's
 10 not a handwriting expert. Come on.
 11 MR. POWELL: This is an evidentiary thing.
 12 BY MR. POWELL:
 13 Q I'm just asking you, you've seen the man. You
 14 worked with the man. I'm showing you notes. And you
 15 won't -- and you're going to lay it off on not being a
 16 handwriting expert?
 17 MR. MURPHY: He's answered the question. Move
 18 on.
 19 BY MR. POWELL:
 20 Q Be a lay opinion. Be a lay witness. Do those
 21 look like notes made by Aaron Zahn? It's just a simple
 22 question.
 23 A Again, I am not a handwriting expert. I
 24 can't -- this is a --
 25 Q All right. You don't want to answer the

1 question because you're not a handwriting expert. Is
 2 that what you're saying?
 3 MR. MURPHY: That's not fair.
 4 BY MR. POWELL:
 5 Q Is that your answer?
 6 A I can't definitively say whether or not those
 7 are his notes based on handwriting. I mean, that
 8 doesn't --
 9 Q Well, that's a different answer. And I
 10 appreciate that.
 11 A But that's -- but that's what you asked me, is
 12 whether or not I could definitively say if those are his
 13 notes based on the handwriting.
 14 Q I don't think I used the word "definitive."
 15 You used the word "definitive."
 16 You don't -- you don't -- you can't tell
 17 whether those are Mr. Zahn's notes? It's just a simple
 18 question.
 19 A I cannot tell --
 20 Q Okay.
 21 A -- definitively if those are his notes.
 22 BY MS. HARRELL:
 23 Q Does the handwriting look familiar to you?
 24 A Again, I -- so -- I don't know -- look, again
 25 I can't say definitively whether or not it's his. I --

1 Q I'm not asking you if it's definitive.
 2 Does the handwriting look familiar to you?
 3 A So I will say in the context of this document
 4 that you're showing me here and given these goals, I
 5 would say that it could have been written by either
 6 Melissa Charleroy, whose name is at the top, or Aaron.
 7 BY MR. POWELL:
 8 Q Thank you. I appreciate it.
 9 Do you know anything about a wife grade being
 10 incorporated into Melissa Charleroy's performance
 11 objectives by Mr. Zahn?
 12 A I had no input into Melissa Charleroy's --
 13 Q That's not the question.
 14 A No.
 15 Q Did Mr. Zahn discuss with you -- did he ever
 16 talk to you about the fact that one of his criteria for
 17 grading Melissa Charleroy's performance was his family
 18 balance and that she was going to get a grade for how
 19 satisfied his wife was with her job performance?
 20 A I don't recall having that conversation
 21 specifically, no.
 22 Q Okay. I appreciate it.
 23 A No.
 24 MR. POWELL: Okay.
 25

1 BY MS. HARRELL:
 2 Q I'm going to ask some follow-up questions on
 3 what Steve asked, just some general follow-up --
 4 A Yeah.
 5 Q -- then I have some -- need to introduce a new
 6 topic.
 7 Were you given any printed materials at the
 8 Club Continental meeting?
 9 A There were some drafts of -- draft documents
 10 that were -- that were provided related to the board
 11 materials.
 12 Q Okay.
 13 A We had a draft of the -- we began working on
 14 the invitation to negotiate, you know, documentation and
 15 some of that stuff. And so there were some drafts of
 16 that information that was going around.
 17 Q Okay. Were there drafts of employment
 18 agreements?
 19 A I believe so.
 20 Q Do you remember discussing employment
 21 agreements at that meeting?
 22 A Yes, I do. Again, that was part of the total
 23 package. That would have been something that was --
 24 that was discussed at those meetings.
 25 Q Yeah, because that was on --

1 A Yeah.
 2 Q -- the board agenda; right?
 3 A Yeah, yeah.
 4 Q Was one of those your employment agreements --
 5 or your employment agreement?
 6 A Yeah, my employment agreement was on the board
 7 agenda for July, and so that would have been something
 8 that would have been worked on at that meeting.
 9 Q Did you have an employment agreement before
 10 that meeting?
 11 A No.
 12 Q Okay. Were there drafts sent around regarding
 13 the presentation of the various scenarios, like status
 14 quo, traditional utility response, and the other one?
 15 Do you remember any of those?
 16 A I don't recall specifically on those
 17 presentations. Again, I would suspect that they
 18 probably were, you know, passed around, but I don't -- I
 19 don't recall specifically.
 20 Q Okay. Do you remember if there was an agenda
 21 for that meeting, for the Club Continental meeting?
 22 A No, I don't recall. No.
 23 Q Steve may have asked you this, and I apologize
 24 if I'm being redundant. But you said at the very
 25 beginning of today's meeting that Herschel Vinyard had

1 talked to you recently about a legal invoice that needed
 2 to get paid.
 3 Do you know who that was from?
 4 A I don't -- I don't recall. There's a lot of
 5 attorneys that we hired. I'm sorry.
 6 Q Okay. That's okay. And it was a recent
 7 conversation?
 8 A It was, but, again, I -- there's just been so
 9 many attorneys. I don't remember the specific
 10 conversation.
 11 Q Do you remember the amount of the invoice?
 12 A No.
 13 Q Do you know why Mr. Vinyard called you about
 14 it?
 15 A I don't know -- no, I called him about it.
 16 Q Okay.
 17 A I got an email about something that was still
 18 outstanding. I called him and I said, hey, you know, we
 19 need to take care of this.
 20 But I don't remember -- again, I'm sorry. I
 21 don't remember who -- like what the specific invoice was
 22 or even who it was from.
 23 Q Do you know who emailed you?
 24 A No.
 25 Q Was it on your --

1 A I'm sorry.
 2 Q Was it on your JEA --
 3 A It would have been on my JEA email, yeah. So
 4 you -- I mean, you could --
 5 Q Yeah.
 6 A I'm sure you can find it.
 7 Q Okay.
 8 A I'm sure I forwarded it or something to him.
 9 Q Thanks.
 10 I want to talk to you a little bit -- earlier
 11 you mentioned that you -- you were talking about
 12 strategic planning and all the different scenarios.
 13 Had you been involved in strategic planning at
 14 JEA before Mr. Zahn arrived?
 15 A Not on the scale that we were doing. The last
 16 full-scale strategic plan was done, I think, in like
 17 2012, maybe, something like that, somewhere in that time
 18 frame. That was before I arrived at JEA.
 19 Q Okay.
 20 A On a year-to-year basis we did shorter-term
 21 strategic planning, and I was involved in those. We had
 22 cascade meetings with -- you know, where all of the
 23 appointed and -- and even further on down, they would
 24 record the meetings and, you know, roll it out to the
 25 entire workforce and use that to align goal setting and,

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1 you know, the strategic plan for the year and what we
2 wanted to accomplish and all that sort of thing.
3 But not on the scale that we had -- that this
4 round was. The last time we did that kind of an
5 activity was 2012.
6 Q Prior to this round, while you were at JEA --
7 so not talking about the 2012 strategic planning, but
8 prior to this round, were financial projections ever
9 discussed during strategic planning?
10 A I'm sure they were.
11 (Discussion off the record.)
12 THE WITNESS: I'm sure they were, at least for
13 me. I was always focused on the financial
14 projections.
15 BY MS. HARRELL:
16 Q Yeah. That's your job; right?
17 A So it's a little hard for me to say perhaps
18 what was -- what got through to the front lines, so to
19 speak.
20 But finances have always -- again, from my
21 perspective, finances have always been part of the
22 strategic plan, and you know, what do the financials
23 look like, you know, what's the rate path look like,
24 what's the, you know, rating agency conversations,
25 investor conversations. I mean, that was part of my

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1 day-to-day job.
2 Q Okay. So in any of the prior strategic
3 planning, was there ever a conversation you had with
4 anybody about these numbers are looking bad for JEA?
5 A Well, so to be clear, our current numbers
6 don't look bad. I think part of the concern is given
7 the nature of the electric industry in particular, there
8 were some real challenges facing the business,
9 particularly around a combination of things; you know,
10 rising costs. You know, costs continue to rise. The
11 volume of our sales are declining, and we had a rate
12 structure that was highly tied to that volume, to that
13 consumption.
14 And so you end up with a situation where
15 revenues, you know, are at best flat to declining, and
16 costs continue to increase. And at some point you have
17 to take action and either cut those costs or raise
18 rates.
19 Q And that's something that's not just
20 particular to JEA --
21 A No.
22 Q -- right?
23 A No, that's really the whole industry. You
24 know, that's -- that's kind of a nationwide issue. I
25 think it's a little bit magnified in our instance for a

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1 couple of reasons.
2 The technology facing -- the technology
3 advancements that have been made really kind of hit us a
4 lot harder than maybe some other places because of the
5 nature of our -- just our geography and where we're
6 located.
7 We have both a summer and a winter peak. So
8 when you think about your -- at home, your HVAC unit.
9 Well, when you switch out your HVAC unit, right, it's
10 both your cooling mechanism but also your heating
11 mechanism.
12 And so in areas that are further north, you
13 typically have gas heat. So when you switch out those
14 newer HVAC units and that kind of thing that are much
15 more efficient and use less energy, it drops off some
16 load in the summertime but really doesn't impact the
17 winter load.
18 Conversely, further south, you don't really
19 have heating load, right? It's too warm in the winter.
20 It's beautiful weather in Miami this time of year. And
21 so same issue there, right? So you don't have as much
22 load tied to both seasons. And so I think there are
23 some things that magnified it here.
24 The other thing was just our balance sheet.
25 We had a lot of debt, and that created some additional

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1 pressure that I think maybe some other utilities didn't
2 necessarily face.
3 Q So the summer and winter peaks you mentioned,
4 that's always existed; right?
5 A Oh, the peaks? Yes. The peaks have always
6 existed.
7 Q That's not something that's a 21st century
8 problem?
9 A No, not the peaks. The peaks have always
10 existed. I think the 21st century problem is the fact
11 that HVAC units have gotten a whole lot more efficient.
12 And so what sort of used to just be kind of steady Eddy,
13 you know, type load growth for 100 years really kind of
14 changed with the advancement of technology.
15 I mean, I'm sure you see it in your own home
16 with LED lightbulbs, programmable thermostats. Every
17 time you switch out an appliance, it's more efficient.
18 Q And that's an industry-wide problem?
19 A It is. Yeah, it is.
20 Q Not just JEA?
21 A That's correct.
22 Q So that's always been kind of in the back of
23 your mind, these issues, as --
24 A As someone who knows the business, yes.
25 Q Okay.

1 A Yeah.

2 Q So what -- why the change in the strategic
3 planning, then, when Mr. Zahn came on board? Why was
4 this -- why this big shift?

5 A I don't know that it was really -- so from my
6 perspective, it wasn't really a big shift. I think the
7 shift was the fact that we -- that we were talking about
8 it more.

9 Aaron was much more -- look, he was a
10 different kind of CEO, right? He was much more sort of
11 out there, willing to really talk about, hey, these are
12 real challenges for the business. You know, nobody
13 likes to say things are hard, right? Things are not
14 doing so good. These are -- you know, these are real
15 challenges.

16 And so I think there's -- you know, generally
17 there was always a -- an attitude, I guess, of, well,
18 we'll just -- we'll figure it out, it'll be fine, we'll
19 get there.

20 So the difference, I think, was the fact that
21 we were more forceful in talking about it. It wasn't a
22 new problem, and in fact, we had been talking about it,
23 I think since 2012, really. I mean, since Melissa --
24 Melissa, as CFO, when I reported to her, I mean, these
25 were conversations that were -- you know, we were

1 constantly talking about the impact of solar and new
2 appliances and energy efficiency and all that, I mean,
3 from a financial standpoint.

4 I think it was just the fact that maybe it was
5 a broader conversation with Aaron.

6 Q How were you involved in putting together the
7 board presentations regarding the various scenarios?
8 And again, Scenario 1, status quo -- is that a familiar
9 concept?

10 A Yeah, yeah.

11 Q Okay. So if I refer to Scenario 1, we're both
12 talking about status quo?

13 A Sure.

14 Q Scenario 2 is the traditional utility
15 response, Scenario 2A is the traditional utility
16 response with some law changes, charter changes, things
17 like that. And then Scenario 3 is the ITN, the recap --
18 or the recap?

19 A The various other nongovernmental --

20 Q Okay.

21 A -- structures.

22 Q Yeah. So what was your involvement in putting
23 that together?

24 A So as far as the actual presentation?

25 Q Well, let's -- yeah. Let's start with the

1 presentation.

2 A So there was a lot of people that worked on
3 the presentation. I was, yeah, certainly reviewing it
4 and that sort of thing.

5 Q Did you have to provide data for the
6 presentations?

7 A So as it related to the financial projections,
8 my team worked with McKinsey. That work was done at a
9 much lower level in the organization as far as the
10 actual, like, you know, nuts and bolts calculations,
11 that kind of thing.

12 Q When were you involved with McKinsey in
13 providing information and otherwise working with them?
14 When did that start?

15 A Yeah, again, it was more of a -- so I was
16 involved working with them, you know, from the time they
17 started working on it in probably January of 2019,
18 somewhere in that time frame is when they started. And
19 it took several months of work. They were on-site four
20 days a week digging in on all various aspects of the
21 business and operations and finances and all that.

22 And, you know, that was sort of the genesis of
23 the status quo or Scenario 1 process, was really just to
24 say, look, if we do nothing, absolutely nothing, you
25 know, what does -- what does this look like if we just

1 set it on autopilot and kind of go. And that was --
2 that was the genesis of that -- of that first round.

3 I certainly got updates on that as it was
4 progressing, and they would give, you know, status
5 updates on, hey, here's what we're seeing for solar
6 penetration; here's what we're seeing for electric
7 vehicle adoption; here's what we're seeing for energy
8 efficiency.

9 And they would give us updates on how they
10 came to those assumptions and the modeling they used and
11 the data sets that they had and all that sort of thing.

12 Q Did you ever look at any of those data sets
13 and think, wow, this can't be right?

14 A No. You know, those data sets -- well, so I
15 never saw the data sets specifically. The data sets
16 were data sets that they had internally based on their
17 studies that they had done in the industry, and -- you
18 know, they do a lot of kind of academic-type research,
19 so to speak.

20 And so it was -- they referenced those data
21 sets. I never actually saw the data sets, but I got
22 output, you know, charts and things like that to say,
23 well, for example, here's the solar adoption curve as
24 the price of solar approaches parity for the local
25 service territory.

1 So if you look at -- you can look across the
 2 country, right, and you can say, all right -- you can
 3 kind of see a little bit of a crystal ball. If you look
 4 at places where electricity prices are higher and you
 5 can see what's happened to solar penetration and solar
 6 adoption. As solar prices have come down and it's
 7 become more close to the utility pricing, what happens
 8 to that adoption curve.

