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JACKSONVILLE CITY COUNCIL
SPECIAL INVESTIGATORY COMMITTEE ON JEA MATTER

ZOOM INTERVIEW OF
MICHAEL MUNZ

DATE TAKEN: Monday, September 14, 2020
TIME: 10:03 a.m. to 3:16 p.m.
LOCATION: Smith Hulsey & Busey
One Independent Drive
Suite 3300
Jacksonville, Florida 32202

Examination of the witness taken before:
Terrie L. Cook, RPR, CRR, FPR, and a Notary Public

Hedquist and Associates
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Jacksonville, Florida 32202
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1 STIPULATION

2 It was stipulated and agreed by and between

3 counsel for the respective parties, and the witness,

4 that the reading and signing of the interview by the

5 witness was not waived.

6 - - -

7 MICHAEL MUNZ,

8 acknowledged having been duly sworn to tell the truth

9 and testified upon his oath as follows:

10 THE WITNESS: I do.

11 DIRECT EXAMINATION

12 BY MR. BUSEY:

13 Q Thank you. Good morning, Michael. Thank you

14 for coming today and letting us have this interview.

15 Can you -- can you tell us by whom you're

16 employed?

17 A The Dalton Agency.

18 Q And what's your position with the Dalton

19 Agency?

20 A President of the public relations and social

21 media group. I'm also a partner in the firm.

22 Q And how long have you been with Dalton?

23 A It will be 20 years this November.

24 Q Wow. And Dalton is one of the most prominent

25 PR, public relations, firms in Jacksonville, isn't it?

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1 Actually, Northeast Florida.

2 A Well, I appreciate your saying that.

3 Q Do you agree?

4 A I'll take that as a description.

5 Q Okay. And when -- Dalton has been employed by
6 JEA in the past, hasn't it?

7 A Correct.

8 Q And to your knowledge, when was the first
9 time?

10 A Can you -- will you turn up the volume a little
11 bit? I'm having a hard time.

12 Q Yes. Let's figure this out.
13 (Off-the-record discussion.)

14 BY MR. BUSEY:

15 Q And my question was: When was the first time
16 you recall that Dalton worked for JEA?

17 A We were hired through an RFP process in 2019 to
18 work for JEA directly.

19 Q Apart from -- and so you had an engagement with
20 them in 2019 because of that RFP process. Is there any
21 other engagement that you are aware of between JEA and
22 Dalton?

23 A We did work for the JEA under CDM Smith, which
24 was a partnership that we -- or a venture we
25 participated in. CDM was the lead. They brought us in
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1 for communication. I don't remember the years for that,
2 but that was for the water purification treatment
3 program that the JEA was embarking on.

4 Q And what is CDM Smith?

5 A They're an engineering firm.

6 Q And you said you don't remember the year?

7 A I don't. It was within the last few years, but
8 I'd have to go back and pull our records to give you the
9 exact dates.

10 Q Have you -- has Dalton, apart from what you've
11 already described, done any work for the City of
12 Jacksonville?

13 A Has Dalton done work for the City of
14 Jacksonville? We've done work for the City under
15 various projects.

16 We worked for the tourist development council,
17 which is an arm of the City. We're on a contract with
18 Visit Jacksonville for marketing closing. We've also
19 done work for, most recently, the Census Project, which
20 was a communication project that we worked for the City
21 on.

22 And let me think of if there are any others
23 that are in my memory. I don't recall any. We did work
24 for another law firm, like CDM Smith, that did work for
25 the JEA. We worked for Holland & Knight, out of

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1 Atlanta, on a project related to JEA, which was Plant
2 Vogtle.

3 Q And tell me about that engagement.

4 A We were contacted by Holland & Knight and we
5 were a sub to Holland & Knight, out of Atlanta, to do
6 communications around the Plant Vogtle issue.
7 Specifically, the big communications for the most part
8 in Georgia, but some of it also included communications
9 in the Jacksonville market about the Plant Vogtle
10 issue.

11 Q And do you recall what years that was?

12 A I believe it would have been most of 2018.

13 Q And do you have the exhibits that we've
14 provided to the Bedell firm in preparation for this
15 interview?

16 A Yes. It says Michael Munz Interview Exhibits
17 and it's tabs 1 through 38.

18 Q All right. Would you look at Exhibit 1,
19 please?

20 A Yes, sir.

21 (Munz's Exhibit 1 was marked for
22 identification.)

23 Q Do you recognize those communications and the
24 attachment to it?

25 A I do. It's a document that I received after I
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1 received the book, yes.

2 Q Okay. Would you describe the communications
3 and the document, please?

4 A It's an e-mail from Melissa Charleroy, which --
5 well, that's the chain as it starts and it's a variety
6 of her e-mails. I'm included, back and forth, with Jody
7 Brooks. The beginning e-mail, it appears to say, Jody,
8 per our conversation, please see the attached.

9 What I attached in the following documents was
10 our Dalton Agency standard confidentiality agreement.
11 We were asked if we would sign a confidentiality
12 agreement. This would have been during the Plant Vogtle
13 period. And it's not uncommon for us to sign
14 confidentiality agreements with clients, especially
15 clients related to litigation matters or potential
16 litigation matters.

17 So I had provided them our draft so they could
18 see that we were -- I guess, as a standard operating
19 procedure, Dalton Agency has a confidentiality agreement
20 we provide clients, so that's what that document would
21 have been.

22 Q And these e-mails that you've described are in
23 August of 2018?

24 A Yes, sir.

25 Q And in your e-mail of August 17, 2018, which is
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1 a part of this chain, you say, Jody, per our
2 conversation, please see the attached. Feel free to
3 edit, as you see fit. This is our standard generic
4 contract with -- we start with as we discussed.

5 And I'm curious, as you say in the e-mail,
6 standard generic contract, but you've described it as a
7 confidentiality agreement and it has a title,
8 Confidentiality Agreement, why did you call it a
9 standard generic contract?

10 A Honestly, not being a lawyer, I just used that
11 phrase. It is our standard contract that we use for all
12 of our clients for on boarding or -- and several other
13 clients will make changes. As I was suggesting, if Jody
14 wanted to make changes, we'd be open to that.

15 Q Well, can you recall -- can you just recall or
16 tell me the communications that you've had with JEA that
17 led to this engagement and this contract of August 17,
18 2018?

19 A I recall that I was contacted and asked if we
20 would be willing to help, also asked if we had offices
21 in Atlanta, which we did. I remember Jody also asking
22 if we had any -- any conflicts, which we did not. We
23 did not represent MEAG or anybody associated. So they
24 were asking -- asking us if we would do communications,
25 specifically, in Atlanta, like I said, but then it also

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1 were brought on board to manage media and put out
2 messaging related to Plant Vogtle.

3 Q In the second paragraph of the confidentiality
4 agreement attached to Exhibit 1, it says, Whereas the
5 parties are currently reviewing, evaluating and
6 exploring strategic matters relating to JEA and the
7 company is being -- relating to JEA and company is being
8 engaged to employ certain strategic efforts on behalf of
9 JEA, paren, quote, "strategic efforts," closed quote,
10 closed paren, period.

11 Is strategic efforts the -- the task that you
12 just described? Is that what you're talking about?

13 A Yes. And that language that's in there, again,
14 is standard language that we use. Strategic efforts is
15 sort of an all-encompassing communications vernacular
16 that -- that would reference what you just mentioned.

17 Q But it permits you not to describe exactly what
18 you were being engaged to do by using the term
19 "strategic efforts"?

20 A I'm not sure I understand your question.

21 Q Well, you didn't say anything in this
22 engagement or the confidentiality agreement about Vogtle
23 or what you're doing in Georgia, you just used the word
24 "strategic efforts."