9 And you can draw a regression line on that,
 10 and you can sort of say, okay, so prior to parity it
 11 sort of looks here, and once you get to parity and past
 12 parity, you start to see this kind of really almost
 13 expedient type adoption rate where you get, you know,
 14 1 to 2 percent or so of your customers going to solar,
 15 you know, like each year, right?

16 So it was more of those types of conversations
 17 around the data as opposed to actually seeing the data
 18 set.

19 From my observation, there was -- I don't
 20 recall anything that was like totally, you know, crazy
 21 as far as their assumptions.

22 Q Do you remember anything in Scenario 2 or 2A
 23 about rate increases? Did McKinsey propose anything
 24 with regard to rate increases?

25 A So the financial numbers as far as the rate

1 increases were all done internally by staff.

2 Q Internally by your staff?

3 A By my staff, yeah.

4 So McKinsey would look at -- so we would put
 5 together a financial pro forma based on the changes,
 6 right? So you've got sales changes associated with, you
 7 know, the things we talked about in terms of solar
 8 penetration, electric vehicles, you know, coming in.
 9 Batteries, energy efficiency, all that sort of thing.
 10 So you've got those projections.

11 You've got cost curves associated with ongoing
 12 inflation, things of that nature. And so, you know, in
 13 some ways it's a little bit of an A plus B plus C equals
 14 D. And you look at a total revenue requirement number,
 15 and that's -- you know, that's how much of a base rate
 16 increase you need.

17 Everything was done on a base rate basis, and
 18 that's how we -- that's how we've always done rates is
 19 base rates. I mean, that's the part of the rates that
 20 we control. So we'd look at base revenue requirements,
 21 and, you know, that was -- that was how the -- that was
 22 how we determined, you know, the need for rate
 23 increases.

24 Q Did you have to put together the financial pro
 25 forma from scratch for McKinsey?

1 A We used existing models. You know, we do
 2 financial projections like constantly. I mean --

3 Q Sure.

4 A -- that -- it's -- you know, it's one thing --
 5 like literally there's a whole group that that's what
 6 they do is different sensitivities and financial
 7 projections, and they're always updating it every month.
 8 And you just, you know, like -- that was a regular kind
 9 of activity for that group, and that was the group that
 10 worked on it.

11 Q And Scenario 2 using those was you've got to
 12 have a rate increase?

13 A Uh-huh.

14 Q Or we have to lay off workers?

15 A No, it would have been both. The reduction in
 16 force was to try to limit some of the rate increases
 17 that would have been necessary.

18 Q Did that proposed reduction in force take into
 19 account the closing of the SJRPP?

20 A No. That had already been done at that point.

21 Q Was a different financial pro forma prepared
 22 for the rating agencies in February of 2019?

23 A I don't recall what we prepared for the rating
 24 agencies in February of 2019. That would have been
 25 before we had done the work with -- like completed the

1 work with McKinsey around those -- the granular kind of
 2 drill-ins on each of those kind of areas as far as the
 3 impact.

4 Q Could you have just given the -- what you
 5 prepared for the rating agencies to McKinsey?

6 A Yeah, I'm sure -- I'm sure we did, frankly. I
 7 mean, I don't recall, but that would have been a logical
 8 thing that we would have provided them with to say, hey,
 9 here's kind of where we're coming from at the start.

10 To provide a little bit of context, we had
 11 really been showing the rating agencies like flat sales
 12 for a number of years, and our financial plan had been
 13 done on flat sales for a number of years.

14 You know, our financial plan and the rating
 15 agency forecast period is typically a one- to three-year
 16 period. So, you know, given extraneous impacts of
 17 weather and all of that sort of thing, you know, flat
 18 sales was, I think, deemed by all of us to be pretty
 19 good for, you know, kind of a financial forecast for a
 20 one- to three-year period, right?

21 Beyond the one- to three-year period, frankly,
 22 we didn't -- I mean, we had models that went out longer,
 23 but we didn't really pay attention on a -- on a
 24 long-term basis really much beyond that, because so much
 25 changes -- after three years, I mean, who knows, right?

1 There's a lot of uncertainty.
 2 Q Well, don't you -- you have to give ten-year
 3 plans, though, to the PSC; right?
 4 A We don't give ten-year financial projections
 5 to the PSC. The PSC requires a ten-year site plan for
 6 generation planning. That ten-year site plan -- and
 7 again, I'm not the VP of planning. I don't prepare that
 8 ten-year site plan.
 9 But the ten-year site plan is intended to show
 10 our plan for meeting the necessary generation capacity
 11 to serve our peak plus the required reserve margin,
 12 which is 15 percent. So that's the purpose of that
 13 ten-year site plan.
 14 Q Okay. But then -- but the rating agencies are
 15 getting something different?
 16 A Yes.
 17 Q That's your financial health, not your ability
 18 to generate electricity --
 19 A That's right. That's right.
 20 Q Okay.
 21 A They're two different -- two different
 22 purposes.
 23 Q And let me get off the July board meeting and
 24 go back to the February rating agencies.
 25 You went up and met with the rating agencies?

1 A We met with them regularly, yeah. I mean, so
 2 we -- I do generally recall meeting with them at that
 3 time. I don't remember really the specific
 4 conversations, to be honest, but I do remember meeting
 5 with them in New York.
 6 Q And you had prepared a lot of stuff to go up
 7 there?
 8 A Uh-huh.
 9 Q And that was based on your financial
 10 pro formas, all your numbers?
 11 A Uh-huh. Again, I think it had the 12 million
 12 flat. Typically, did some sensitivity for them, but --
 13 but typically 12 million flat was our -- was our
 14 forecast that we would work from from a planning
 15 perspective -- from a financial planning perspective
 16 since -- really since I was there in -- since I joined
 17 in 2015, I guess it was.
 18 Q In February of 2019, when the rating agency
 19 stuff is going on, did you raise a recapitalization
 20 event with the rating agencies?
 21 A No.
 22 Q Why not?
 23 A Wasn't contemplated at that time, at least to
 24 my knowledge.
 25 Q Okay. Did you work with Mr. Zahn in preparing

1 the materials for the rating agencies?
 2 A Yes, he would have been involved in that,
 3 reviewing it, and he had a role in the presentation
 4 and -- so, yeah, he would have been involved in that.
 5 Q What was his role in the presentation?
 6 A To be the CEO. I don't -- I mean, yeah, I --
 7 I don't -- you know, I don't recall the specifics. We
 8 would have given an update on the -- on the four
 9 measures of value, the framework for the strategic
 10 planning, you know, that kind of thing.
 11 We would have given updates on where that
 12 stood and what that process was, you know, contemplated
 13 to look like. And that would have been the stuff that
 14 he would have addressed.
 15 Q And when you say strategic planning, are you
 16 talking about the McKinsey involvement?
 17 A Not necessarily specifically McKinsey. I'm
 18 not sure the rating agencies really would have cared so
 19 much about, you know, the specifics of that engagement,
 20 but more so the process itself.
 21 You know, again, he -- in the fall, he had
 22 worked with the board, City Council, the rest of the
 23 staff to put together the four measures of value, the
 24 guiding principles, the framework.
 25 Q In the fall of '18?

1 A In the fall of '18. I'm sorry. Yes.
 2 And so that would have been -- and then we
 3 would have been kicking off the strategic planning-type
 4 process based on that work to say, all right, now that
 5 we've got the four measures of value, we've got the
 6 guiding principles, this is what the board says we
 7 should do, now we go design a strategic plan based on
 8 that framework. And that's what he would have delivered
 9 as far as a message to the rating agencies.
 10 BY MR. POWELL:
 11 Q Was that message, on the whole, a positive
 12 one?
 13 A For who, I guess? For the rating agencies
 14 or --
 15 Q No, for JEA. That presentation to the rating
 16 agencies, on the whole, a positive forecast for JEA, at
 17 least over the one- to three-year period?
 18 A Generally, I think that's probably right over
 19 the one- to three-year period. There were some concerns
 20 about Vogtle at that time, but that would have been
 21 principally the main concern, was the impact of Vogtle
 22 on the financials, as far as the meeting goes at that
 23 time. I'm sure they asked -- they always ask questions
 24 about Vogtle.
 25 BY MS. HARRELL:

1 Q Do you remember what you told them about
 2 Vogtle?
 3 A At that time, no, I don't recall.
 4 Q Would that have been addressed in the
 5 materials you provided to the rating agencies?
 6 A I don't know, because we were in active
 7 litigation, so I'm not sure we would have provided
 8 materials about Vogtle specifically. You know, there
 9 was -- there was -- typically, what we tried to do was
 10 to provide information that had been provided publicly
 11 by Southern Company or by MEAG in those presentations.
 12 That was typically how we handled it.
 13 Q What was the ultimate result from the meetings
 14 with the rating agencies, good, bad?
 15 A Well, no change to ratings at that time, so I
 16 guess that's a good outcome.
 17 Q I mean, from -- you're the financial guy.
 18 A From my perspective --
 19 Q Is it a good outcome?
 20 A Well, so I didn't always agree with all the
 21 rating agencies' assessments. But yes, coming out of
 22 that meeting with no rating change was a perfectly
 23 acceptable outcome from my perspective.
 24 Q Was it your belief at that time that JEA was
 25 financially strong?

1 A Yeah, and it's still financially strong today.
 2 Q Even without any rate increases?
 3 A As we sit here today, yes. There will be
 4 substantial rate increases in the future. That's my --
 5 based on my knowledge of the business and the challenges
 6 facing the business that there will -- there will be
 7 rate increases.
 8 Q When you were working on the rating agency
 9 presentations, did you consult at all with the FMPA?
 10 A No.
 11 Q Okay. Why do you -- you're looking at me like
 12 no, like -- you're --
 13 A No --
 14 Q -- looking like you think that's a silly
 15 idea --
 16 A I'm sorry. No, that would not be normal
 17 course of business for us.
 18 Q Okay. What's the purpose of FMPA?
 19 A So we're not a member of FMPA. FMPA is a
 20 wholesale municipal electric -- essentially, a joint
 21 action agency that is -- has a lot of smaller utilities
 22 around the state that really aren't large enough to be
 23 able to justify their own -- or their own generation
 24 portfolio.
 25 And so FMPA's role is basically to aggregate

1 all of those loads and do generation projects on behalf
 2 of those customers. And they have contracts to provide
 3 that generation and that power.
 4 And then essentially they securitize it,
 5 securitize those contracts and the revenues associated
 6 with those contracts and sell bonds to finance those
 7 projects.
 8 Q Is there another organization that covers
 9 larger municipal utilities like OUC, JEA?
 10 A Not really similar to FMPA. So larger
 11 utilities typically manage their own loads. So JEA,
 12 OUC -- I don't know -- OUC may have some involvement
 13 with FMPA, although I don't know exactly what the nature
 14 of that relationship is.
 15 But I do believe OUC has some of their own
 16 generation too. So I don't know if they just
 17 participate in a couple of projects or what that
 18 relationship is.
 19 But generally the larger utilities are similar
 20 to us in that they have their own generation fleet and
 21 manage their own balancing area and, you know, all of
 22 that activity.
 23 Q Okay. All of those municipal utilities,
 24 though, are bound by some of the governmental
 25 constraints that JEA mentioned in Scenario 2 and was

1 trying to get rid of in Scenario 2A; right?
 2 A Uh-huh.
 3 Q So did you ever discuss with any other
 4 municipal utilities, associations, whatever, about the
 5 problems for the future of the industry with -- caused
 6 by Sunshine law, State law, Constitutional issues?
 7 A Yeah, so I had some conversations with my
 8 counterpart at Orlando Utilities, at OUC. You know,
 9 they're the closest, you know, animal to us, so to
 10 speak, in the state. And we talked about some of the
 11 issues.
 12 And, you know, her -- her take on it was,
 13 look, they're seeing -- they're seeing certainly some of
 14 the same challenges in terms of loss of, you know,
 15 consumption per customer and that sort of thing.
 16 They're seeing pretty substantial growth in Orlando in
 17 terms of population growth. There's a lot of new
 18 apartments and developments going up and that sort of
 19 thing. And so she said some of that has muted some of
 20 the impact of lower consumption per customer.
 21 She said a lot of what they were doing -- they
 22 recognize some of the same constraints. She said a lot
 23 of what they were doing was trying to work with other
 24 city agencies and fellow, you know, municipal-type
 25 brethren, so to speak, cousins, within the Orlando

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1 family, so to speak. The airport, for example --
2 Q Okay.
3 A -- right? They did some work with the airport
4 to provide chilled water and backup generation and some
5 things like that.
6 Q When did you have these conversations with
7 her?
8 A Sometime over the summer.
9 Q Summer --
10 A Summer of '19.
11 Q -- of '19?
12 A Yeah.
13 Q Was it before or after the July 23rd board
14 meeting?
15 A I don't recall. I don't recall if it was
16 before or after. I'm sorry.
17 Q Was it done during the process of developing
18 the presentation to the board about Scenario 2 or 2A?
19 A It wasn't specific to -- it wasn't specific to
20 the development of those proposals.
21 You know, as you might imagine, I had
22 conversation -- I had relationships, you know, across
23 the industry. You know, I've been in the utility
24 sector -- in the public utility sector for my entire
25 career, essentially. And so, you know, I've got

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1 relationships across the industry. It was not uncommon
2 to have conversations at industry events or, you know,
3 that kind of thing about business.
4 Q Did you consult with anybody that you knew in
5 that realm in preparing for the July 23rd --
6 A In conjunction with the board materials?
7 Q Yeah.
8 A Not specifically -- not specifically related
9 to that, you know, preparation, no.
10 Q Did you ever hear the term "death spiral" used
11 in reference to JEA?
12 A I've heard it many times over the last several
13 months.
14 Q When was the first time you heard it?
15 A I don't recall.
16 Q Do you remember who said it?
17 A My understanding was that it was a board
18 member at some board meeting, but I don't remember
19 who -- which board member it was.
20 Q And did you agree with that statement?
21 A I think I do. I think it's the pace of the
22 death spiral is the question.
23 I think that -- you know, look, if you -- if
24 you go out in time, I do believe that a connection to
25 the grid will be optional. I mean, you're already

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1 starting to see it. And so absent some kind of
2 regulatory framework to say you have to connect, you
3 know, I think there will be very viable options to not
4 take electric service. So in that respect --
5 Q So the entire industry is in a death spiral?
6 A Yeah. I mean, I think -- again, absent
7 regulatory framework to allow for the collection of the
8 costs that have been incurred, I mean, that's -- you
9 know, that's going to be an issue that we're going to
10 have to face.
11 And interestingly enough, I had -- so in one
12 of the conversations with the CFO at OUC, we had this
13 conversation. And one thing she pointed out was, you
14 know, if -- if you think about the role of the Public
15 Service Commission, the role of the Public Service
16 Commission is to regulate what would otherwise be a
17 monopoly, right? And to provide, basically, a fair
18 market playing field for, you know, both consumer and
19 provider, right?
20 You know, her point was kind of an interesting
21 one that I had actually never heard anybody raise
22 before, but she said something to the effect of, well,
23 if -- if electric service is optional and there really
24 is true competition, why do you need a Public Service
25 Commission to regulate price? Which was almost kind of

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1 a mind-blowing observation, really, to me at that time.
2 But when you think about it, you know, if
3 there is a viable market and there is the viable
4 alternative to having a wired connection, you know, it's
5 really no different than, you know, what you saw with
6 landline telephones when cell phones came into effect.
7 I mean, you didn't have to regulate the telephone
8 companies anymore because now there was competitive
9 options that the market was providing.
10 And so that was kind of an interesting
11 observation that she had. Now, we're not going to have
12 that next year, I mean, you know.
13 But so -- do I agree with the term "death
14 spiral"? Yeah, more or less. I think we can argue
15 about the -- about the pace and how people respond to it
16 and whether or not there's regulatory changes associated
17 to recover stranded costs and is there an orderly
18 decline and -- you know, there's all kinds of what-ifs.
19 Q Did you discuss the term "death spiral" or the
20 board member saying "death spiral" with Mr. Zahn?
21 A I don't think so. I don't recall. I don't
22 recall a specific conversation about the word "death" --
23 or the term "death spiral," no.
24 Q Did you discuss the rating agency actions with
25 Mr. Zahn in -- after the February meetings?

1 A That the ratings were unchanged?
 2 Q Yeah.
 3 A Yeah, I would have made him aware of that.
 4 Q Do you remember his reaction?
 5 A No, I don't.
 6 Q When did -- when did the rating agencies make
 7 their decisions? After your presentation to the board
 8 in February 2019?
 9 A When did they?
 10 Q Yeah.
 11 A I don't recall specifically. Typically, if
 12 they're going to issue a report, they'll issue a report
 13 in, I don't know, a few weeks.
 14 Q So it would have been --
 15 A A few weeks to a month, something like that,
 16 yeah.
 17 Q It would have been before y'all started the
 18 heavy work on the --
 19 A Yes.
 20 Q -- preparing for the board?
 21 A Yeah.
 22 Q How much of the rate increase was -- was there
 23 a number tied to the rate increases that were presented
 24 to the rating agencies?
 25 A In February?

1 Q Yeah.
 2 A I don't recall what we showed as far as rate
 3 increases in February. We also did a rating agency
 4 presentation in, I think, August.
 5 Q Okay. I'll ask you about that in a minute.
 6 A Yeah.
 7 Q Do you know if there was a number associated
 8 with the rate increases that were discussed as part
 9 of -- as part of Scenario 2?
 10 A With the board?
 11 Q Yeah, with the board.
 12 A So there was a conversation about the rate
 13 increase as part of Scenario 2. It was in the context
 14 of a ten-year period. So we looked at -- again, back to
 15 the comment about how we did the analysis.
 16 We looked at what's our revenue requirement
 17 today, you know, in our current state; what does the
 18 ten-year horizon look like in terms of all these changes
 19 and ins and outs facing the industry; and what's the
 20 impact of cost cuts that we can get; and, you know,
 21 basically what's the revenue requirement in year ten.
 22 And, you know, one divided by the other one is the rate
 23 increase, right?
 24 I mean, so we didn't -- at that time, the
 25 level of sort of the rate increases, the timing of them,

1 that kind of thing, really wasn't -- it was much more of
 2 a high-level revenue requirement number. We hadn't
 3 gotten into rate design specifically at that time.
 4 Q Did you have to get into rate design with the
 5 presentations to the rating agencies?
 6 A No.
 7 Q Here's what I don't understand --
 8 A Okay.
 9 Q -- February '19, you go to the rating
 10 agencies. You got this fabulous presentation, and you
 11 come back, it's not changed, which is good; right?
 12 A The ratings?
 13 Q Your ratings are not changed.
 14 A Are unchanged, yes. The ratings are
 15 unchanged, that's good.
 16 Q And that's good --
 17 A Yes.
 18 Q -- you said earlier?
 19 So why under that same scenario, which is
 20 Scenario 2, in July, and I think even before when you
 21 present that to the board, Scenario 2 is not acceptable
 22 and you've got to move on to Scenario 3?
 23 A So I think -- again, I think that was --
 24 there's a couple of things there.
 25 Again, the first thing you got to remember is

1 the timeline. So in the context of the timeline that
 2 the rating agencies are looking at, they really don't
 3 look at a ten-year period. Again, their rating horizon
 4 is a one- to three-year period, and their ratings are
 5 based on their outlook for that one- to three-year
 6 period, really.
 7 They might make notes of challenges facing the
 8 business. They would -- that wouldn't be uncommon for
 9 them to, you know, make a comment or something like that
 10 in their rating report. But the rating itself would --
 11 would be based on a, you know, again kind of a one- to
 12 three-year time horizon.
 13 The conversation with the board was a ten-year
 14 conversation. The rate increases were over a ten-year
 15 period. And the work with McKinsey around the very
 16 granular like build of the sales forecast was done after
 17 that February meeting.
 18 So, again, in the February meeting we were
 19 talking about 12 million megawatt hours flat, flat sales
 20 for the electric system. That -- you know, again, that
 21 was pretty consistent with what we had shown them over a
 22 number of years.
 23 We had never done the kind of like fundamental
 24 build that McKinsey did with us that spring. I think it
 25 was much more of a kind of estimate trying to get to

1 some reasonable financial projection around
 2 weather-adjusted sales. We always wanted to be
 3 conservative around the weather.
 4 So if you look at our sales, our actual sales
 5 that come in, anywhere from 12 million -- a couple years
 6 ago it was like right at 12 or just over 12 million --
 7 to 12.4 million megawatt hours, something like that.
 8 And that's largely just driven by weather fluctuations,
 9 hot summer, cold winter, that kind of thing.
 10 So we typically tried to be -- put a
 11 reasonable forecast together for the rating agencies
 12 that kind of reflected a weather forecast that, you
 13 know, we thought, hey, depending on what happens with
 14 weather, we think we can hit these numbers.
 15 Q Okay. Did you get into the weather discussion
 16 with the board?
 17 A In July?
 18 Q Yeah. Was that part of Scenario 2?
 19 A So there was a -- I don't remember if we
 20 talked about it with the board specifically.
 21 There was a note, I think, on one of the
 22 slides where we kind of gave a range of sales in, you
 23 know, 2030 based on weather, you know, because there was
 24 sort of the weather normalized number which was kind of
 25 talked from.

1 But there was a range, I think, that was maybe
 2 pointed out in one of the slides, or at least in one of
 3 the drafts there was a range. I don't remember if it
 4 ended up in the board package.
 5 Q Okay. I know that you provided an update in
 6 August 2019 to the rating agencies. Why was that done?
 7 A A couple of the rating agencies -- I think it
 8 was S&P and Fitch -- were on a timeline where they had
 9 to publish an update. And so they called us and said,
 10 hey -- I guess they have some period of time where they
 11 have to refresh the reports.
 12 I guess they didn't do a full report in
 13 February, and they needed to do a full report. They
 14 sometimes will do like little notes. But they have
 15 bigger reports that they do that are more fulsome, and
 16 they have to do those, I think, every so often. And so
 17 I think their requirements were coming up that they
 18 needed to do those.
 19 Q Did they reach out to you for that update?
 20 A Yes. Yeah, S&P in particular. I don't
 21 remember -- I don't remember how the conversation
 22 started with Fitch, but S&P did in particular.
 23 Q Was the -- and so what did you provide to
 24 them?
 25 A Well, so we went in and gave them an update,

1 and what we did was we said, hey -- you know, we didn't
 2 have audited financials at that point. We weren't going
 3 to have them to meet their timeline. The -- and they
 4 agreed to take, you know, unaudited results, and that
 5 was okay. So we sent them unaudited results after the
 6 end of the fiscal year in September.
 7 Q Did you include the Scenario 3 information?
 8 A So we -- I think we probably gave them an
 9 update on the strategic planning process in August when
 10 we sat down. We would have walked them through what the
 11 board had done. We would have talked to them about the,
 12 you know, different nongovernmental structures. We
 13 would have, you know, given them an update on what was
 14 going on.
 15 Q Did you advise them about the PUP?
 16 A I don't recall that ever coming up, no.
 17 Q Would that have been important?
 18 A No.
 19 Q Why not? To a rating agency.
 20 A It's immaterial.
 21 Q Why is it immaterial?
 22 A It -- again, from a rating agency standpoint,
 23 something of a couple million -- or, you know, several
 24 million dollars on a -- on a program that's designed to
 25 increase the financial health of the business whereby

1 90 percent of any value that's created improves the
 2 financial health of the business, there's not really --
 3 from a rating agency standpoint, that wouldn't be an
 4 issue for them.
 5 Q What if the program was uncapped?
 6 A No matter what the -- no matter what the
 7 program -- no matter what the outcome is, 90 percent of
 8 the value that's created stays with the organization and
 9 would accrue to the benefit of bondholders, presumably,
 10 in the sense of increased -- you know, increased
 11 coverage and, you know, all the good things that they
 12 care about in terms of balance sheet and financial
 13 metrics.
 14 So it would have been aligned to positive
 15 financial outcomes, from their perspective.
 16 Q I'm going to show you an email that you were
 17 cc'd on. It's an email from Mr. Zahn about -- and he
 18 says rating agencies are actively inserting themselves.
 19 Do you remember seeing that email?
 20 A I don't recall this email specifically.
 21 Q Do you know what he's talking about, rating
 22 agencies inserting themselves?
 23 A Yeah, so I can surmise based on the date of
 24 this being October 18, 2018, and based on who is copied
 25 on the email -- without seeing the slides themselves,

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1 which are attached -- I would say the topic was probably
2 related to the litigation that was filed against -- in
3 regards to MEAG and plant Vogtle.
4 The rating agencies did not like the lawsuit
5 that was filed. There's no secret. Moody's downgraded
6 us. So my guess is that there was some element of this
7 presentation which referenced the lawsuit, and so that's
8 probably what it's referring to.
9 Q Do you know who the Jim Fuller is that's
10 referenced in the last line of that email?
11 A Yeah, that's why -- that's why I say that.
12 Jim Fuller is the CEO at MEAG Power.
13 Q Okay.
14 A So that's why I came to that conclusion.
15 MS. HARRELL: Okay. Can we take a break?
16 (Discussion off the record.)
17 (Recess taken from 2:34 p.m. to 2:43 p.m.)
18 BY MS. TEODORESCU:
19 Q I have one brief question. I'm going to show
20 you this document. I'm going to tell you that it comes
21 from the June 25th package that went to the board.
22 I'm giving you the first page and the last
23 page just for context. I'm really curious about the
24 slide in the middle.
25 If you can explain what that disclaimer is

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1 actually saying.
2 MR. POWELL: And for the record, that slide
3 that you're looking at, Page 2 of that, is part of
4 the June -- the June 2019 presentation.
5 THE WITNESS: So this was a statement that we
6 worked with counsel on regarding forward-looking
7 statements. So in the context of -- you know, we
8 have 4 -- well, sorry -- \$3.4 billion or so of
9 publicly traded securities that are governed as
10 publicly traded securities, right? Bonds. They're
11 governed by the SEC and securities rules.
12 One of the requirements of disclosure related
13 to those rules is that if you're -- if you're
14 having conversations that you reasonably expect to
15 reach, you know, the investing community -- which
16 certainly something like this would have risen to
17 that -- you need to be very clear about what is a
18 forward-looking statement, right?
19 So as to be -- and you'll see this in --
20 you'll see it commonly in quarterly earnings
21 reports. If you dial into a conference call or
22 something like that, you typically will have
23 conversations about what they expect to happen,
24 projections. You know, they talk about the future
25 of the business and where they see the next

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1 quarters coming and that kind of thing.
2 And so that was the reason for that disclaimer
3 was to basically tell people, hey, these could be
4 wrong, basically. It's common, though, in the
5 industry -- or with anybody that has publicly
6 traded securities.
7 BY MS. TEODORESCU:
8 Q This document is from the July 23rd packet to
9 the board. Unfortunately, this one is very, very small.
10 It's right at the top. It's a disclaimer that seems to
11 be quite similar to this. Can you help us --
12 A Yeah, I think it would have been a similar
13 disclaimer. I think at one point -- and I don't really
14 recall how -- what the genesis of it was. But at one
15 point we just put it on every page of the document, and
16 so I'm sure that was how it ended up here. I'm sure
17 that was the idea there.
18 Q So what is this saying about the current
19 situation -- well, current at the time, you know,
20 June 25th, July 23rd? What is it saying about the
21 situation of JEA on those particular dates?
22 A What does the disclaimer say about this?
23 Q Yes.
24 A Well, it doesn't really address anything -- I
25 mean, it's a disclaimer. It's a disclaimer about the

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1 fact that there are projections that may vary, you know,
2 based on any number of factors. So --
3 Q And some of those factors may be wrong?
4 A Of course. That's why the disclaimer is
5 there.
6 BY MR. POWELL:
7 Q So what you're saying is that this disclaimer
8 was not really -- or not intended by the presenters to
9 alert the board of directors to the fact that some of
10 these projections might not be reliable; rather, you
11 intended it to be communicating to investors that some
12 of these projections that you were presenting to the
13 board of directors to act on might not be reliable?
14 A Yeah, so -- yeah, so I'll clarify that.
15 That's correct. The disclaimer was directed toward
16 investors.
17 It's important to note that we don't typically
18 present ten-year financial projections. In fact, to my
19 knowledge, I don't know that we had ever projected
20 ten-year financial projections in a public setting,
21 right? Like we typically really shied away from it even
22 with the rating agencies.
23 Up until the last couple of years, I'm not
24 sure we provided anything beyond five to the rating
25 agencies, and we typically tried to keep it to five

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1 unless they specifically asked, you know, follow-up
2 information and that kind of thing.
3 So was unusual to have numbers that showed
4 financial performance over a ten-year period.
5 Obviously, a lot can happen in ten years. So we were
6 concerned about the fact that this is information that
7 wasn't available prior to, you know, these kinds of --
8 these board meetings. And so, as such, one of the
9 things we did was work with bond counsel to, you know,
10 make sure that we had appropriate, you know, disclaimer
11 language in the presentation.
12 BY MS. TEODORESCU:
13 Q So Scenario 2, the traditional response, it
14 was a response projected for sometime in the future?
15 A I guess I don't understand the question.
16 Q Well, if you look Page 1, the one just before
17 the disclaimer --
18 A Yeah.
19 Q It talked about strategic planning overview.
20 There's a Scenario 1 and a Scenario 2, traditional
21 response. Then you turn the page and you have the
22 disclaimer, and it says --
23 A Right.
24 Q -- whatever it says to the investors.
25 A There were financial projections in the