25 And I'm just curious why you weren't more
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1 had some into Jacksonville. And this was the beginning
2 of that conversation.

3 Q What did -- what did the JEA ask you to do in
4 that regard?

5 A From what I can recall, at the very beginning,
6 it was going to be to put out information related to the
7 facts around Plant Vogtle as JEA saw them.

8 Q In Georgia?

9 A In Georgia, yes, sir.

10 Q And why? What was the purpose of you having
11 communications regarding JEA in Georgia?

12 A There was going to be a vote by the governing
13 body in Georgia, specifically it was going to be in
14 Atlanta where the governing body was going to be
15 meeting. And they wanted to get information out and
16 have the MEAG board become aware of issues that they
17 didn't feel they were getting as far as the impact of
18 Plant Vogtle to the JEA, to the Jacksonville community,
19 how it was going to affect the future of JEA. They
20 were very frustrated that the messaging was not getting
21 out.

22 And so we were brought on board to -- they were
23 providing us, they being JEA, facts and information, or
24 Holland & Knight was as well, about the different
25 actions that were being taken place at MEAG. And so we

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1 precise in the description of your -- what you're being
2 engaged to do?

3 A I don't know why I wouldn't have been more
4 precise except to say that I was sending her this as a
5 draft and if she wanted to be more precise in her review
6 of it, she could have been, but --

7 Q But it -- excuse me.

8 A Sorry. Go ahead.

9 Q Did the -- the phrase "strategic efforts" was
10 your phrase?

11 A Yes. That's the phrase that's contained within
12 our standard contract. The confidentiality agreement,
13 I'll refer to it correctly.

14 Q And if you would, please, look at Exhibit 4.

15 A Okay.

16 Q And would you describe what that is, please?

17 A Sure. This relates to the CDM Smith project
18 that I was talking about. So Shayne is an employee of
19 CDM Smith. The from Linda Macpherson was another
20 consultant. I believe she's in California actually.
21 And the Paul that is referenced here was Paul
22 Steinbrecher. And this was in regards to the water
23 purification treatment project.

24 Q And who is Paul Steinbrecher?

25 A He -- I don't think he's with JEA any longer,
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1 but he at the time was the water resources person that
2 we worked for under the CDM Smith contract for the water
3 purification treatment.

4 Q And on the first page of Exhibit 4, there's an
5 e-mail chain. There's an e-mail from Shayne Wood, on
6 September 25, 2018. Says, Team, Paul called me and
7 requested that we target Thursday, September 27th, at
8 2:00 p.m., to provide feedback to the Dalton Agency on
9 the video. We really need to have the feedback session
10 this week so Dalton can make edits in time for the JEA
11 innovation summit that's scheduled for Friday,
12 October 5.

13 What is the JEA summit that's referred to
14 there?

15 A That would have been a summit that the JEA put
16 on with a number of other organizations. And it's my
17 recollection that Shayne's intent was to get the video
18 back to JEA so they could show it at the summit.

19 Q What was the purpose of the video?

20 A The video was showing how JEA was moving
21 forward with taking what they call tap or a -- toilet to
22 tap is sort of a phrase and we were actually trying to
23 get away from that because it brings up a lot of
24 connotations of people, but it's basically taking ground
25 water and turning it into purified drinking water.

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1 innovation summit?

2 A Quite frankly, I think that the purpose was the
3 Aaron Zahn Show.

4 Q Can you be a little more descriptive what you
5 mean by the Aaron Zahn Show?

6 A From what I saw, especially post event, I saw
7 some videos where Aaron was walking around with a --
8 like, a lavalier mic that kind of plugs into your ear.
9 And you hear of a lot of musicians and people on stage
10 wearing TED Talks, use it a lot now.

11 And in -- in my analysis or opinion, I guess I
12 should say, it looked like this was all about Aaron
13 promoting his points of view, his -- the direction of
14 his vision. It was -- the way I looked at it, after I
15 saw a lot of the coverage and the video, it was the
16 Aaron Zahn Show. It was promoting Aaron Zahn and his
17 thoughts.

18 Q Thank you.

19 And when did -- when did you first meet Aaron
20 Zahn?

21 A I met Aaron Zahn several years ago. I believe
22 it was 2011. I was introduced to him first by Steve
23 Diebenow, who is a lawyer here in Jacksonville.

24 Q With Driver McAfee?

25 A Yes, I believe that's the firm he's with.

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1 And so our job was to create materials that
2 would show the ground water the JEA was purifying was
3 safe to drink. And that video would have been designed
4 to show that.

5 Q At this point Aaron Zahn was the CEO of JEA?

6 A I'd have to check the dates. He was either
7 interim CEO or CEO. I can't, right now, recall what
8 date that switched, but --

9 Q I understand.

10 A -- he would have been -- okay.

11 Q I understand. He was either the interim CEO or
12 the CEO, depending on the dates?

13 A Right.

14 Q I got it.

15 A Right.

16 Q And what do you know about the innovation
17 summit? Was that an Aaron Zahn idea?

18 A It was an Aaron Zahn idea. I was asked to go
19 to one meeting early on about it that I think was one of
20 the very first meetings where they talked very high
21 level about it. And then I did not go to any other
22 meetings and I did not attend the event.

23 Q Thank you. That's helpful.

24 What was your understanding from the
25 conversations that you had as the purpose of the

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1 Q And when did you encounter him in connection
2 with JEA? Can you put me at a point in time where you
3 and Aaron talked first after he became involved with
4 JEA?

5 A No, that would be impossible for me to be able
6 to sit here and tell you. My memory's not that good on
7 certain dates. And the first time I met him, when he
8 was associated with JEA, I couldn't tell you.

9 Q Was there such an occasion before this
10 innovation summit in August, do you recall, that you
11 had --

12 A That I would have --

13 Q Yes.

14 A Probably, but to give you a specific date, I --
15 I cannot.

16 Q Were you aware when Dalton -- when Aaron Zahn
17 was first appointed to the board of JEA and then shortly
18 thereafter became the interim CEO, were you aware of
19 those circumstances in 2018?

20 A I watched them happen through the media.

21 Q But you had no personal involvement in it?

22 A No.

23 Q I meant to ask you in the chronology, do you
24 have -- did Dalton have any involvement in the campaign
25 for Lenny Curry for mayor in either '15 or '19?

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1 **A** Yes. Well, Dalton -- I don't believe Dalton
2 did any work. I was on the post committee, fundraising
3 committee. I'd have to go back, but I don't believe
4 Dalton did. We wouldn't have done any television or
5 anything like that. I don't think we did any other
6 paid -- I know that we did work -- well, I'd have to go
7 back and check.

8 **Q** And you're distinguishing between Dalton and
9 yourself personally?

10 **A** Correct. I mean, I serve on a number of host
11 committees, volunteer to raise money for candidates,
12 things like that, but that's not an official Dalton
13 Agency role where Dalton Agency is paid a fee like we
14 would for public relations or an advertising campaign.

15 **Q** I understand.

16 Can you tell me what your personal role was in
17 the '15 or '19 campaign?

18 **A** In '15, I was an unofficial, unpaid advisor to
19 him, as well as a number of other community leaders,
20 mostly on the fundraising side.

21 **Q** And how long have you known Lenny Curry?

22 **A** I probably first met Lenny probably 2012, 2013.
23 I had met him, like, briefly at a political fund-raiser,
24 but where I really had a serious conversation with him
25 about sort of Jacksonville or even him deciding to run
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1 for office, even before he decided to run for mayor,
2 probably around 2012, I want to say.

3 **Q** And do you recall, beginning at that point in
4 time and coming forward, ever talking with Mayor Curry
5 about his interest in the prospect of selling JEA?

6 **A** No.

7 **Q** You've never talked to him about it?

8 **A** I don't recall ever talking to him about it.

9 **Q** Did you ever talk to him about Aaron Zahn
10 serving on the board or as an executive of JEA?

11 **A** No. I don't recall ever talking about that.

12 **Q** Did the Dalton Agency have any other
13 involvement, other than what you've already told me
14 about in the innovation summit, the Aaron Zahn Show?

15 **A** Not that I'm aware of, no.

16 **Q** Did you have any communications that you recall
17 with Mayor Curry or his staff regarding the innovation
18 summit?

19 **A** I don't recall any, no.

20 **Q** Let me ask you to look at Exhibit 5.

21 **A** Okay.

22 (Munz's Exhibit 5 was marked for
23 identification.)

24 **Q** This is an e-mail from Aaron Zahn to you, dated
25 November 19, 2018. Do you remember receiving this

1 e-mail?

2 **A** I don't. I didn't remember it until I read it
3 in the notebook that you-all provided.

4 **Q** Do you remember Aaron Zahn complaining to you
5 that he wasn't -- in his perspective, he wasn't treated
6 fairly in the interview process for either the interim
7 CEO or the final CEO selection?

8 **A** I do remember Aaron complaining about a lot of
9 things, both, during the Plant Vogtle time period when
10 we were working, we would be on the phone with various
11 people, including the lawyers and I would remember him
12 complaining in even other circumstances, while he was
13 either interim or permanent CEO, that people didn't give
14 him credit for his smarts. He would use that word a lot
15 with me. His intellect, his ability to do financial
16 analysis. He would become quite frustrated that people
17 did not believe him or trust what he was saying.

18 **Q** The first sentence in this -- the first two --
19 three sentences in this e-mail say, Generally, this
20 doesn't bother me, but thought it was striking when I
21 was -- when I actually reviewed over the weekend. There
22 is now a world where this cannot be intentional,
23 especially when compared to other candidate reviews.

24 And then attached to the e-mail is a list of
25 complaints. It starts out, Actual facts and details of
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1 my resume and interview were ignored and overarching
2 comment. One can't help to notice the depth and detail
3 provided for each of the other candidates in comparison
4 to the relative sparse notes from my evaluation.

5 Does that refresh your recollection about his
6 complaints?

7 **A** Again, only when I read it in this tab is when
8 I remembered seeing it or saw it. I did not remember
9 seeing it before. And I don't know what his thought
10 process would have been to why he would have sent this
11 to me.

12 **Q** Do you -- do you have any other recollection
13 that he thought he wasn't fairly treated by Heidrick &
14 Struggles in the search process for the permanent CEO
15 position?

16 **A** No, I don't remember that.

17 **Q** Did you ever discuss with either Aaron or JEA
18 board members Aaron's candidacy for the permanent CEO
19 position of JEA?

20 **A** No, not that I recall.

21 **Q** Look at Exhibit 6, please. Do you recall
22 this?

23 **A** I did not recall it until I read it again in
24 this tab. I don't know where it originated or what this
25 is -- I mean, I read it after it was in the tab, but I

1 don't remember it from before, no.
 2 (Munz's Exhibit 6 was marked for
 3 identification.)
 4 Q It -- it appears -- it's undated and it appears
 5 to be a -- comments by Aaron to the board members of JEA
 6 in support of his candidacy for the position of CEO of
 7 JEA.

8 But, again, I take it you don't recall anything
 9 about this?

10 A No, sir, I don't.

11 Q But you found this in your material? You
 12 produced it to us?

13 A Right. I -- like I said, I don't know how I
 14 would have gotten it. And until I read it in this tab
 15 and -- when I was pulling materials, I was just pulling
 16 whatever I had in my folders on my computer so I don't
 17 know why I would have had it.

18 Q When you say your folders on your computer,
 19 what -- what folders are you referring to?

20 A When I was asked to pull documents, I kept a
 21 JEA folder of different either e-mails or documents or
 22 notes that I had written to myself. And so this was
 23 apparently in that folder, but, again, I don't recall
 24 why I would have had it.

25 Q You described it as a -- in your computer as a
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1 JEA folder?

2 A Well, I put folders and name them all various
 3 things, so this is just JEA.

4 Q This document came out of a folder in your
 5 computer that was -- that you described as JEA?

6 A Correct.

7 Q Okay. Look at Exhibit 7, please. Exhibit 7,
 8 the face of it is an e-mail from Aaron Zahn, dated
 9 December 4, 2018, to Susie Wiles and Michael Munz.
 10 Subject is the JEA Final Report, November 30th, 2018.
 11 Do you recall this?

12 A I do recall this, yes.

13 (Munz's Exhibit 7 was marked for
 14 identification.)

15 Q And he's forwarding -- Aaron is forwarding to
 16 you and Susie an e-mail from Ann-Marie Braddock at the
 17 duPont Fund.

18 A Uh-huh.

19 Q It says, Good afternoon. Thank you for joining
 20 us today at the Jessie Ball duPont Center. Please see
 21 attached copy of the JEA Final Report.

22 Did -- did you go to the duPont Center as
 23 indicated in that e-mail?

24 A No, I was not at that meeting.

25 Q Have you seen the report that's attached to
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1 this e-mail?

2 A I saw it when Aaron sent it to me. And I do
 3 remember him sending this to me and, specifically, it
 4 had sections in there related to Plant Vogtle and he
 5 wanted me to focus on that.

6 Q The report is entitled Valuing Municipal
 7 Utilities - The Case of the Potential Sale of JEA in
 8 Jacksonville, by Public Utility Research Center.

9 Do you -- do you recall seeing the report?

10 A When Aaron sent it to me. I had not seen it
 11 prior to that, no.

12 Q Did you know why -- did you know that the
 13 duPont Fund had commissioned this report?

14 A I had heard about it through the media, that
 15 the duPont Fund had commissioned the report.

16 Q What was your understanding of why the duPont
 17 Fund had commissioned the report?

18 A I had heard that they wanted to figure out what
 19 the facts were related to whether or not JEA should be
 20 sold or not and so they commissioned their own study.

21 Q You were aware that there was a -- a public
 22 discussion in Jacksonville in 2018 about whether or not
 23 JEA should be sold?

24 A There have been public discussions about JEA
 25 being sold for years.

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1 Q I acknowledge that, but there was more of an
 2 intense discussion in 2018, wasn't there?

3 A I think '18 and then this report probably
 4 stirred up a lot of conversation. But, again, it -- if
 5 you're in the sort of, you know, campaigns that would be
 6 talked about, various campaigns was talked about even
 7 back when I worked for John Delaney at one point. Where
 8 we even sold the water and sewer authority over to JEA,
 9 there were conversations about what should we do with
 10 the whole entity itself then, so.

11 But you're right, in 2018, it was more
 12 highlighted and I think this report may have done that.

13 Q And you remember the Crescimbeni committee of
 14 the city council had studied the issue in 2018?

15 A I remember following it through the media from
 16 time to time, yes.

17 Q But you had no personal involvement in that?

18 A No.

19 Q Did you have, yourself, in -- as a person who's
 20 involved in the public issues in Jacksonville, did you
 21 have a personal attitude about whether or not JEA should
 22 or should not be sold?

23 A Over time, my attitude probably ebbed and
 24 flowed, but I think a lot of community leaders had a lot
 25 of different opinions.