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1 presentation, yes.
2 Q And they were for the future?
3 A Yes.
4 Q Not --
5 A Not past.
6 Q -- for the moment? And not for the present?
7 A I think we showed a starting point of where we
8 are today and then, you know, where we expect -- you
9 know, based on whatever scenarios and options, where we
10 project it to be at the end of the ten-year period,
11 2030.
12 Q And the traditional response would have kicked
13 in when?
14 A The way it was modeled was immediately. The
15 cost reductions were immediate. Again, I don't recall
16 the timing of rate actions. Again, the rate -- the rate
17 conversation was really more of a -- just looking at the
18 end and saying what's the revenue requirement in year
19 ten and, you know, kind of what's the change over that
20 time period.
21 Q So the cost reductions were seen as necessary
22 immediately?
23 A That was how they were modeled, and that's how
24 I think it was contemplated.
25 You know, Melissa and I had this conversation

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1 about the -- about the reduction in force, timing of it,
2 that kind of thing. Part of the problem is, you know,
3 as a government, you're not very good at like letting
4 people go, honestly. I mean, it just doesn't happen. I
5 mean, you guys all know. It's very unusual.
6 And so part of the discussion around the
7 timing was really just the fact that, you know, you kind
8 of had to rip the Band-Aid off and almost go as far as
9 you thought you needed to go, and then if you needed to
10 add people, you'd go back, right?
11 Because if you tried to go the other way and
12 like slowly decrease through attrition or whatever,
13 you'd never get to an appropriate number from a cost
14 reduction standpoint.
15 BY MR. POWELL:
16 Q Well --
17 A That was the feeling from a management
18 standpoint.
19 Q That does raise an interesting look at it,
20 though, because six months earlier or less, you were up
21 in New York projecting a solid one- to three-year
22 forecast; correct?
23 A Uh-huh. Uh-huh.
24 Q You present the traditional response in the
25 summer. And you're representing that there's a need for

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1 immediate reductions in force. And I gather fairly
2 immediate rate increases; yes?
3 A Yeah, again, I don't remember the timing of
4 the rate increases.
5 Q But you had, did you not, from your
6 representations to the rating agencies, three years to
7 work with? Am I not interpreting all of this correctly?
8 A No, I think -- so what I would say is, you
9 know, it's fair to say that today the agency is good
10 financially. I think that, you know, it comes down a
11 little bit to what is the right time to -- to stop doing
12 something that's unsustainable, right?
13 So, you know, the longer you wait, the harder
14 it gets to respond in terms of the timing, right? So if
15 you wait till solar panels are, you know, cheaper than
16 the cost to provide service, well, then you're kind of
17 really in a tough spot, because now you've got to raise
18 rates and people have an option to jump off the grid,
19 right? So you've now just perpetuated your problem,
20 right?
21 So, you know, I think the conversation's kind
22 of like, well, look, we're in pretty good shape today,
23 and we've got a runway to be able to make some of these
24 changes, but the longer you wait, the less runway you
25 get, right? So --

1 Q I understand what you're saying. I'm simply
2 asking whether that runway -- it seems me that the
3 runway was fairly lengthy and that the changes that
4 you're talking about that take a long time to make, for
5 example, a substantial reduction in the number of
6 employees, could be accommodated by that rather lengthy
7 runway as opposed to a need for the immediacy, which
8 was, I believe, contained in the materials.

9 A I think --

10 Q Do you disagree -- I mean, do you see what I'm
11 saying, and do you have any thoughts on that?

12 A Yeah, I see what you're saying. I think the
13 longer you push it, the more the impact -- the more
14 action you have to take. Because you -- so, for
15 example, if you were to do it immediately, you could pay
16 down more debt more quickly, which would reduce the need
17 for additional rate increases in the future, and it
18 would allow you to have more of a smooth transition to
19 where if you didn't -- if you didn't take any of the
20 action and you tried to cut costs but you didn't do
21 anything -- you know, you didn't do any rate increases
22 and all that sort of thing, then yeah, you could have
23 raised rates at some point in the future and paid down
24 debt then, but then you're raising your rates at some
25 point in the future when solar is more economical for

1 people to disconnect, you know, from the system.

2 So, I mean, you could have the debate on
3 timing. That's sort of a business kind of conversation.
4 But I think if you look at -- if you look at the
5 problems facing the business, it is logical to come to a
6 conclusion where the quicker you take action, the less
7 the action ultimately needs to be over the long term.

8 BY MS. TEODORESCU:

9 Q How many people were going to be laid off
10 under Scenario 2, approximately?

11 A Gosh, I wish I could remember the specific
12 number. It was several hundred, but I don't remember --

13 Q It was closer to 200 or 800?

14 A No, it was -- I don't -- I wish I had the
15 materials. I don't have --

16 Q It was more than 200 --

17 A It was more than 200, yes. It was less than
18 800.

19 Q Okay. You think it was more than 500?

20 A I don't remember.

21 BY MR. POWELL:

22 Q But certainly at least 10 percent of the
23 workforce?

24 A Oh, yeah. 10 percent would have been 200
25 people, yeah.

1 Q At a minimum, at a --

2 A In orders of magnitude, it was -- my
3 recollection -- and I'm sorry, I can't remember. My
4 recollection is orders of magnitude, it was similar to
5 what we had done over the prior 10 years. So from the
6 prior 10 or 12-year period or so, since '06, '07 kind of
7 time frame, we cut a little over 400 employees.

8 And it was somewhere in the same kind of
9 ballpark, I think. But I don't remember the specific
10 number.

11 BY MS. TEODORESCU:

12 Q And when would they have been laid off, by
13 what date?

14 A I don't know. I do know that they're working
15 on WARN notices -- the WARN notice. And we had
16 provided -- all the senior leadership team had provided,
17 you know, who -- a list of -- I think they did it by
18 position. I don't know that we did it by specific name,
19 but I think we did it by like position title.

20 So, you know, I would get rid of one analyst,
21 for example, right? And so that was how -- that was how
22 we came up with the number. Ultimately it was
23 basically -- the question that was posed to the SLT was,
24 you know, what's your bare-bones staff to be able to
25 continue to operate the business; what does that look

1 like in terms of numbers and head count and that kind of
2 thing.

3 Q But do you recall approximately when it would
4 have happened, by October 1st, by the beginning of the
5 new fiscal year?

6 A I don't recall.

7 Q Was it going to be this year -- I mean, 2019
8 or ...

9 A If the board would have approved it -- are you
10 asking if the board would have approved it in July, how
11 long would it have taken?

12 Q Yes.

13 A So I don't -- I don't recall like a specific
14 conversation around it. My guess is it probably would
15 have been taken, you know -- call it a year, six months
16 to a year, something like that, to --

17 Q So it wouldn't have happened yet by today?

18 A It would have been right around now, yeah.

19 Q Could have been?

20 A Yeah.

21 Q And today JEA is in good financial health?

22 A Yeah, the balance sheet -- so they still have
23 too much debt. Financially, if you look at kind of
24 coverage metrics and, you know, the liquidity and things
25 that the rating agencies and the investors care about,

1 it's in good financial health aside from the debt issue.
 2 The challenges it faces really are
 3 future-based. It's the plant Vogtle contract, which
 4 will come online in 2021 and 2022. That's going to be
 5 really expensive, like really expensive.
 6 Our total base revenue requirement today is
 7 about, I don't know, 750 to \$800 million, somewhere in
 8 that ballpark. Vogtle is going to cost about
 9 200 million alone. So, you know, that's at least
 10 25 percent of our current total revenue requirement that
 11 we collect from customers today.
 12 Q Is that per year?
 13 A That's per year, yeah. And that will be once
 14 both units are online.
 15 And then when you factor in some of the other
 16 concerns around additional energy efficiency, solar
 17 penetration, batteries, even with the electrification in
 18 terms of electric vehicles -- which will help offset
 19 some of that, I think, as electric vehicles kind of get
 20 more prominent, that will help.
 21 But between the combination of those cost
 22 increases and some of the challenges on the sales side,
 23 it mandates that we're going to have to do something.
 24 BY MR. POWELL:
 25 Q Without going into the weeds on plant Vogtle,

1 how -- and I recognize that plant Vogtle looms.
 2 But how would shifting to a nongovernmental
 3 structure or a recap have solved that debt issue?
 4 A So that's a good question. I don't think we
 5 ever really got to an answer on that.
 6 Q So is it fair to say that plant Vogtle really
 7 isn't in the factoring that you-all went through to
 8 arrive at what you were presenting to the board in
 9 July of 2019?
 10 A Well, it was factored into the financial
 11 projections for sure, and it was an element of that. So
 12 when we talk about rate increases and all that kind of
 13 thing, a significant portion of that is related to plant
 14 Vogtle.
 15 Q But that would have been the case whether --
 16 regardless of which scenario you opted for or the board
 17 opted for, wouldn't it?
 18 A The plant Vogtle obligation? Yeah --
 19 Q It wasn't going away?
 20 A No, it was not going away. I think -- so
 21 unfortunately, you know, we never really got to a
 22 financial projection on the recapitalization structure,
 23 so I don't really know what the difference would have
 24 been around those financial projections relative to --
 25 Q I mean, there wasn't --

1 A -- Scenario 1 or 2.
 2 Q There wasn't any discussion going on about
 3 conjuring up some way to sell JEA and carve out plant
 4 Vogtle and allow a purchaser to acquire JEA free and
 5 clear of Vogtle, was there?
 6 A Yeah, there was some discussion around doing a
 7 joint service territory. So the Vogtle contract was
 8 extremely -- it's a terrible contract as far as JEA is
 9 concerned.
 10 Q But it is what it is.
 11 A It is what it is.
 12 It's very restrictive as it related to
 13 assignment.
 14 Q I understand that.
 15 A Yeah. And so there were some discussions
 16 around, well, is there a way that you could essentially
 17 split the service territory. There were some
 18 discussions of whether or not you -- so we had a number
 19 of discussions related to settlement of the Vogtle
 20 litigation that would have potentially unwound the
 21 contract.
 22 I'm getting a little nervous here in terms of
 23 the active litigation and confidentiality and --
 24 Q All right. I don't want to push you into
 25 nervousness.

1 A -- so I don't know how far I can go there.
 2 We talked -- we disclosed that we were working
 3 with MEAG to try to come to some resolution around how
 4 to fix our claim under that lawsuit, restructuring a
 5 deal effectively.
 6 (Brief interruption.)
 7 BY MR. POWELL:
 8 Q All right. I think you've answered my
 9 questions about Vogtle's place in the scenarios in July.
 10 A Yeah, it was in the scenarios.
 11 Q It was in all the scenarios?
 12 A Correct.
 13 Q No scenario solved the plant Vogtle situation?
 14 A So there was some discussion around -- and
 15 again, we never got to --
 16 Q Let me ask it differently.
 17 It certainly wasn't presented to the board in
 18 July --
 19 A No.
 20 Q -- that any one scenario or the other is going
 21 take care of plant Vogtle?
 22 A No.
 23 MR. POWELL: All right. So that's really not
 24 an issue, then, for us any longer here.
 25 Did you have more that you wanted --

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1 MS. TEODORESCU: Yes.
2 MR. POWELL: Why don't you carry on.
3 BY MS. TEODORESCU:
4 Q Is it fair to say that a long-term incentive
5 plan was Mr. Zahn's idea? I don't mean this particular
6 plan, but the concept of introducing a long-term
7 incentive plan?
8 A So the -- in December -- sometime in December,
9 I guess, as far as -- as far as I know, December of
10 2018, Aaron started looking at the -- as we got done
11 with the four measures of value and the guiding
12 principles, Aaron started looking at how do we motivate
13 employees to align activities to those four measures of
14 value.
15 So the short-term incentive plan, we rolled
16 out a new dashboard that had metrics tied to each of
17 those four measures of value. He began looking at the
18 board's compensation policy. He commissioned the Willis
19 Towers Watson study.
20 And, you know, I think that based on the -- or
21 based on the feedback from the Willis Towers Watson
22 study which said utilities typically have some kind of
23 short-term -- you know, base salary, short-term
24 incentive, long-term incentive --
25

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1 BY MR. POWELL:
2 Q In the private sector?
3 A Generally -- yeah, all in the private sector
4 have LTI plan -- long-term incentive plans. A handful
5 of the public power had long-term incentive plans.
6 And so Aaron looked at that data and I think,
7 you know, decided that, well, if the board's policy is
8 market 50th and this is market 50th to have
9 short-term -- you know, base, short-term, long-term,
10 then we should try to figure out how to -- how to do a
11 long-term plan.
12 BY MS. TEODORESCU:
13 Q And who was going to figure out how to do the
14 plan, Towers Watson, JEA? Who was going to do this?
15 A Well, I don't recall any specific
16 conversations related to who was going to do it. Yeah,
17 I don't recall any specific conversations related to
18 that.
19 Q And you said earlier that you looked at
20 various options before the performance unit came into
21 play.
22 Around what time of the year were you looking
23 at these other options?
24 A I think it was in the spring. I think it
25 would have been in that March, April, May, kind of time

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1 frame, somewhere in there.
2 Q And --
3 A Probably April or May.
4 Q As you were looking at these options, were you
5 informing Mr. Zahn of what you were considering?
6 A Yeah, so he wanted me to look at -- again, he
7 wanted me to look at whether or not we could do a bond
8 and provide bonds to people instead of stock.
9 Obviously, we don't have stock. And so we looked at
10 that.
11 We looked at the -- you know, we talked to
12 bond counsel to see if we could do that and whether or
13 not that would be an option. Ultimately bond counsel
14 came back and said, hey, that doesn't really work, and
15 so that kind of ended that conversation.
16 Q So that was Mr. Zahn's idea initially? He
17 came to you and he said --
18 A Yeah, could we do a bond. Yeah, that's right.
19 Q -- can we do a bond?
20 It wasn't your idea?
21 A Correct.
22 Q And then you said that sometime in May,
23 June 2019, Mr. Zahn asked you to look at a long-term
24 incentive plan tied to financial performance of the
25 business; is that correct?

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1 A I don't remember the time frame when he asked
2 me that, but it was sometime in the spring, and it was
3 always related to --
4 So the whole conversation related to the
5 long-term incentive plan was always to tie it to the
6 long-term financial performance of the business.
7 Q Was that the directive from Mr. Zahn?
8 A Yes.
9 Q Do you know where he got that idea, that it
10 would be tied to the financial performance of the
11 business?
12 A I think it's common -- if you look at these
13 long-term incentive plans that were provided, you know,
14 for consideration by Willis Towers Watson as far as the
15 industry is concerned, many of them are tied to
16 financial performance over a multiyear period.
17 Q Well, let me show you what Towers Watson was
18 saying. I'm going to show you JEA 0327 from Council
19 Member Diamond's notebook. If you look -- let me see
20 where it is. Performance Metrics Weights, and can you
21 interpret that for me for public power utilities?
22 A Operational metrics weighted more heavily than
23 financial metrics is what the -- under Performance
24 Metric Weights, that's what's noted there.
25 Q Right. So what does that mean to you?