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1 Q But I was asking about yours.
 2 A I -- to say I didn't have a personal opinion
 3 would not be factual. Of course, I had a personal
 4 opinion.
 5 Q And what was your personal opinion?
 6 A My personal opinion was, quite frankly, that
 7 Clay County's co-op option, from everything I got to
 8 know about, sitting here today, and even back then,
 9 people pointed to Clay County and said, Look how good
 10 they're doing things. I always thought that was a model
 11 that Jacksonville should look at.
 12 Q Do you -- do you recall what the result of this
 13 study was, what conclusion the study came to?
 14 A I think that it re- -- caused a lot of
 15 community conversation, but I don't think it caused any
 16 public policy changes that I'm aware of.
 17 Q And, again, in the context of this
 18 conversation, you don't recall ever discussing the --
 19 the issue or the sale or to sell or not to sell the JEA
 20 with Mayor Curry?
 21 A I do not recall that, no.
 22 Q Or Brian Hughes?
 23 A I do not, no.
 24 Q Or Tim Baker?
 25 A No.

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1 So after reading your tab, I do not recall
 2 anything or find anything that said that I had given
 3 comments on it.
 4 Q Do you recall talking to Aaron at all about his
 5 op-ed that was attached to this e-mail?
 6 A I don't recall, but I may have. I just don't
 7 recall.
 8 Q Why did -- to your knowledge, to your
 9 understanding, why did Aaron send this op-ed to you for
 10 comments?
 11 A I don't know.
 12 Q Did the op-ed run in the *Times-Union*?
 13 A I'd have to go back and check.
 14 Q You don't recall?
 15 A I don't recall. Sorry. I don't -- I don't
 16 recall.
 17 Q Would you look at Exhibit 9, please? This is
 18 an e-mail on top from Aaron Zahn, dated February 14, to
 19 Michael Munz and Susie Wiles, regarding chamber
 20 presentation. And it shows as an attachment, a February
 21 15, 2019, chamber presentation.
 22 Do you recall this e-mail?
 23 A I do recall this e-mail.
 24 (Munz's Exhibit 9 was marked for
 25 identification.)

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1 Q Or Michael -- or Sam Mousa?
 2 A No.
 3 Q Or anybody else on the mayor's staff?
 4 A No.
 5 Q Just look at Exhibit 8. This is an e-mail from
 6 Aaron Zahn to you and Gerri Boyce. It's dated December
 7 6, 2018. And Aaron says, See attached. Let me know
 8 what you think. Call me before 9:00 a.m. if we need to
 9 discuss.
 10 And attached is what appears to be an op-ed for
 11 *The Florida Times-Union*, entitled JEA to Drive Value for
 12 our Community, by Aaron Zahn, CEO and Managing Director
 13 of JEA.
 14 Do you remember seeing this?
 15 A I don't remember from December 6th, but I --
 16 now that I've seen it, I've read through it and know
 17 what it says, but I did not recall seeing it until I saw
 18 it on this tab.
 19 (Munz's Exhibit 8 was marked for
 20 identification.)
 21 Q Did you give Aaron Zahn any comments on the
 22 op-ed?
 23 A I went back and looked to see if I had done any
 24 redlining and I could not find any documents that I had
 25 in my possession that showed that I had given comments.

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1 Q Tell me why -- what this was about in your
 2 recollection.
 3 A I recall this e-mail because I recall having
 4 such a negative reaction to putting a frog in a frying
 5 pan and using that as a presentation slide for a chamber
 6 of commerce presentation.
 7 Q That's why you're so good at what you do.
 8 A Well, I thought it was not an appropriate way
 9 to make a point. So I -- I recall, again, the e-mail
 10 because of the attachment.
 11 Q And the e-mail that I just referred to is a
 12 part of the chain. And the e-mail before that is from
 13 Aaron Zahn, dated February 14th also, earlier in the
 14 day, to a whole bunch of JEA officers.
 15 And he says, I threw this together this
 16 morning, not perfect, but good enough. I have a quick
 17 updated presentation to the chamber board of directors
 18 tomorrow. This won't burst the bubble of status quo,
 19 but will set the stage.
 20 Do you know what Aaron Zahn was referring to in
 21 that message?
 22 A No, I don't.
 23 Q Did you ever talk to Aaron Zahn about the
 24 presentation that's attached to this e-mail?
 25 A I did to tell him that I thought, again, the

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1 frog cover was pretty bad.

2 There was a Gilbert cartoon, if I remember
3 correctly, yeah, it's about halfway through, that I also
4 thought was not in keeping with what I thought the tone
5 of a CEO should be delivering to a chamber of commerce.

6 And then there were just other points, but
7 there were some things in here that he said were brought
8 forth by either the CFO or other financial people so
9 those things I couldn't question because that's not in
10 my wheelhouse. I was giving him, though, my opinion on,
11 especially from a presentation standpoint, what I
12 thought was wrong with it.

13 Q What was your understanding of Aaron Zahn's
14 purpose in this presentation to the chamber of
15 commerce?

16 A He wanted to start -- my understanding is he
17 wanted to start to get people within the chamber and the
18 business community and other community leaders to start
19 to realize that the JEA, over the next X number of
20 years, sometimes it was 10, sometimes it was 20, was
21 going to be suffering some pretty financial troubles.
22 And so he was trying to set the groundwork.

23 And his response back to me was, When the pan
24 first starts to heat up slightly, it's -- the frog
25 doesn't realize it, but then when the pan gets really,

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1 really hot, the hot -- the frog analogy. And -- and he
2 stuck with it.

3 The frog presentation was one he gave in more
4 than one area and I continued to object, again, to the
5 format style and the way it was being presented.

6 Q But he didn't follow your advice?

7 A No.

8 Q On about the third page into this presentation,
9 there's a chart of sales growth in the JEA.

10 Do you see that?

11 A I do.

12 Q And there's a depiction in that chart of what
13 purports to be declining sales after 2006.

14 Do you see that?

15 A I do.

16 Q And do you see that, in fact, the -- in spite
17 of the red line on that chart, that from 2013 to 2017,
18 the sales were actually going up?

19 A Well, the colors aren't -- the lines on my page
20 aren't colored so are you saying the top line or the --
21 is yours in color? I'm sorry to --

22 Q Yes, mine's in color.

23 A Okay. So is the top line the red one or is the
24 middle line the red one?

25 Q The -- if you look over to the years of 2012

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1 through 2017, there are three lines. There's a black
2 line, a blue line and a red line.

3 A Okay.

4 Q Is yours in color?

5 A No, sir, it's not.

6 Q Bedell Firm doesn't have a color printer?

7 A Oh, he does. Hold on. He's pulling his up.

8 Yeah. Okay. I can see the red line now. Okay. I got
9 it. I'm looking at the computer.

10 Q Okay. Then my question to you: In spite of
11 the red line showing declining sales, do you see that
12 from 2013 to 2017, it appears the sales were actually
13 going up?

14 A The sales projections versus annual growth?

15 Q Yes.

16 A Yes.

17 Q And do you know that in 2018, in fact, that the
18 sales went up again?

19 A I don't know. It's not on here. Just goes
20 through '17. And I don't recall '18.

21 Q Have you ever seen this chart in any other
22 form?

23 A I've probably seen it in other PowerPoint
24 presentations, but it -- its exact form of where else, I
25 could not tell you precisely.

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1 Q Have you seen it -- did you know that Paul
2 McElroy prepared this chart for a workshop and for the
3 years 2014 to 2017, he actually drew another little red
4 line that was going north rather than south?

5 A No.

6 Q Had you seen that one before?

7 A No.

8 Q Did you have any conversations with Aaron Zahn
9 regarding whether or not this chart was misleading?

10 A I would ask from time to time can you verify
11 that the numbers, the facts, the data, the financial
12 information you're providing us on the comms team was
13 correct? I had to rely on Aaron, Melissa, Ryan
14 Wannemacher, people within his staff.

15 So there will also be times when, not
16 specifically this chart, but for different
17 presentations, I would ask questions and I would get the
18 eye of Aaron, as I used to call it in my head because he
19 would get very frustrated that I was challenging him or
20 asking questions, that I just didn't take it at face
21 value.

22 Q I heard what you said, but I don't think that
23 you answered my question.

24 My question is: Did you ever have any
25 discussions with Aaron about whether or not this chart

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1 was misleading?

2 A Not that I can recall on that one specifically,
3 no.

4 Q Did you find Aaron's representations to you to
5 be consistently reliable?

6 A At the time I would say I was relying on them,
7 yes. I had no reason to doubt him. Sitting here today,
8 in hindsight, I could say that I find -- found them to
9 be unreliable, but that's sitting here today, looking
10 back.

11 At the time I took them as reliable because he
12 would stand by them, Ryan would stand by them and others
13 would stand by them.

14 Q And what, over time, do you find to be
15 unreliable, if you can recall?

16 A Really towards the very end, when it was
17 concerning about the growth and the trajectory of where
18 information was either being generated for some
19 inconsistencies that were pointed out and why he could
20 not -- could not articulate why there were some
21 inconsistencies from time to time. And these are more,
22 like, in draft presentations and meetings that we would
23 be in.

24 Q Well, you're aware that, generally, during
25 2019, Aaron and his team was in a mode of trying to
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1 Q But did you hear my question? Did you ever
2 become aware that that presentation of doom and gloom
3 was overstated in 2019?

4 A Well, sit- -- sitting here today, I would have
5 to say that it does appear that it was overstated at the
6 time. And with the information that I was being
7 presented, I did not think it was.

8 Q I understand that you didn't know it was being
9 overstated, but in time you've come to learn that
10 perhaps it was overstated?

11 A Yes. Again, sitting here today, I think it's
12 fair to say that I would define it as overstated.

13 Q Look at Exhibit 10, if you would, please.
14 The -- this is a chain of communications. The top is
15 the e-mail from you, dated March 1, 2019, to Nathan
16 Woyak, W-o-y-a-k, Procurement Category Manager at JEA.
17 Do you recall this?

18 A I recall -- yes, after reading through the
19 chain of e-mails, yes, I recall the e-mail.

20 (Munz's Exhibit 10 was marked for
21 identification.)

22 Q And what was the purpose of the e-mail?

23 A We were setting up the vendor account and
24 getting the internal Dalton system set up so that we
25 could provide JEA with the required reports and
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1 convince the public and the board that there were
2 challenges for the JEA?

3 A Say that again.

4 Q You were aware that in 2019, Aaron and his
5 staff were presenting to the board and to the public the
6 fact that the future posed challenges for JEA?

7 A Yes.

8 Q And that became known as the doom-and-gloom
9 scenario?

10 A I was aware of challenges, different people
11 called it different things.

12 Q Have you ever heard the term doom and gloom in
13 the context of those conversations?

14 A I have.

15 Q And tell me in what context.

16 A To be specific, it would be difficult, but
17 there were different meetings or different conversations
18 that would take place, whether in person or by phone,
19 where doom and gloom would be used as a description of
20 the future.

21 Q Being painted by Aaron Zahn?

22 A Yes.

23 Q Did you ever come to the conclusion that that
24 perhaps was overstated?

25 A No, not at the time.
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1 information that they needed for the billing cycles.

2 Q But this evidences the fact that you were being
3 hired by J- -- Dalton was being hired by JEA?

4 A Yes.

5 Q For what purpose?

6 A For communications. We had responded to the
7 RFP I had mentioned earlier. And this was the award of
8 the RFP. And this was the set-up process through the
9 procurement office and our business office to put the
10 processes in place. They were going to require
11 detailed information for invoices. They needed -- we
12 needed a W9 to set up on our system. Things along those
13 lines.

14 Q You said the RFP that you mentioned earlier,
15 but the one that you mentioned earlier was in the
16 context of 2018 and this is in March of 2019.

17 Is it the same engagement or different
18 engagement?

19 A So in early 2019, the JEA put out a
20 solicitation for communications. And this is in regards
21 to setting up -- once we were awarded that, setting up
22 that -- the procurement.

23 Q But this is not the same engagement as you
24 did in 2018 in connection with the Plant Vogtle
25 situation?
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1 A That's correct. We worked for Holland & Knight
2 in that regard.

3 Q So this is a different engagement by JEA?

4 A Correct, this is directly with JEA.

5 Q And as you see, if you go into this chain of
6 communications, there is an e-mail from Nickolas
7 Dambrose, D-a-m-b-r-o-s-e, dated February 19, 2019,
8 to -- addressed to respondents. This communication is
9 to inform you of JEA's intent to award for Solicitation
10 Number 96644, Public Affairs, Issue Advocacy and
11 Stakeholder Engagement.

12 So this is --

13 A I'm sorry. Steve, I'm sorry to interrupt. I'm
14 not seeing which one you're on. Next to last page?

15 Q Yes.

16 A Okay. Hold on one second, let me catch up with
17 you.

18 Q Go ahead.

19 A Okay. I'm there now.

20 Q You see where I just read that this is an
21 announcement of JEA's intent to award this?

22 A Yes.

23 Q Because apparently Dalton had made or responded
24 to the RFP and received the award?

25 A That's correct. That's what I was referring
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1 A There was not a specific issue. It was, in
2 general terms, working on communications overall. So we
3 were -- once hired, then we went through putting
4 together various communications plans that eventually
5 have all been to community communication plans around
6 all the different scenarios that the JEA was going to be
7 bringing to the public and the community, scenarios one
8 through five.

9 Q Regarding the future of JEA?

10 A Correct.

11 Q And with whom at JEA did you discuss this
12 potential engagement?

13 A After the award was given?

14 Q Before the award was given.

15 A Before the award was given, there was a
16 requirement in the RFP that there was not to be any
17 communications with JEA so we were prohibited from
18 having any communications with JEA.

19 Q And so you had none?

20 A No.

21 Q Okay. After the award was given, what
22 communications did you have with the JEA?

23 A So after the award was given, we set up the
24 systems and then we began to meet -- it was determined
25 that we would report to Kerri Stewart. And so we began
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1 to, yes, sir.

2 Q And this was in February of 2019?

3 A Correct.

4 Q And what was the -- what was the solicitation
5 for? What were you being engaged -- Dalton being
6 engaged to do?

7 A The solicitation was for public affair issues
8 and stakeholder engagement. Stakeholder being
9 community, community leaders, the public, helping with
10 internal communications, external communications. So it
11 was a full-service public affairs communications RFP
12 award.

13 Q Communications and issue advocacy towards what
14 end?

15 A There was no end. It was describing how we
16 would go about in our response -- I believe it was in
17 one of the packets. How does the agency go about doing
18 public advocacy.

19 Q The agency being JEA?

20 A No, I'm sorry, the agency being Dalton Agency.

21 Q All right. What --

22 A That was our response to the RFP that they put
23 out that was the Solicitation Number 96644.

24 Q Well, what was the -- what was the issue in
25 which you were being engaged to advocate?

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1 to put the team together and have planning conversations
2 and on boarding conversations around communications and
3 process and procedures.

4 Q And what was the compensation to the Dalton
5 Agency for this engagement?

6 A The award compensation was \$25,000 a month. Of
7 that, we also had another member of the team that was a
8 small minority business that was a requirement in the
9 RFP. JEA does that, from what I understand, quite a
10 bit. Requires minority RFP vendors or minority vendors
11 be a part of an RFP.

12 So we had Cantrece Jones and her firm. So we
13 paid her out of our retainer her 20 percent, which is
14 4,000 and change, if I'm doing math in my head right.

15 Q And looking back at the first page of Exhibit
16 10 and your -- and your message of March 1, you -- you
17 have a sentence there -- in there, it says, It will
18 track the work plan approved by the comms team.