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1 A I think it's pretty straightforward.
2 Q Well, and I'm saying in terms of what Mr. Zahn
3 directed you to look at, he directed you to look at
4 financial metrics only?
5 A So the way -- the way the plans were designed
6 was that the short-term incentives -- the short-term
7 incentive plan was primarily weighted toward operational
8 metrics. It was day-to-day operation of the business.
9 It was things like outage frequency, customer
10 satisfaction as measured by J.D. Powers, environmental
11 compliance.
12 You know, all of those kind of operational
13 things were encapsulated really in the short-term
14 incentive plan on an annual basis. And his -- his
15 vision was that you would have more of a financial focus
16 on the long-term incentive program.
17 And more akin to what you see as, you know,
18 the -- under the second category there, Total
19 Shareholder Return -- TSR stands for Total Shareholder
20 Return -- and financial metrics weighted more heavily
21 than operational metrics.
22 Q Is that in the private sector one?
23 A That's in the private sector one, yes.
24 BY MR. POWELL:
25 Q I just wanted to make sure you didn't misspeak

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1 a little bit ago, and I want to clear up the record in
2 case there is some confusion.
3 A bit ago you weren't suggesting that you were
4 aware of any long-term incentive plans in any public
5 utilities, were you, that extended to all employees?
6 A Not to all employees, no. I'm sorry. Yeah.
7 Q No, no. You didn't --
8 A Yes.
9 Q You didn't cause the confusion, but it could
10 have been confusing. I just wanted to clarify.
11 A Yes.
12 Q Thank you.
13 A Yeah.
14 BY MS. TEODORESCU:
15 Q And whose idea was to have a three-year
16 performance time?
17 A I don't recall whose idea that was.
18 Q Was it yours?
19 A Wouldn't have been mine.
20 So, again, if you look at long-term incentive
21 plans generally in the corporate sector and that's -- I
22 mean, look, I mean, that's primarily where these are
23 used, right, is in the corporate sector.
24 Yeah, three years is a pretty common, you
25 know, number as far as number of years. So that

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1 wouldn't be -- that wouldn't be unusual in any way.
2 Q That's considered a long-term --
3 A Yes.
4 Q -- three years?
5 A Yes.
6 Yeah, every long-term incentive plan that I've
7 participated in in other, you know, jobs, you know, in
8 the corporate sector, was a three-year plan.
9 Q So was the purpose of the long-term incentive
10 plan to motivate workers?
11 A Yes.
12 Q So they would perform better?
13 A Yes.
14 Q But the incentive was tied to the financial
15 value of the company. Now, the financial value of the
16 company may go up for reasons completely unrelated to
17 worker performance; is that true?
18 Let me put it this way. Can real estate value
19 go up?
20 A Can real estate value go up?
21 Q Yes.
22 A Well, real estate value can go up, but it
23 doesn't affect the value of JEA from an accounting
24 standpoint.
25 Q It doesn't?

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1 A No. All of our real estate is held at the
2 cost of acquisition. So the book value doesn't ever
3 change. It's never marks to market.
4 Q So what puts the value -- the book value up?
5 A Earnings.
6 Q That's all?
7 A Yeah.
8 Q And earnings come from what sources?
9 A Revenues minus expenses.
10 Q And the revenues come from?
11 A Sales.
12 Q And that's all?
13 A Yeah. I mean, I -- so we have some revenues
14 from -- I mean, it's all sales of some kind. The
15 question is what kind of a product, right?
16 I mean, we had revenues from timber sales, for
17 example, that we did a few years ago. We had -- you
18 know, we monetized cell towers. We have a big
19 communications network that we use to -- you know, for
20 our own purposes to communicate information between all
21 of our different sites and locations and that. So we
22 were able to, you know, lease space to T-Mobile or
23 Verizon or that sort of thing.
24 So -- but it's all sales, yeah. I mean, so
25 it's a true statement.

44 (Pages 173 to 176)

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1 Q But at the same time, the value of a
 2 performance unit could very well depend on the sale --
 3 the value at which JEA sold it; is that correct?
 4 A Yeah, so the formula under the long-term
 5 incentive -- under the performance unit plan
 6 contemplated the change in net position, so the
 7 earnings, right, over the three-year period, the -- any
 8 change in the City contribution, and any distributions
 9 to customers.
 10 So in the event that you had some kind of a
 11 recapitalization, the City would get some contribution.
 12 The net position would essentially be zero, because
 13 there would be no more assets, right? No more assets,
 14 no more debt. So net position goes from \$3 billion to
 15 zero.
 16 And whatever goes to customers, you know, gets
 17 added into that number. And, you know, I would say
 18 that's value that was created and realized that was not
 19 available otherwise.
 20 Q And value that was created by?
 21 A By a recapitalization.
 22 Q But not necessarily by the employees and their
 23 performance?
 24 A Well, again, I mean, it doesn't happen by
 25 itself. There was a lot of people working really hard

1 on the entire strategic planning process.
 2 Q That is true. But we're not talking about
 3 everybody at -- all JEA employees and a couple of other
 4 individuals.
 5 A Yeah, I would say -- look, I would say that
 6 the value of JEA really is the quality of the system
 7 itself, and that's tied to all employees. I mean, it's
 8 a -- it is a well-run system. It is a system that's
 9 pretty good size.
 10 I think it does have some real challenges as
 11 it relates to scale in the context of some of the
 12 challenges facing the business.
 13 But, you know, again, ultimately, today it's a
 14 pretty well-run system. And that's in thanks -- you
 15 know, to all the employees working to make it that.
 16 So I understand your question about direct,
 17 you know, influence, like as far as, you know, directly
 18 interfacing with the ITN process, I understand that.
 19 But I would say that it's -- the characterization that
 20 it's not dependent -- that the value of JEA is not
 21 dependent on all the employees, I'm not -- I don't agree
 22 with that.
 23 The value of JEA is dependent upon all the
 24 work of the employees, I mean, that's -- that's a huge
 25 part of it.

1 Q But let's analyze it this way now. The
 2 long-term incentive plan was going to come in starting
 3 January 1st, let's say, for a three-year period. In
 4 December there was still talk of recapitalization. If
 5 it was going to happen, it was going to happen sometime
 6 in 2020; correct?
 7 It could have happened through the end of
 8 2021, we know that. That was the general time frame for
 9 it.
 10 But perhaps -- it's just public talk, but
 11 there was an impression that things were going fairly
 12 fast with the ITN.
 13 A Okay. So I'm sorry. What's the question?
 14 Q So the question is, there could have been a
 15 recap by November of 2020?
 16 A I think there could have been a referendum --
 17 Q Yes.
 18 A -- by November of 2020. I'm not really sure
 19 when you would expect to have a closing, of when it
 20 would actually occur.
 21 There's a number of regulatory approvals that
 22 would have to be done, and I'm not really sure -- I
 23 mean, we never really got to a stage where we were
 24 figuring out what the Public Service Commission's
 25 involvement would have to be.

1 And there was a lot of uncertainty around what
 2 the actual closing, went -- you know, when you could
 3 actually get to a recapitalization itself and money
 4 would flow.
 5 Q But a price, perhaps, could have been settled
 6 on this year, 2020?
 7 A Perhaps, yes.
 8 Q And then the question comes, how much did the
 9 employees who participated in the long-term incentive
 10 plan actually add to the value of JEA for purposes of
 11 this recap?
 12 A I have no way to quantify that.
 13 Q We're talking about a plan that's supposed to
 14 motivate employees. But the recap -- the recap can give
 15 them quite a lot of money if you -- I mean, you've seen
 16 the council auditor's memo and what it says about how
 17 you can end up with over \$3,000 for a \$10 unit that you
 18 buy. And that would happen by virtue of a recap in the
 19 next few months, and it's got nothing to do with your
 20 performance from this day on. Would you agree?
 21 A Again, I -- I would argue that -- that what
 22 JEA is worth is largely because of the work of the
 23 employees. I mean --
 24 Q It's the work in the past, isn't it? It's
 25 not -- it's not like this performance plan is designed

1 to do it. It's supposed to motivate employees from this
2 day onward.

3 But a recap could very well be based on JEA's
4 existing value. That's got nothing to do with how these
5 employees perform from today onward.

6 A I think -- I understand your point. I mean,
7 this is kind of a speculative conversation, I guess. I
8 don't know how to -- I can't quantify how a buyer might
9 view, you know, ongoing operations and whether or not --
10 I mean, you certainly can't just let the operations go
11 to tank --

12 Q Sure.

13 A -- you know, once you sign some kind of a
14 agreement, right? So I don't know how to -- I can't
15 quantify a number or anything.

16 Q But let me ask the question again. I think it
17 may have been asked before and you may have answered it
18 and maybe I just wasn't paying attention. I'm sorry.

19 Whose idea was it to tie the performance unit
20 value to a recap as well?

21 A So it wasn't tied specifically to a recap. It
22 was tied -- the formula didn't change based on regular
23 operations or recap. There was an observation by someone
24 along the lines -- I believe it was probably an
25 attorney -- who said, hey, what happens if there's a

1 recap, because this plan -- you know, you got to have --
2 you know, you can't really -- if you're part of a larger
3 company, you can't really calculate the value, you know,
4 three years from now if you -- if two years from now you
5 changed hands, for example, right?

6 So somewhere along the lines there was --
7 there was an attorney who said, hey, we've got to figure
8 out what to do on a recap. It has to contemplate it.
9 And so, you know, that was contemplated in the
10 documents.

11 Q And who made the decision that in the event of
12 a recap, the same formula applies?

13 A I don't recall specifically.

14 Q Would Mr. Zahn be the ultimate word?

15 A Of course. He's the CEO.

16 Q Do you recall if he was presented with this
17 issue?

18 A I don't recall.

19 BY MR. POWELL:

20 Q However, it is -- you would agree that prior
21 to the July 23 board meeting, the impact of a recap on
22 the PUP plan proceeds and distribution was not de-linked
23 from the PUP?

24 A The impact of the PUP plan? I'm sorry --

25 Q The impact of a recap. So in other words, a

1 recap during the performance period would result in the
2 sale and applying the formula, as you've talked about
3 it, and we went through a scenario where we had this
4 large price per unit.

5 So that -- so prior to the July board meeting,
6 there was not a decoupling, there was not a carving out
7 of the recap impact on the PUP?

8 A Correct, there was not a carving out prior to
9 the July board meeting.

10 Q And that potential was known to Mr. Zahn when
11 that was presented to the board on July 23 of '19 -- of
12 2019, was it not?

13 A Yes, we all knew that any value above the
14 challenge target that, you know, when the formula was
15 calculated, would be, you know -- the pool would be
16 10 percent of -- of any amount above that amount.

17 Q All right. A minute ago you were emphasizing
18 the people who worked on the strategic plan in answering
19 Ms. Teodorescu's question about value and contribution
20 of employees to the end result.

21 I think you said that, well, a lot of people
22 worked really hard on the strategic plan.

23 Do you recall saying that?

24 A Yeah, a lot of people did work really hard on
25 the --

1 Q Did you mean to suggest by that that those who
2 conceived and worked really hard on the strategic plan
3 should receive an extra reward through the PUP in the
4 event of a recapitalization event?

5 A No.

6 Q Was there ever any discussion with Mr. Zahn
7 about the allocation of PUP -- of performance units
8 somehow in relation to the effort of people on the
9 strategic plan or those who conceived and brought it
10 into fruition?

11 A No.

12 Q Before we get too far into our record, I just
13 want to do a little housekeeping matter.

14 In response to some questions earlier, you
15 were shown a three-page document that was presented to
16 the board in June of 2019. I'm just going to make the
17 point that that's going to appear as Number 3. It's a
18 three-page document.

19 And then you were presented a page, a
20 one-sheeter that was presented to the board in
21 July 23 of 2019. I'm just going to mark that as 3A,
22 just so our record is clear.

23 Adina?

24 (Exhibit Numbers 3 and 3A were marked for
25 identification.)

1 BY MS. TEODORESCU:
 2 Q The PUP mentions the possibility of payout in
 3 a form other than cash. What would that -- what could
 4 that have been, and how would it have been accomplished?
 5 A I don't know. That would have been something
 6 that the lawyers would have drafted.
 7 Q And you weren't consulted in any way?
 8 A I don't recall any specific conversation about
 9 that -- you know, what that might entail, no.
 10 Q Who would have been the attorneys working on
 11 this; do you recall?
 12 A It was Pillsbury and Foley.
 13 Q Do you have any -- do you remember any names?
 14 A Oh, specific people?
 15 Q Yeah.
 16 A Jessica Lutrin at Pillsbury and Kevin Hyde at
 17 Foley. And there were some other folks from each of
 18 those firms that had some input into it, but I don't
 19 recall their names. But Jessica and Kevin were the two
 20 main from each of those firms.
 21 Q Are they also the two individuals you talked
 22 with after the October 31st meeting with the council
 23 auditor?
 24 A Yes.
 25 Q When Mr. Zahn approached you about looking at

1 a long-term incentive plan tied to financial
 2 performance, you mentioned that you then had to
 3 determine a threshold for the performance.
 4 Was that at his direction?
 5 A So there was -- I believe you're referring to
 6 the challenge target --
 7 Q Yes.
 8 A -- the target? Yeah.
 9 Q Correct.
 10 A So there was a discussion around, you know,
 11 you didn't want to provide incentive for things that,
 12 you know -- financial performance that was going to
 13 result from, you know, just kind of normal day-to-day
 14 stuff. You wanted to provide incentive for people to do
 15 things above and beyond what they would typically do in
 16 the course of their role.
 17 And so that was the purpose of setting that,
 18 you know, target.
 19 Q And who set the target?
 20 A So the intent of it was to look at what was
 21 our financial, you know, projections over that
 22 three-year performance period and set it, you know,
 23 essentially at that level so that it would have to be
 24 incremental, you know, activity, or that was the idea.
 25 Q Well, I'm not quite sure I understand how it

1 works. If you could give me like a specific example of
 2 what the number is.
 3 A Yeah. So we had 2019 -- round numbers, we had
 4 roughly \$3 billion in terms of like under the formula.
 5 \$3 billion is kind of our net position at the end of
 6 2019.
 7 2022, we were expecting about 3.3 billion or
 8 so in net position. And so that's kind of where that
 9 10 percent challenge would have originated from.
 10 Q So everything that was above \$3.3 billion
 11 would go into the value of the performance units; is
 12 that correct?
 13 A Yeah, so to be clear, the example I gave was
 14 just an example.
 15 Q Yeah. Yes.
 16 A Broad strokes, yeah --
 17 Q As an example in this hypothetical.
 18 A Yeah.
 19 So under that hypothetical, anything above
 20 3.3 billion at the end of the three-year period,
 21 10 percent of that would have been eligible to go to the
 22 pool for the long-term incentive. 10 percent of
 23 anything above 3.3.
 24 Q And you've seen the memo issued by the council
 25 auditor in November --

1 A Uh-huh.
 2 Q -- November '19?
 3 And you saw the assessment he made for the
 4 target where he said that the target would have been
 5 reached -- well, it had been reached in the past nine
 6 years.
 7 Do you agree with that?
 8 A So I haven't reviewed his calculations, but
 9 what I would say to that is that that challenge target
 10 was intended to be set each year, each time that you had
 11 a performance period start, right?
 12 So we wouldn't have -- presumably you would
 13 have done the same process over each of those preceding
 14 nine years and looked at it and said, all right, well,
 15 what do you expect you would have made over that
 16 three-year period, and you would have set a challenge
 17 target that would have been different than the
 18 10 percent number that's -- that's contemplated in the
 19 current -- or that would have been contemplated had the
 20 program sort of cleared the legal hurdles.
 21 BY MR. POWELL:
 22 Q You said every year, but you meant every three
 23 years that you --
 24 A I'm sorry. Yes. Every time you did -- you
 25 started a performance period, that's correct.

1 Q So had this kicked off, the target would have
 2 been set and it would have been a locked-in target for
 3 three years?
 4 A Yes. The challenge -- the 10 percent would
 5 have been locked in for that issuance, so to speak, of
 6 the performance units.
 7 Q At the end of the three-year period?
 8 A At the three-year period, yes, correct.
 9 BY MS. TEODORESCU:
 10 Q So I'll show you JEA 0452 again from Council
 11 Member Diamond's notebook.
 12 So this is from the council auditor's memo.
 13 Now, I'm not sure that I understand fully what you
 14 explained about how you would assess the target. But
 15 assuming these numbers are correct, how would you
 16 determine -- what target would you set for a performance
 17 period starting in 2020?
 18 A I don't really know how to read this chart.
 19 So it's unclear to me from this chart whether or not
 20 these value change percentages are the value change
 21 percentage over the prior three-year period or --
 22 Q From one year to the next?
 23 A -- from one year to the next or -- yeah. I
 24 don't really know how to interpret this.
 25 Q Can you try to interpret both ways and see how

1 you would set the target in either scenario?
 2 A So the target would not have been set based on
 3 historical financials at all. The target would have
 4 been based on forward-looking financials.
 5 Remember, forward-looking from '19 to '22, you
 6 got Vogtle coming in in '21 and '22. That's going to
 7 crush net income. So in terms of changing that
 8 position, our net income absent changes, right, is going
 9 to be less in the next three years than it was
 10 presumably in some of these prior years.
 11 If we were in a prior year, we would have done
 12 the same exercises. I would have looked at the
 13 three-year pro forma and said, all right, that's the
 14 forecast, so that's going to be the challenge target.
 15 And there would be, you know, if it's 15 percent, it's
 16 15 percent or whatever.
 17 Again, this is what I expected to happen under
 18 the performance unit plan. Ultimately we never got
 19 there, but that was my understanding of it was intended
 20 for how it would operate.
 21 BY MR. GRANAT:
 22 Q I just have a quick follow-up. I'm
 23 Sean Granat. I know we haven't met yet.
 24 A Hi, Sean. Nice to meet you.
 25 Q You too.

1 You said that Vogtle would have crushed the
 2 income?
 3 A Net income, yeah.
 4 Q Why? What would have happened --
 5 A Well, it's going to cost \$200 million a year.
 6 Q Because JEA would have to pay it, so that
 7 would be 200 million less guaranteed going forward? We
 8 knew that was going to happen with Vogtle?
 9 A Correct.
 10 Q And so is it fair to say, then, that the
 11 outcome of the success of the PUP -- meaning that
 12 employees would make money on the PUP, the outcome of
 13 the PUP was not very good absent a recapitalization?
 14 A No, I don't agree with that statement. I
 15 think that -- I mean, that was the point of setting the
 16 challenge target appropriately to -- I mean, we're still
 17 going to make \$300 million over that three-year period,
 18 right?
 19 So, you know, to be clear, it was less than
 20 what we were making in prior years when we didn't have
 21 Vogtle, but it was still set to be able to -- you know,
 22 for -- for some value to be created.
 23 Q If income was going to be crushed by
 24 200 million a year, what were some of the ways that --
 25 through no recapitalization could JEA have made up that

1 200 million and more for the PUP to be successful?
 2 A So the -- so, to be clear, the \$300 million
 3 threshold includes the Vogtle impact. So that's already
 4 with the Vogtle costs, you know, in there.
 5 MR. GRANAT: Has this already been covered?
 6 MR. POWELL: No, but I think you're making --
 7 your questions are good, and he's answering it in a
 8 way that is clarifying.
 9 BY MR. POWELL:
 10 Q Because I hear what you're saying. The
 11 10 percent target that -- challenge target --
 12 A Yeah.
 13 Q -- that you built into the PUP as presented to
 14 the board in July of 2019 already assumed the Vogtle
 15 impact?
 16 A Yeah. Yeah, I mean, it's based on our
 17 financial forecast, which includes Vogtle.
 18 Q Which, following up on what Mr. Granat is
 19 asking about, the Vogtle impact was even made -- crush
 20 net income at JEA -- wasn't going to, in and of itself,
 21 negatively impact the prospects of the PUP, because you
 22 had already factored it in?
 23 A Yeah, it was factored in. I think the point
 24 is that there would be an incentive to handle the -- I
 25 mean, you know, the Vogtle impact and respond to it.

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1 You can't just make \$200 million come --
2 Q No, no, no --
3 A -- out of nowhere. I mean, that --
4 Q And you wouldn't need to, because --
5 A Yeah.
6 Q -- you had already factored in the Vogtle
7 impact?
8 A Correct.
9 MR. POWELL: All right.
10 BY MR. GRANAT:
11 Q I missed this morning. I apologize. So if
12 I -- you let me know if it's already been covered. I
13 don't want to do that again.
14 A Okay.
15 Q Along the lines of what Adina was asking you
16 earlier about the PUP being based on performance, did
17 you ever see a memo from OGC that came out in June that
18 discussed Florida law and bonuses, and it was written by
19 me and Cort Partay (phonetic) and it talked about a
20 Statute 215.425?
21 A I don't recall a specific -- no.
22 Q Okay. Were you ever in any conversations
23 orally or through email with anyone at JEA or any
24 attorneys or anyone regarding ways to fit the PUP
25 outside of -- to make sure -- well, let me ask this.

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1 Have you ever -- were you ever part of
2 conversations regarding how to make the PUP fit within
3 Florida law?
4 A I don't think I was ever really -- I don't
5 recall being a part of those conversations. It really
6 wasn't part of my purview. I know that there was -- I
7 mean, essentially, that was what the attorneys were
8 spending most of their time on.
9 Frankly, the performance unit plan was mostly
10 legal work around trying to figure out a way to do it as
11 a public agency.
12 Q Did you ever hear through attorneys or
13 Mr. Zahn or anyone at JEA that there were limitations on
14 bususing public employees?
15 A What, I guess?
16 Q Like the Statute 215, it sets strict
17 parameters on how public employees can earn bonuses.
18 A So the only thing I really recall was at some
19 point somebody mentioned the fact that, I guess, all
20 employees have to be eligible for it.
21 Q Do you remember who told you that?
22 A I don't.
23 Q Okay. Is that all that you remember being
24 discussed?
25 A I remember -- I remember something else about

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1 making sure that it was a measurable, like, objective
2 metric. But I don't remember if that was related to
3 those rules or not. You know, you would know the rule
4 better than I.
5 Q And do you remember the context of that
6 conversation? Was that in a meeting? Can you
7 remember --
8 A I don't, yeah.
9 Q Okay.
10 A Those are really the only two things I really
11 recall about the specific -- you know, again, I wasn't
12 really --
13 Q I understand.
14 A -- part of the legal conversations,
15 necessarily.
16 Q Just let me ask you -- not to frustrate you.
17 A Yeah.
18 Q There's some specific questions I want to ask
19 you, though.
20 Do you recall ever hearing or being part of a
21 discussion about designing or tweaking the terms of the
22 PUP to fit in with certain laws, we have to change this
23 so that we're okay with this law, anything like that?
24 A I guess not specifically. But I was aware
25 that they were -- that the lawyers were working to try

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1 to design something that worked as a public agency.
2 Q Okay.
3 A But I don't know what -- again, I didn't
4 have -- I don't recall any like specific we got this
5 problem or that problem or we got to deal with this law
6 or that law or -- I don't -- I don't recall any kind of
7 conversations like that.
8 Q Have you ever heard anyone describe the PUP as
9 a unicorn? Have you ever heard anyone use that term to
10 describe it?
11 A I don't recall anybody calling it a unicorn.
12 I think I understand what you mean, as it's unique.
13 Q Right. But I mean specifically, have you
14 heard anyone at JEA or any of the attorneys involved
15 specifically use the term "unicorn"?
16 A I don't recall that.
17 Q What about have you had or heard any
18 conversations between Mr. Zahn or other JEA employees or
19 any of the lawyers involved that discuss how unique the
20 PUP was?
21 A I think the lawyers understood that the design
22 of the program was unique under Florida law. I think
23 that -- from my perspective -- I mean, we have lawyers
24 looking at this thing all over the place, from OGC to
25 specialty counsel to, you know, everybody. And I know

1 Herschel is not our attorney, but he is an attorney.
 2 And so, you know, I think there was an
 3 observation that we needed to do a lot of legal work
 4 here, and I think that's part -- at least from my
 5 perception, that was part of the reason why there was
 6 discussions around going to the State Attorney General
 7 for an opinion and going to the State ethics board.
 8 And from my perspective, attorneys were
 9 looking at this thing all -- I was relying, you know,
 10 heavily on their assessment of how to do this. And it
 11 was drafted, you know, trying to -- every activity that
 12 I saw or observed was related to making sure that we
 13 checked the boxes around, you know, doing it right.
 14 Q Okay. Was it ever -- did you ever hear any
 15 discussions -- were you part of any discussions about
 16 whether any other municipality or public agency had a
 17 similar PUP?
 18 A I don't recall if I was -- I don't recall any
 19 specific conversations. I'm generally aware that some
 20 research was done around whether or not there was
 21 something similar.
 22 I think there was some kind of a plan at one
 23 of the universities that was called a performance unit
 24 plan of some kind. I don't know -- I didn't really dig
 25 into the details on that plan and what it -- if it was

1 similar or different, I don't really know.
 2 But to my knowledge, I don't think there was
 3 any -- I'm not aware that there was a list of similar
 4 plans, necessarily.
 5 Q Okay. Who did that research?
 6 A The lawyers, but I don't recall which lawyer
 7 or legal -- or --
 8 Q Okay.
 9 A -- law firm.
 10 Q So as we sit here today, are you aware of any
 11 municipality or government entity that has a PUP similar
 12 to the one that the JEA board approved in July?
 13 A So not the same. I am aware that there were
 14 some other municipal utilities that had long-term
 15 incentives. They were structured differently, but --
 16 Q Do you know --
 17 A -- not the same.
 18 Q Do you know how they were structured
 19 differently?
 20 A So generally they were -- they were structured
 21 more as, you know, retention programs, cash-type awards.
 22 BY MR. POWELL:
 23 Q For management?
 24 A For management, yes.
 25 MR. POWELL: We have covered this, actually.

1 MR. GRANAT: Okay.
 2 THE WITNESS: Yeah.
 3 MR. GRANAT: All right. Let me move on, then.
 4 BY MR. GRANAT:
 5 Q So before that July 2019 board meeting where
 6 the PUP was presented and passed through the board, did
 7 Aaron Zahn ever ask you to run financial models and have
 8 hard data that showed what the PUP possibilities were?
 9 A No, I don't recall him asking for that.
 10 Q Before the PUP was presented to the board in
 11 July, did Mr. Zahn ever sit down and ask you what are
 12 the projections here; what might this PUP do?
 13 A So, I mean, again, we all knew that it would
 14 be 10 percent of anything above 3.3 or -- you know,
 15 again, back to my hypothetical prior example. It would
 16 have been -- that would have been the pool --
 17 Q I heard that.
 18 A Yeah.
 19 Q But I'm asking, did Mr. Zahn ever sit down
 20 with you as the CFO and say, Ryan, you're the CFO,
 21 what's this PUP going to do, what are you projecting
 22 this looks like?
 23 A No, he never asked me for those projections.
 24 Q So you said we all knew that it was 10 percent
 25 of anything above 3.3 billion.

1 Did Mr. Zahn know that?
 2 A Yeah.
 3 Q How do you know that he knew that?
 4 MR. MURPHY: Just so we're clear, that
 5 3.3 billion was a hypothetical that she came up
 6 with. It's 10 percent above 110 percent, whatever
 7 the figure --
 8 THE WITNESS: Right.
 9 MR. MURPHY: Just so we're clear, that 3.3 was
 10 a made-up number today.
 11 MR. POWELL: No, it wasn't. It wasn't made up
 12 today. It was actually presented by
 13 Mr. Wannemacher quite some time ago.
 14 MR. MURPHY: But it was a hypothetical --
 15 MR. POWELL: That's true.
 16 (Simultaneous crosstalk.)
 17 MR. GRANAT: Let me reask the question. Thank
 18 you. Okay. Let me reask the question.
 19 BY MR. GRANAT:
 20 Q You said that you were all aware of a simple
 21 calculation that could be done to project the likely
 22 ballpark figure of what this PUP was going to produce.
 23 A Uh-huh.
 24 Q And I'm asking you, did Mr. Zahn know that
 25 simple calculation?

1 A Yes.

2 Q And how do you know that he knew that simple

3 calculation?

4 A Because we talked about the formula, that it

5 was going to be 10 percent of anything above, you know,

6 a certain -- whatever the challenge target is.

7 Q You had that conversation with Mr. Zahn?

8 A Yes.

9 Q And during that conversation, were any figures

10 ever discussed about what that might result in?

11 A No. I mean, out of 10 percent of -- you can

12 plug in whatever number you want, I guess. Like, I

13 mean, any -- I mean, what's the number? I guess I

14 don't --

15 Q Well --

16 A I don't really know how to respond to the

17 question.

18 Q So we knew that -- if I'm correct, the

19 recapitalization -- if a recapitalization event

20 occurred, it would a minimum 3.3 billion; is that right?

21 A Yeah, based on the formula that was -- the

22 minimum requirements that were outlined by the board --

23 Q Right.

24 A -- it would have been, yeah, somewhere in that

25 ballpark, 3.3, 3.4 million.