19 What work plan are you referring to?

20 A The work plan is something we always, once we
21 get started with a client, have. It describes which
22 member of our team does what, how we would report to
23 them, what kind of reporting mechanisms they would want,
24 whether it would be electronic, whether they would want
25 forms filled out a certain way. So it all -- it really

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1 depends on their requirements and what the RFP required
2 or called for.

3 Q So the work plan was process, not the
4 identification of the issue?

5 A That's correct. It's all about process at this
6 point.

7 Q Okay. And if you would next, let's look at
8 Exhibit 11.

9 MR. BUSEY: And I'm going to go off -- ask
10 Terrie to go off the record here and just take a
11 short break, but look at Exhibit 11 during the
12 break, if you would, please.

13 (Recess taken.)

14 MR. BUSEY: Okay. Let's go back on the record.

15 BY MR. BUSEY:

16 Q Again, have you had an opportunity to look at
17 Exhibit 11?

18 A Yes, sir, I have.

19 (Munz's Exhibit 11 was marked for
20 identification.)

21 Q Can you tell us what it is, please?

22 A That is a document that we, at Dalton,
23 generate. We do what we call on boarding meetings with
24 clients so we put together an agenda of things that we
25 would like to ask about. Some of these are specific to
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1 what we may have heard from maybe Kerri or others,
2 topics they wanted to cover. Others would be topics
3 that, for example, I would have added that I might
4 thought -- I might have thought were appropriate to
5 bring up or to understand. So this would have been the
6 agenda for that on boarding meeting.

7 Q Between the Dalton Agency and JEA, on March
8 8th, 2019?

9 A Yes, sir.

10 Q And below that title, it says, Mission: Evolve
11 JEA's brand and reputation from a transactional power
12 producer, paren, rates, bills, outages, paren, to a
13 collaborative energy manager, paren, adaptive,
14 innovative, value-focused, closed paren.

15 A Uh-huh.

16 Q Who prepared that statement of mission?

17 A That was probably an evolution of several
18 people. I know that I had a hand in that. I believe
19 that I also asked Kerri Stewart her thoughts on what the
20 mission would be. We talked about it internally. I did
21 some research on what was going on with power producers
22 around the country, realizing that when you talk about
23 them being transactional, it's, again, turn on your
24 lights, turn on your water, things like that.

25 And we had heard that they wanted to be -- be
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1 perceived to be different. So this was -- just
2 rereading it to make sure I -- so this was the mission
3 as we saw it, going on from a communication standpoint.

4 Q Let me go back to your statement, We had heard
5 they wanted to be different.

6 Tell -- tell me who you heard that from and
7 what was the conversation?

8 A Again, I talked to Kerri getting ready for the
9 meeting, what the goals and objectives, what the senior
10 leadership team was talking about. I had -- may have
11 talked to Melissa Dykes about it as well. And I'm sure
12 that I talked to Aaron briefly, but I can remember the
13 word innovative being one that he told he really wanted
14 to use, so I think that's probably why that word's in
15 there.

16 But moving from, again, being a transactional
17 power producer to having a perception of -- from their
18 customer base that was different.

19 Q Can you tell me what -- what connection there
20 was, if any, between this mission and this engagement as
21 evidenced by Exhibit 11 and the effort within JEA to
22 change the ownership structure of JEA?

23 A I think at this time, it was -- well, we were
24 doing this on boarding too early, but if -- as I'm
25 reading through it, this was more about getting an
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1 understanding of where they were. JEA 101, for example,
2 on number 3, organizational structure, today's
3 framework, the future. We had already heard about the
4 status quo presentation. So we were trying to get
5 under -- understanding of all the various components
6 that we needed to understand on the communications
7 side.

8 Q Well, let me -- let me ask you more about that.

9 You said, We already heard about the status quo
10 presentation. What status quo presentation?

11 A So status quo was in the early stages when we
12 were on boarded, was if JEA remained just like they
13 were, status quo, what could end up -- what the JEA
14 could end up having to do operationally, financially,
15 service wise, things along those lines and so that was a
16 reference to that.

17 We heard the status quo presentation,
18 basically, the JEA continuing to operate as if it was
19 the same, without making any changes, as far as services
20 or, again, going from being perceived as just a power
21 producer to an energy manager.

22 I do recall it was either at this point or
23 later, around this time period when we were starting to
24 hear that, for example, Aaron would talk about a house
25 that was on the south side that went completely off the
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1 grid and he was very concerned that others would do
2 that, meaning they would have their own water, they
3 would have their own solar, not need JEA whatsoever.

4 And he would talk about, and I remember in this
5 meeting him talking about how they needed to adapt to be
6 on both sides of the meter. Smart solutions, he talked
7 a lot about. He talked a lot about -- again, board
8 innovation came up a lot. And he was talking a lot
9 about how, I think I used the phrase, either side of the
10 meter, how he wanted to not just be on the one side of
11 the meter, whether it was water or sewer or electric,
12 but he wanted to be on the other side collecting data.
13 He would talk about Google or Nest or other types of
14 devices that would be in people's home, collecting data,
15 that that data was valuable. And so I think that's what
16 this is in reference to.

17 Q You say "status quo presentation," do you have
18 any understanding of what the word presentation means?
19 Was there a presentation to someone?

20 A No, I -- I'm talking in terms of status quo
21 just going out, talking with people in the community,
22 talking to chamber people where he was -- they did a
23 chamber event. Just talking about the fact that if JEA
24 didn't change, it was going to have certain -- if they
25 remained the same, they would have problems.

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1 have a play book for that? Were there any potential
2 crises on the horizon? I always ask those questions of
3 the client as I on board them.

4 Q As you on boarded on March 8th, 2019, the JEA,
5 were you aware or made aware of any potential crisis
6 communications?

7 A They had shared with me how they handle storm
8 crisis, how they handle outages, how they handle if
9 people can't pay their bills, things along those lines.

10 Q As a part of the discussion of crisis
11 communication, was there any discussion of the public
12 debate about whether or not JEA should be sold?

13 A No.

14 Q On the second page of Exhibit 11, it shows a
15 list of attendees. Do you see that?

16 A Yes, I do.

17 Q Were they -- were most of those people there?

18 A To the best of my recollection, but I -- I
19 don't recall if everybody under the JEA list was there,
20 but that's the best answer I could give you. Yeah, I'm
21 not 100 percent that everybody on that list would have
22 been there.

23 Q Was Mike Hightower there?

24 A I don't recall.

25 Q At the time that you did this on March 8th,

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1 Q On the first page of Exhibit 11, under
2 paragraph 3, there's the phrase status quo presentation.
3 Was there a presentation that had been made to somebody
4 that you knew about?

5 A I don't remember where that came. That may
6 have been an input from Kerri, I'm not sure.

7 Q After that phrase, there's -- there's a -- it
8 says, 100 by 50. Do you know what that refers to?

9 A No. And I'm trying to remember what that
10 refers to. I don't remember what that refers to.

11 Q In describing this engagement and this on
12 boarding that is evidenced by Exhibit 11, you -- you
13 really haven't said anything about the change of the
14 ownership structure of JEA. Was that any part of this
15 discussion?

16 A Not at the time that I recall, no.

17 Q And on the bottom of the first page of Exhibit
18 11, paragraph 5, says, Crisis communications. What does
19 that refer to?

20 A So it's standard operating for whenever I on
21 board the client to ask them if they have a crisis plan
22 in place, just knowing that they're going to deal with
23 hurricanes or storm outages or flooding, et cetera. How
24 are they handling crisis communications? So that's, to
25 me, what the crisis would mean in my world. Do they

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1 what was Mike Hightower's role in JEA, to your
2 knowledge?

3 A It really wasn't clear to me. I had been in a
4 couple of meetings with him where he would represent
5 that he was interfacing with the chamber, business
6 leaders, also city council members and state
7 legislators, but what his exact role was or what he was
8 doing on a regular basis, I wasn't privilege to.

9 Q Did you understand that there's some overlap
10 between what his job function was at JEA and what you
11 were being hired to do?

12 A Not that I was aware of, no.

13 Q Are you aware of when Mike Hightower left JEA?

14 A I don't remember the date, but I was made aware
15 that he had left the JEA.

16 Q Were you -- did you acquire any understanding
17 of the circumstances under which he left JEA?

18 A Not the specifics, no.

19 Q Generally?

20 A Generally, I had heard, and I don't recall from
21 who, that he and Aaron were not getting along and that
22 they had an amicable separation, but that was the
23 most -- again, that was more community cocktail chatter
24 than specifics.

25 Q You never talked to Michael Hightower about

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1 that?

2 A I don't recall.

3 Q Did you talk to anybody at JEA regarding
4 Michael Hightower's leaving JEA?

5 A I probably asked Kerri Stewart. And at that
6 time, I don't remember what her answer would have been.
7 I would not have asked Aaron because by that point I had
8 started to figure out that I needed to stay in my lane.

9 On more than one occasion, Aaron would say to me that
10 communications doesn't make policy, doesn't set policy
11 and that I was no longer -- he once threw it in my face
12 that I was no longer head of policy like I was at the
13 City when I worked for Delaney.

14 So I quickly learned that there were certain
15 things that it didn't fall within the communications
16 realm or something I was dealing with related to my job
17 on the communications realm, I did not ask about it.

18 Q Well, you're aware that during 2019, at JEA
19 board meetings in May, June and July, there evolved a
20 discussion about the sale of JEA?

21 A During the July board meeting?

22 Q During the board meetings in May, June and July
23 of 2019, there evolved a discussion about the future of
24 JEA?

25 A I'd have to go back and look at the tapes or
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1 have -- to say a certain date and time would be
2 difficult for me to say.

3 Q I understand --

4 A I don't remember.

5 Q I understand that. But generally in the
6 context of 2019, can you give me some idea of when you
7 became aware of them?

8 A I'm sorry. My -- my brain, unless I'm looking
9 at my calendar, is not -- I just -- I don't remember
10 what period of time I would have heard about more than
11 one. I do know that I heard about the various
12 scenarios. And we were working on comms plans as if
13 any one of the different scenarios could have been
14 adopted.

15 Q Were you aware that in this May 2018 JEA board
16 meeting, the board instructed the senior leadership
17 team to stop any effort towards the sale or marketing of
18 JEA?

19 A I know what I read in the newspaper.

20 Q Is that yes?

21 MR. COXE: Mr. Busey, what date did you
22 say?

23 MR. BUSEY: May of 2018 board meeting.

24 BY MR. BUSEY:

25 Q My question was: Did you become aware of that?
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1 the minutes of those meetings to know which meeting
2 talked about which part of the future.

3 Q Well, did anything I just said ring a bell with
4 you at all?

5 A It rings a bell that those were conversations,
6 but I don't remember what part of what meeting or what
7 month of what meeting, what would have been said, the
8 specifics.

9 Q Well, do you recall when you first became aware
10 of the fact that J- -- that Aaron Zahn wanted to present
11 to the board an option to sell JEA?

12 A I was always under the assumption that it was
13 one of several scenarios that he was wanting to present
14 to the board.

15 Q Well, you referred earlier to five different
16 scenarios.

17 A Right.

18 Q Is that what you're talking about?

19 A Yes, sir.

20 Q And one of those five scenarios was the sale of
21 JEA?

22 A That was one of the five scenarios.

23 Q And when did you learn about those five
24 scenarios?

25 A I don't recall when. Specifically I would
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1 And you said you read it in the newspaper. I think
2 that's a yes?

3 A Yes. Based on what I read in the newspaper,
4 yes.

5 Q And that was during 2018 you became aware of
6 it?

7 A That a board member or more than one board
8 member -- I remember there was a board conversation that
9 I read about in the newspaper, if it was May of 2018,
10 but I've since read that Husein Cumber has been quoted
11 as having talked about it May of 2018, that he did not
12 want to have any conversation about a sale. So I read
13 about that in the newspaper.

14 Q And -- and there was, indeed, the board minutes
15 reflect, a motion and a vote to instruct the senior
16 leadership team not to take any further action towards
17 the sale. Do you recall that, it being --

18 A That's what -- I recall reading that in the
19 newspaper, yes.

20 Q Okay. And do you recall at any point in time
21 subsequent to May of 2018 that you became aware that the
22 senior leadership team was, nevertheless, considering an
23 option of the sale of JEA?

24 A Not that I was made aware of, no.

25 Q But you said it was one of the five
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1 alternatives that you were aware of in the spring of
2 '19?
3 **A** Yes. Well, one of the different scenarios, but
4 not the scenario.

5 **Q** One of the five scenarios?

6 **A** Correct.

7 **Q** Did you ever become aware that Aaron was using
8 those five alternative scenarios as a way to mask his
9 effort to sell JEA?

10 (Mr. Wedekind enters the room.)

11 **A** I'm not sure how to answer that question.

12 **Q** Help me -- help me understand what you're
13 unsure about.

14 **A** Well, when you -- repeat the question.

15 **MR. BUSEY:** I'll ask the court reporter to read
16 the question back, please.

17 (The following question was read by the
18 reporter: "Question: Did you ever become aware
19 that Aaron was using those five alternative
20 scenarios as a way to mask his effort to sell
21 JEA?")

22 **A** No.

23 **Q** Look at Exhibit 12, please. Do you recognize
24 this?

25 **A** Just having read it since it was in the book.
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1 (Munz's Exhibit 12 was marked for
2 identification.)

3 **Q** Well, it's a communication from Banks Willis.
4 Tell us who Banks Willis is.

5 **A** She is a woman who was vice president for
6 thought leadership and communication with the Dalton
7 Agency.

8 **Q** You say was, she is no longer?

9 **A** Yeah. She is no longer.

10 **Q** When did she leave the Dalton Agency?

11 **A** I want to say her effective date was May of
12 this year.

13 **Q** 2020?

14 **A** Yes.

15 **Q** And what does thought leadership mean?

16 **A** In our world, the communications world, when
17 someone wants to become a thought leader, they're
18 generally an expert in their field and they're wanting
19 to have communications, op-eds, thought leadership
20 articles. Sometimes we work with clients that produce
21 TED Talk videos to where they're able to promote and
22 discuss topics that they are aware of, subject matter
23 experts in.

24 **Q** The e-mail in the cover of Exhibit 12 is from
25 Banks to a bunch of folks with a copy to you, that says,

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1 I'm sorry for the late night delivery. Please see the
2 draft key messages in preparation for Tuesday's
3 media/editorial briefings. We leveraged the board
4 presentation, other key messages sent by Gerri --

5 **A** Gerri.

6 **Q** -- the rating deck, in-person phone
7 conversation over the past weeks.

8 What is the media/editorial briefings that
9 Banks is referring to in this e-mail?

10 **A** We had set up editorial board meetings with the
11 *Times-Union*. And we were also attempting to set them up
12 with other print media, as well as television media, if
13 they had editorial writers or did editorials on -- on
14 air in order to take the key messages that are contained
15 in the following.

16 So -- yeah, so here we've got -- this is
17 specifically for the Business Journal, the Financial
18 News Daily Record and the *Times-Union*.

19 **Q** And on the first page of the first attachment,
20 it says, The New JEA: Changing the narrative.