1 Q Okay. So going into the July meeting, it's

2 safe to say that the simple calculation would have been

3 known, right, that if the recapitalization occurred,

4 anything above 3.3 billion that was the sale price,

5 about 10 percent of that would fund the PUP; is that

6 right?

7 A Yeah, to be clear, the 3.3 billion was not the

8 sale price. That was the amount that would have been

9 net to the City, right?

10 Q Correct.

11 A So -- but yeah, I mean, you would have put it

12 into the formula and --

13 Q And so I guess my question is, if this

14 recapitalization occurs -- because the recapitalization

15 contemplated a specific amount net to the City. And so

16 you could easily figure out if the sale price was more

17 than that amount net to the City, then 10 percent of

18 that is going to fund the PUP; right?

19 A Correct.

20 Q And did you have that conversation with

21 Mr. Zahn before this PUP was presented to the board in

22 July of 2019?

23 A Yeah.

24 Q Okay. And while you had that conversation,

25 did you ever discuss or say, so, for example, if the

1 sale price is \$5.3 billion, than it would be 10 percent

2 of \$2 billion that would fund the PUP?

3 A I don't recall specific examples around, you

4 know, 10 percent of a billion is \$100 million. I didn't

5 have that --

6 Q Because it was pretty easy math?

7 A Yeah, I -- I don't recall ever having specific

8 conversations around -- again, I think we all knew the

9 math to be 10 percent of anything above 3.3.

10 Q And when you said "we all," who else was in

11 this group of discussing the 10 percent of anything

12 above that target value?

13 A So when I say "we all," it would have been

14 primarily Aaron's direct reports. It would have been

15 Herschel, Melissa, myself. Lynne Rhode would have been

16 aware of it. OGC would have been aware of it as -- you

17 know, reviewing the documents. The attorneys would have

18 been aware of it.

19 Q Did you ever have discussions with any of --

20 specifically about this 10 percent over the target value

21 being what would fund the PUP with any of the Pillsbury

22 or Foley attorneys?

23 A Uh-huh.

24 Q Which ones?

25 A The ones -- Jessica Lutrin at Pillsbury and

1 Kevin Hyde at Foley would have been involved in those

2 conversations around the 10 percent and how that was

3 calculated.

4 MR. MURPHY: Mr. Granat, can I just ask you,

5 so you on behalf of JEA are waiving the privilege,

6 then, between attorneys and the CFO to that plan?

7 You're asking about attorney -- conversations he

8 had as a CFO with attorneys that were retained by

9 JEA.

10 I just want to know, because this is about --

11 this could hit the public record, and you are here

12 acting on behalf of JEA as their attorney. And I

13 just want to make sure you are well aware that

14 you're waiving the privilege.

15 MR. GRANAT: Let me -- thank you for bringing

16 that up. Let me think about that and move to a

17 different question in the meantime. Okay. Let me

18 just digest that. I don't know that I agree with

19 you, but --

20 MR. MURPHY: I'm just raising -- I'm concerned

21 that you guys are asking questions about the CFO's

22 conversations with attorneys for the JEA, and once

23 that gets out, if this is public record, then

24 you've waived it.

25 He's not waiving it. You are the attorneys

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1 for JEA, and you're asking him those questions. He
2 no longer works for JEA.
3 MR. GRANAT: All right. And in the public
4 world, the attorney-client privilege is much
5 different, but --
6 MR. MURPHY: I understand that. But you're
7 putting it on the transcript that could be
8 transmitted to the City Council.
9 MR. GRANAT: Now we're eating up time, because
10 we don't have much time left.
11 MR. MURPHY: Okay.
12 BY MR. GRANAT:
13 Q Okay. There was some material in the packet
14 that was presented to the board in July of 2019, and
15 there was a slide show that -- a slide presentation that
16 included information that the cost of the PUP would be
17 \$3.4 million per year.
18 Are you familiar with that?
19 A I've seen a slide today --
20 MR. GRANAT: Did you cover this?
21 MR. POWELL: We covered it.
22 MR. GRANAT: Okay. And the 150 percent cap?
23 MR. POWELL: Yes.
24 MR. GRANAT: Okay.
25 MS. HARRELL: Did we --

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1 MR. POWELL: We covered that.
2 MS. HARRELL: Did we cover 150? Okay.
3 MR. GRANAT: Okay. That's what I have for
4 now. If somebody else has -- I would just, to my
5 team, like to take a break at some point before we
6 end with enough time for us to have more questions.
7 BY MR. POWELL:
8 Q Right. I just want to do kind of a recap
9 on -- I'm going to pick up a little bit on what Sean was
10 asking you about, and then I want to try to put this
11 into some sort of final context as it pertains to the
12 use of the word "performance" in this plan. All right?
13 A Okay.
14 Q So based upon your answers to Sean about
15 discussions with Mr. Zahn or Mr. Vinyard, Ms. Dykes,
16 Mr. Eads about the -- calculating what the PUP -- how
17 the PUP would perform or what the PUP would do into
18 the -- into the -- in the event of a recapitalization
19 event, you said that it's just simple, it's 10 percent
20 and away you go.
21 But that discussion was in terms of getting to
22 what the pool of money would be in the -- for
23 distribution; correct?
24 A Uh-huh.
25 Q Likewise, I would gather that there was no

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1 discussion breaking it down, then, to what the per-unit
2 value would be of the PUP in the event of a
3 recapitalization event?
4 A No, there was no discussion around the
5 per-unit value. It was really not focused on.
6 Q But as we've discussed, you were aware and
7 Mr. Zahn was aware that there was no cap -- as presented
8 to the board, there was no cap on the pool of PUP money
9 in the event of a recapitalization event?
10 A Correct. Anyone who read the documents
11 realized there was no cap, according to the documents.
12 Q All right. Now, also, by the time you got to
13 the July board meeting, it was understood that these
14 units were going to cost \$10 per; correct?
15 A Correct.
16 Q And so when you've been talking about this
17 performance unit plan being an incentive plan, it really
18 would only be an incentive plan for those who actually
19 purchased units; is that not correct?
20 A That is correct. It was a -- it was
21 structured as deferred compensation.
22 Q And doesn't that really turn this into an
23 investment plan?
24 By the time it was presented to the board,
25 wasn't it really now an investment plan and no longer a

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1 performance incentive plan?
2 MR. MURPHY: I think he's been asked this
3 question multiple times. You guys --
4 MR. POWELL: No, I don't think I've asked it
5 quite this way.
6 THE WITNESS: Again, it was --
7 MR. POWELL: And really, that is completely
8 unnecessary at this stage of the game. We're an
9 hour out from being done and --
10 MR. MURPHY: Yet you've spent six hours on
11 this at least, and you're asking the same
12 questions --
13 MR. POWELL: Okay.
14 MR. MURPHY: -- over and over again. You guys
15 have to people --
16 MR. POWELL: Are you done --
17 MR. MURPHY: -- going in and out --
18 (Simultaneous crosstalk.)
19 MR. POWELL: We need to be done on this topic.
20 BY MR. POWELL:
21 Q Question, can you answer it?
22 Do you agree with me that when you're now
23 requiring employees to purchase into the plan that it is
24 no longer an incentive plan; it has now become an
25 investment plan?

1 A It was structured as deferred compensation as
2 it was -- as the plan was identified.
3 Q And isn't that an investment plan?
4 A It's not -- so I want to be careful about it
5 being an investment, because there are very specific
6 things related to securities. It's not a security.
7 Q You would agree that it's no longer an
8 incentive plan?
9 A So --
10 Q Unless you purchased?
11 A Unless you purchased, yes. Although I
12 think -- look, the point of the purchase price in
13 setting the units at \$10 a unit -- we had a very
14 specific conversation at the Continental Club about that
15 price specifically to try to make sure that everyone
16 would participate.
17 Q All right. Let's talk about that. 2,000
18 employees, more or less; yes?
19 A Yes.
20 Q Was there ever any conversation that, you
21 know, since we want this to be for the benefit of
22 everybody that what we're going to do is make every
23 employee -- and using the 30,000 first tranche of units;
24 correct?
25 A Uh-huh.

1 Q Was there ever any discussion that we would
2 enable every employee to buy 15 units?
3 A I don't recall -- I don't recall any
4 discussion around -- again, I never saw allocations.
5 Aaron never provided me with allocations.
6 Q I understand that. But you see where I'm
7 going with the math, don't you?
8 A I do.
9 Q And would you agree that that would be the
10 most -- I'm not sure it would be a Republican way or a
11 Democratic way. But wouldn't that be the most even way
12 to enable every single employee of JEA to participate
13 equally in this plan, to allocate 15 to each of the
14 2,000 employees and enable -- not allocate it to them,
15 offer it to them and make it possible that each of them
16 could purchase 15 units?
17 A In the sense that each would be getting the
18 same amount, then yes. That is a fair -- what you would
19 consider a fair way to do it.
20 Q Couldn't be any fairer, could it?
21 A Correct.
22 Q Because this really now recognizes that this
23 is not a return on investment -- on incentive; it is now
24 a return on investment, because everybody would be
25 buying in; correct?

1 MR. MURPHY: Object to the form.
2 THE WITNESS: I don't --
3 MR. POWELL: We are not in a court of law.
4 MR. MURPHY: No, but you've been treating this
5 as a transcript. I absolutely have the right --
6 MR. POWELL: Okay. State your objection --
7 MR. MURPHY: I did. I --
8 MR. POWELL: -- be done with it.
9 (Simultaneous crosstalk.)
10 MR. MURPHY: -- objected to the form. You --
11 MR. POWELL: Okay. I don't care about the
12 form.
13 BY MR. POWELL:
14 Q Do you understand the question?
15 A I don't.
16 Q All right.
17 A I'm sorry. I just don't.
18 Q If you -- and maybe -- it's obviously a little
19 bit of a theoretical point, because you said that you
20 were never part of any discussion where it was put out
21 there that we are going to take these 30,000 units and
22 spread them out, as a matter of opportunity, equally to
23 each employee of JEA?
24 A No.
25 Q Is that --

1 A I never -- I do not recall any discussion
2 along those lines.
3 Q Nobody ever talked about that, did they?
4 A Not that I can recall, no.
5 MR. POWELL: Okay. Let's take a few minutes,
6 and we'll regroup. And we may not have any more,
7 or we might.
8 (Recess taken from 4:10 p.m. to 4:18 p.m.)
9 BY MS. HARRELL:
10 Q Mr. Wannemacher, did you have a cell phone, a
11 mobile phone issued to you by JEA?
12 A Issued by JEA? No.
13 Q Yeah. Did you just use your personal phone?
14 A Correct.
15 Q And did you have any other kind of phone that
16 you used for work purposes?
17 A No.
18 Q Do you know if Aaron Zahn had a JEA-issued
19 cell phone?
20 A I don't know.
21 Q Did you -- did you ever use text messaging to
22 communicate with Mr. Zahn?
23 A Yes.
24 Q Did you use the same number each time?
25 A Yes.

1 Q Did you ever text him to a different number?
 2 A Early on when he was the interim CEO, he had a
 3 different phone. But in the last, you know, year or so
 4 since he's been the permanent, it was the same number.
 5 Q Did you ever text him using that different
 6 phone?
 7 A In the last year or --
 8 Q Or at any time.
 9 A I don't recall, yeah.
 10 Q Did you ever email Mr. Zahn using an email
 11 address to him other than his JEA.com email address?
 12 A I don't think so. I mean, I can't
 13 definitively say never, but it would have been extremely
 14 rare.
 15 Q Did you ever email him from your own account
 16 other than your JEA.com email address?
 17 A No.
 18 Q Do you remember ever receiving an email from
 19 Mr. Zahn from his Gmail account?
 20 A I don't -- he would sometimes send like
 21 articles and, you know, industry information, you know,
 22 that kind of thing, that would come through from a
 23 Gmail, you know, address to my JEA account, but that's
 24 the only real thing I can really recall.
 25 Q And he never emailed you to your personal

1 email?
 2 A Not that I can recall, no. Again, that would
 3 have been extremely -- I can't think of a reason why he
 4 would have done that.
 5 MS. HARRELL: Okay. I don't have anything
 6 else.
 7 MR. GRANAT: Okay.
 8 BY MR. GRANAT:
 9 Q You had some email communication with the
 10 council auditor's office, and they had some questions
 11 for you, and there were some that you answered and some
 12 that I don't think you ever responded to; is that right?
 13 A I don't -- some of them I did not respond to.
 14 I think they were all ultimately responded to --
 15 Q Okay.
 16 A -- is my understanding, but I didn't
 17 necessarily respond to all of them.
 18 Q Okay. And the council auditor came out with a
 19 report that's dated November 18, 2019.
 20 Have you read that report?
 21 A Yes. I mean, I read it when it came out.
 22 Q Okay.
 23 A I know the report you're referring to.
 24 Q Okay. So what I'm going to do is, I'm going
 25 to give you a copy of the report and ask you to read it,

1 and I'm just going to ask you if there's anything in
 2 here that you disagree with, that you think they got
 3 wrong. And -- is this another copy?
 4 MS. TEODORESCU: Yes.
 5 MR. GRANAT: Okay.
 6 And before I do that, would you like a copy
 7 for yourself?
 8 MR. MURPHY: Yes. And how long is it? I
 9 mean, I would want him to read the whole thing --
 10 MR. GRANAT: Sure.
 11 MR. MURPHY: -- because you're asking him to
 12 render an opinion. It looks like a long document.
 13 MR. GRANAT: It's a four pages.
 14 MR. MURPHY: Single-space typed.
 15 MR. GRANAT: Well, I'm going to ask him to
 16 read it.
 17 MR. MURPHY: Okay.
 18 MR. GRANAT: If he's already read it --
 19 MR. MURPHY: Make sure you read every word.
 20 THE WITNESS: Yeah.
 21 MR. GRANAT: And then -- okay.
 22 MR. MURPHY: And you're going to have specific
 23 questions in there about the document?
 24 BY MR. GRANAT:
 25 Q Well, I'm going to ask you to read it, and

1 then I'm going to ask you if there's anything in here
 2 that you disagree with or that you think the council
 3 auditor got wrong.
 4 A Yeah. I will tell you I think --
 5 MR. MURPHY: Wait until you read it.
 6 THE WITNESS: Okay.
 7 MR. MURPHY: He's going to bring you a copy.
 8 THE WITNESS: Yeah.
 9 MR. GRANAT: And if you're in agreement, I
 10 think -- while he's reading, we can go off the
 11 record so the court reporter can stand down and --
 12 MR. MURPHY: Sure. Of course.
 13 MR. GRANAT: Just to note, this report is --
 14 MR. MURPHY: Are we back on the record now?
 15 MR. GRANAT: Yeah. I'm sorry. I didn't mean
 16 to go off.
 17 MR. MURPHY: I thought that's what you were
 18 saying.
 19 MR. GRANAT: No, I thought we were going -- so
 20 while he's reading it. I didn't mean --
 21 MR. MURPHY: Okay.
 22 MR. GRANAT: -- yet, but so this is JEA Bates
 23 stamp 444 --
 24 (Discussion off the record.)
 25 MR. GRANAT: Okay. So let's just say it's the

1 council auditor's report dated November 18, 2019,
 2 from Kyle Billy, Council Auditor.
 3 So we'll have Mr. Wannemacher read it, give
 4 him some quiet. And we'll go off the record for
 5 now.
 6 (Recess taken from 4:24 p.m. to 4:36 p.m.)
 7 BY MR. GRANAT:
 8 Q Mr. Wannemacher, we took some time. Did you
 9 have enough time to read it?
 10 A I did read it, yes.
 11 Q Okay. I want to make sure you had time to
 12 thoroughly read it. So if you feel like you'd like to
 13 read it again, that's fine, or if you think you're ready
 14 to answer questions, then we can proceed.
 15 A I think we can proceed.
 16 Q Okay. So in reading the council auditor's
 17 report, is there anything in it that you read that you
 18 disagree with?
 19 MR. MURPHY: Object to form. Overbroad,
 20 vague, calls for speculation, legal conclusion,
 21 lack of foundation and predicate.
 22 MR. POWELL: Wow. There you are.
 23 MR. MURPHY: Well, you just showed him a
 24 nine-page document and you asked him to basically
 25 comment on the accuracy of a nine-page document

1 that includes legal conclusions, lots of different
 2 things. And I stand by my objections.
 3 MR. GRANAT: I heard you. Noted.
 4 MR. MURPHY: Okay. Well, you were making a
 5 comment, I think, sarcastically, and I was
 6 justifying my response.
 7 MR. POWELL: There you go.
 8 MR. GRANAT: So your objection's noted.
 9 BY MR. GRANAT:
 10 Q You've read the document. Can you tell me
 11 what in the document you disagree with?
 12 A Do you have specific questions about the
 13 document you'd like me to answer?
 14 Q Yes. Now that you've read it, did you read
 15 anything that when you read it, you said, that's wrong,
 16 he got that wrong, that's not right?
 17 A So --
 18 MR. MURPHY: Same objection.
 19 THE WITNESS: I think that's a pretty broad
 20 question.
 21 BY MR. GRANAT:
 22 Q It is.
 23 A So I don't -- if you have something specific
 24 you'd like me to look at, I can answer it.
 25 Q Well, when you read the document, was there

1 anything that registered in your mind, that's not right?
 2 MR. MURPHY: Same objection.
 3 BY MR. GRANAT:
 4 Q I mean, Mr. Wannemacher, you agreed that you
 5 would come in and cooperate with us. You're not on
 6 trial. This isn't a deposition. So I'm just asking
 7 you. You just read the document. Was there anything
 8 that you read in there that you think he got wrong?
 9 MR. MURPHY: Same objection.
 10 If you're going to release the transcript to
 11 the public, it could be used in litigation against
 12 the City. It could be used in litigation against
 13 Mr. Wannemacher. I totally disagree with your --
 14 MR. GRANAT: So let --
 15 MR. MURPHY: -- representation that he's not
 16 on trial here.
 17 MR. GRANAT: Let's not have speaking
 18 objections. If we're going -- if we're going to be
 19 formal about it, please object.
 20 MR. MURPHY: As I did.
 21 MR. GRANAT: As you did, but let's cut the
 22 speaking objections, because I'm limited --
 23 MR. MURPHY: I didn't make a speaking
 24 objection.
 25 MR. GRANAT: You actually did.

1 MS. HARRELL: Yeah.
 2 MR. MURPHY: You just made a misrepresentation
 3 on the record that he's not on trial, this is not
 4 some kind of cross examination, which it is.
 5 MR. POWELL: All right. And to be clear, it's
 6 a four-page document, not nine.
 7 MR. MURPHY: No. Let's count the pages, then.
 8 One, two --
 9 MS. HARRELL: Let's not waste --
 10 MR. MURPHY: Wait. One, two, three, four,
 11 five, six, seven, eight, nine pages I have here,
 12 sir.
 13 MR. GRANAT: All right. Let's --
 14 MR. MURPHY: Is it five or is it nine?
 15 MR. POWELL: It's a four-page memo.
 16 MR. MURPHY: There are five --
 17 (Simultaneous crosstalk.)
 18 BY MR. POWELL:
 19 Q Mr. Wannemacher, have you read this before?
 20 A I read it just now.
 21 Q You've never read this before today? Is that
 22 really you're -- what you're telling us?
 23 MR. MURPHY: That's not what he said. When
 24 you were sitting outside, these questions were
 25 already asked, Steve.

1 BY MS. HARRELL:
 2 Q Is there anything in the first paragraph of
 3 the report that you disagree with?
 4 MR. MURPHY: Same objections.
 5 MR. POWELL: Mr. Wannemacher, you understand
 6 that when he makes a form objection, it doesn't
 7 mean you're not required to answer the question if
 8 you can? And he would give you that advice.
 9 MS. HARRELL: And so we can make it less
 10 broad. We can go paragraph by paragraph, if that
 11 will help you answer.
 12 MR. MURPHY: Same objection.
 13 You can answer. I'm just asserting an
 14 objection to the form for the record.
 15 THE WITNESS: I think I'd like to understand
 16 better the concerns about -- your comment about
 17 litigation outside of this forum.
 18 MR. GRANAT: You want to take a minute with
 19 your client?
 20 MR. MURPHY: Well, I think he's asking you the
 21 question. You said that this can't be used for any
 22 other purpose, basically, he's not on trial. Why
 23 don't you explain to him what the process is and
 24 what it can be used for.
 25 MR. GRANAT: Well, that's not what I said.

1 MR. MURPHY: Okay. Well, I'm asking you to
 2 explain --
 3 MR. GRANAT: I'm not going to give advice to
 4 your client.
 5 MR. MURPHY: Okay.
 6 You want to take a break and talk about it?
 7 THE WITNESS: Okay, I think so, yeah.
 8 (Recess taken from 4:41 p.m. to 4:43 p.m.)
 9 THE WITNESS: All right. So I hesitate to
 10 comment on the entire document. If you want to ask
 11 me specific questions around specific sentences or
 12 specific elements of this, I'm happy to answer
 13 those.
 14 BY MR. GRANAT:
 15 Q So I'm just going to ask this question and you
 16 can answer it, and then we'll move on.
 17 You've just read this document. Is there
 18 anything that you can point to or that you're willing to
 19 point to, to us, that's incorrect that you've read in
 20 this document?
 21 MR. MURPHY: Same objection to form.
 22 A So, again, I think if you would like me to
 23 opine on my view on specific items in this, I'd be happy
 24 to do it that way. I think -- I am uncomfortable making
 25 a blanket statement about the entire document.

1 Q Okay. And I'm just asking if there was
 2 anything specific that jumped out at you that you could
 3 share with us. And I understand that you're not
 4 comfortable in answering that, so we can leave it at
 5 that.
 6 So let me ask you, then, to turn to Page 2,
 7 please. And there's some bold headings, and towards the
 8 middle there's a paragraph that says "cost based on
 9 recent financial performance."
 10 Do you see that?
 11 A I do.
 12 Q Are the calculations and figures in that
 13 paragraph correct?
 14 A So the calculations -- so I don't have my -- I
 15 don't have the financial statements in front of me.
 16 Q Right.
 17 A So without having those financial statements
 18 in front of me, I don't know that I can verify those
 19 specific costs or figures.
 20 I will say that that element there is -- it's
 21 speculative at best. It's apples and oranges, because
 22 you're applying the -- they applied the formula to prior
 23 periods where this wasn't contemplated. It wasn't --
 24 Q Okay.
 25 A -- in place.

1 Q But if -- assume that the \$101,350,000 was
 2 correct and that you were going to apply the PUP
 3 calculation to that figure, is the arithmetic correct?
 4 A So this -- so, again, I can't verify the
 5 arithmetic because I don't have the financial statements
 6 in front of me to verify the formula.
 7 The other thing I would point out is that this
 8 number was based on 100,000 -- the entire 100,000 units
 9 being allocated for that performance period, which,
 10 again, that -- for that performance period, they didn't
 11 exist.
 12 But there was never any discussion that I'm
 13 aware of that there was any concept of allocating
 14 100,000 performance units.
 15 Q Okay. Sir, are you saying that because you
 16 don't have the financials in front of you, you can't
 17 tell me if the arithmetic is correct in the paragraph
 18 that we're discussing?
 19 A So I can tell you that the arithmetic --
 20 assuming that the financial statements that they pulled
 21 the information -- you know, that they correctly pulled
 22 the information from the financial statements, that
 23 number should be 30 percent of that number as
 24 contemplated by the conversations that I was aware of.
 25 Q Okay. I understand.

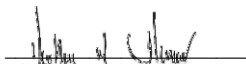

1 And is it also correct that if 100,000 --
 2 hypothetically, if 100,000 performance units were issued
 3 and the financials were correct, their arithmetic is
 4 correct in that paragraph, hypothetically?
 5 A Hypothetically --
 6 Q Okay.
 7 A -- yes.
 8 Q And then I want to ask you the same question
 9 for the next paragraph, "cost based on JEA projections".
 10 Hypothetically, if the financials -- if the projections
 11 turned out to be correct, is the arithmetic correct,
 12 assuming again that 100,000 performance units were
 13 issued?
 14 A Yes, assuming there were 100,000 performance
 15 units issued and the redemption price was 167 million,
 16 then yes, that number is correct.
 17 Q And then so --
 18 A \$167. Excuse me.
 19 Q As it was contemplated by you that 30,000
 20 shares would be allocated, then this -- the total
 21 number, \$15,778,000, should be divided by 30 percent?
 22 A It would be 30 percent of that.
 23 Q 30 percent of that?
 24 A Yeah. Correct.
 25 Q Okay.

1 A So roughly \$5 million.
 2 Q Okay. Now, my next question is, the next
 3 section is a chart. And am I correct this chart assumes
 4 100,000 performance units issued?
 5 A It appears to, yes.
 6 Q Okay.
 7 A In Column B.
 8 Q And then it has various net proceeds to the
 9 City in different scenarios of a recapitalization;
 10 right?
 11 I understand that you said as you contemplated
 12 it, 30,000 shares would be issued, not 100,000.
 13 A So to be clear, I didn't contemplate it. As I
 14 was aware of the conversations that were taking place,
 15 30,000 was what was contemplated, yes.
 16 Q So as -- so my point is -- and I'm prefacing
 17 this question with I understand that as you understood,
 18 30,000 shares were contemplated. But I'm asking you in
 19 this chart, recognizing that it allocates 100,000
 20 shares, is the arithmetic in this chart correct?
 21 A Yeah, as I sit here, it appears to be correct,
 22 assuming 100,000 units.
 23 Q Okay. Let me ask you, were you ever part of a
 24 discussion or did you overhear any talk that 100,000
 25 performance shares -- or performance units would not be

1 issued?
 2 A I don't recall, yeah.
 3 Q Did you ever hear anything about additional
 4 shares over the initial 30,000 ever being issued?
 5 A In future periods. So it was contemplated
 6 that the 100,000 units would be, you know, a multiyear
 7 plan that would be, you know, allocated over multiple
 8 years.
 9 BY MR. POWELL:
 10 Q A multiyear plan or a multi-performance unit
 11 plan?
 12 A Multi-performance period plan. Sorry.
 13 So it was intended to exist after the first
 14 performance period for future allocations. There wasn't
 15 really any discussion around what the allocations would
 16 look like in future performance periods that I can
 17 recall. It was really focused on the first performance
 18 period.
 19 BY MR. GRANAT:
 20 Q Are you aware of anything that would have
 21 prevented the issuance of more than 30,000 shares on
 22 this first go-round?
 23 A I don't have the documents in front of me. I
 24 don't know what the authorization, you know, mechanism
 25 was under the documents. To be honest, I don't know.

1 Q Okay. If someone bought a share, a unit, and
 2 then redeemed it later on, is that redeemed unit then
 3 available to be repurchased and issued to someone else?
 4 A My understanding of how the program worked was
 5 that no. Once that -- once that unit is issued and --
 6 it's issued, it's no longer available to be issued later
 7 on.
 8 MR. GRANAT: Okay. I'm done. We just need a
 9 copy of this for the record, but --
 10 (Discussion off the record.)
 11 MR. LINSNER: Do you want me to read him out?
 12 MR. POWELL: Yes, read him out. Thank you --
 13 I have one other question. Excuse me.
 14 BY MR. POWELL:
 15 Q Mr. Wannemacher, thank you very much for your
 16 time today. Might not seem like it to you, but it was
 17 very valuable to us.
 18 A I'm glad.
 19 Q But we have now reached, you know, the end of
 20 our questions to you, and I told you at the outset that
 21 our only reason for having this conversation was to
 22 further our assignment to determine whether or not there
 23 existed grounds for the termination of Mr. Zahn's
 24 employment contract for cause.
 25 So having said that, when you get read out,

1 you'll be offered an opportunity to add anything that
 2 you might want to add to anything. But my last question
 3 to you is, are you aware -- strike that.
 4 Is there any information you would like to
 5 share with the board of directors with respect to
 6 Mr. Zahn's performance as CEO at JEA that you believe
 7 would amount to grounds for the termination of his
 8 contract for cause?
 9 A No.
 10 MR. POWELL: Okay. You can read him out.
 11 MR. LINSNER: Okay. Mr. Wannemacher, do you
 12 have anything additional to offer or add?
 13 THE WITNESS: No.
 14 MR. LINSNER: Okay.
 15 As this is an ongoing Office of General
 16 Counsel investigation, you are being advised not to
 17 discuss the case with others.
 18 And the interview has now concluded. It's
 19 4:55 p.m.
 20 (Sworn statement concluded at 4:55 p.m.)
 21
 22
 23
 24
 25

1 CERTIFICATE OF REPORTER
 2
 3
 4 STATE OF FLORIDA
 5 COUNTY OF DUVAL
 6
 7
 8 I, HEATHER M. THOMAS, Court Reporter and
 9 Notary Public, State of Florida, was authorized to
 10 and did stenographically report the foregoing
 11 proceedings; and that the transcript, pages 4
 12 through 230, is a true and accurate record of my
 13 stenographic notes.
 14 I further certify that I am not a
 15 relative, or employee, or attorney, or counsel of
 16 any of the parties' attorney or counsel connected
 17 with the action, nor am I financially interested in
 18 this action.
 19
 20 DATED this 5th day of January, 2020.
 21
 22 
 23 HEATHER M. THOMAS
 24 COURT REPORTER
 25 

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