21 What was your understanding of the -- of the
22 purpose or meaning of that?

23 **A** That's going back to what Aaron wanted us to
24 start to change the definition or conversations that
25 the -- the JEA was to be seen as more than just

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1 providing water, sewer, electric. It wanted to be --
2 I'm looking at the document just to make sure this is
3 what -- yeah, so this was about the state of the
4 industry, the new JEA, changing the narrative. Again,
5 power generation, energy management, water resources.
6 So this was a lot of facts and information that we were
7 putting together to share with the media.

8 **Q** And on the next page, the fourth bullet point
9 from the bottom, it says, We've come to what amounts to
10 a business strategy crossroads, a crossroads that
11 demands an answer to one core question, is JEA in the
12 power production business or the energy management
13 business? Will JEA stay safe in the arms of the
14 traditional or will we commit to disruption in the name
15 of true transformation?

16 Is it -- was that prepared by Dalton?

17 **A** Those were actually sentences that we provided
18 in this, but I'm pretty sure that the bold section there
19 came directly from Aaron. He talked a lot about whether
20 we stay, again, quoting here, safe in the arms of the
21 traditional or we commit to disruption. That was a big
22 theme that he wanted us to keep pushing.

23 **Q** And what did he mean by that? Just in
24 layperson's terms, what did he mean by commit to
25 disruption in the name of true transformation? It

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1 sounds like this is a whole handful of words, but what
 2 does it mean?
 3 **A** Well, I'm not sure I can sit here and redefine
 4 the words. He -- he constantly used the phrase "stay
 5 safe in the arms of the traditional or commit to
 6 disruption in the name of true transformation." I'd
 7 have to clarify with him exactly, but those were phrases
 8 that he wanted to use over and over again as he went out
 9 and talked to the media.

10 **Q** But did you have -- did you have any
 11 understanding of what he was talking about?

12 **MR. COXE:** You don't need to interpret.

13 **Q** I'm just asking you for your understanding.

14 **A** My understanding -- yeah, I'm trying to ask --
 15 are you trying to have me say what I -- what I think he
 16 was talking about as -- I'm sorry, I'm not being
 17 argumentative. I'm just trying to really understand
 18 your question.

19 **Q** I really want to understand what you think he
 20 was talking about or thought at the time he was talking
 21 about.

22 **A** So you want my opinion?

23 **Q** Of what he was talking about, yes. What your
 24 understanding was.

25 **A** Well, my understanding was they were -- they,
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1 the JEA, needed to move beyond being a traditional
 2 water, sewer, electric provider. And Nest is the best
 3 example I can use because he used that over and over
 4 again. You're familiar with the Nest device?

5 **Q** Tell us what Nest is.

6 **A** The Nest is the -- it's a device, I think,
 7 Google -- I think it's a Google device, but it's like an
 8 Alexa. So various tech companies are using them,
 9 providing them for the home. You can control the
 10 temperature, you can control it from your phone. You
 11 can get data information about your water use, your
 12 electric use, your consumptions.

13 Aaron was always talking about how he wanted to
 14 make the JEA into a business that was into that space,
 15 collecting data, collecting information, not just
 16 providing water, sewer and electric, but how they were
 17 able to gather information, gather technology, be able
 18 to use that information to make decisions. So that's
 19 what I think he's talking about here.

20 **Q** Well, I take it from that description, you --
 21 you don't think that -- that this had anything to do
 22 with the sell, don't sell debate?

23 **A** No. In fact, I think this had everything to do
 24 with the way he thought he needed to re-envision the
 25 JEA.

1 **Q** As an agency of the City of Jacksonville?

2 **A** Well, it is an agency of the City of
 3 Jacksonville, so.

4 **Q** Well, you said he wanted to re-envision it,
 5 still as an agency of the City of Jacksonville?

6 **A** Yes. That's --

7 **Q** And the next bullet point says, We've started
 8 to dip our toe into the transformational pool and as
 9 evidenced by this past year, it's cold. New senior
 10 leadership, the privatization debate, Plant Vogtle
 11 lawsuit and ongoing search for a new headquarters.

12 What does that bullet point describe?

13 **A** Aaron liked to talk about, just like with the
 14 frog presentation, he liked to use varying analogies
 15 and -- and examples. Not always ones I agreed with, but
 16 he was compliant. A lot of times he would drive the
 17 messaging points. And I think one of those -- because
 18 transformational pool was something he did say a lot as
 19 well, but I think this is talking about all the various
 20 things that had been chatted about in the community,
 21 whether it's Plant Vogtle.

22 I remember here one example that they were
 23 talking about was the fact that even
 24 Councilman Schellenberg was promoting privatization when
 25 he was on city council and that debate was going on
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1 then. I think that's what his reference is here. The
 2 reference that was used for this bullet is here.

3 **Q** And the term privatization debate, as used in
 4 that bullet point, what does that mean?

5 **A** Again, I think that's referring back to when,
 6 for example, Councilman Schellenberg talked about
 7 privatization and other conversation that had gone on in
 8 the community. Privatization had been a conversation in
 9 Jacksonville about JEA.

10 **Q** Well, in Aaron's mind, based upon this bullet
 11 point, was it still a debate?

12 **MR. COXE:** Well, are you -- you're asking him
 13 what's in Aaron's mind?

14 **MR. BUSEY:** I'm asking him -- this -- this is a
 15 Dalton document and I'm asking him why the
 16 privatization debate's in this bullet point.

17 **BY MR. BUSEY:**

18 **Q** Is that -- was it an ongoing debate at that
 19 time?

20 **A** I think this is in reference to that there
 21 had been prior debates in the community about
 22 privatization.

23 **Q** And was it still an issue at the time you
 24 prepared this document?

25 **A** I think it was an issue that could have come in
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1 an editorial board meeting.

2 Q In the -- in the next bullet point -- and,
3 again, I think what you told me is this document was
4 prepared in preparation for an editorial board meeting.

5 A Correct.

6 Q The next bullet point, And, yet, transformation
7 is the only answer. It's time to pivot.

8 What does that mean, pivot?

9 A That goes back -- well, pivot is change. And I
10 think that goes back, again, to Aaron's view was that
11 the JEA needed to transform from being a water, sewer or
12 electrical provider and to doing much more.

13 Q On the next to last page of Exhibit 12, there's
14 a heading in parentheses, it says, SLT introduces
15 themselves, closed parenthesis. It says, Suggested
16 addition to each SLT member's talking points. One
17 sentence about Aaron's leadership in the context of each
18 of their roles and specifically what they hope to bring
19 to JEA's transformation.

20 Did -- is that -- what I just read, is that
21 prepared by the Dalton Agency?

22 A We typed it in the document. I don't know if
23 that was given to us or if that was originated by us. I
24 don't know.

25 Q Do you recall being aware of the wanting the
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1 sorry, I --

2 Q How did you learn that Herschel Vinyard came to
3 work for JEA?

4 A Either Kerri or Aaron would have told me. I'm
5 not sure who.

6 Q Do you know why he came or did they tell you
7 why he came?

8 A I don't remember them telling me why at the
9 beginning, but when he started to attend meetings, I was
10 told that he was going to be serving as, basically,
11 chief administrative officer. It was shared with me
12 that he would have a role that would intersect with
13 Tallahassee, Washington, regulators, things along those
14 lines.

15 MR. BUSEY: Okay. Let's go off the record for
16 a minute.

17 (Recess taken.)

18 BY MR. BUSEY:

19 Q Michael, back to Herschel Vinyard, I'm just
20 assuming that you knew him personally prior to his
21 joining JEA.

22 A Yes.

23 Q And how far back does that go?

24 A I knew Herschel when he was a lobbyist for
25 Atlantic Marine and Dry-Dock, actually.

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1 senior leadership team to talk about Aaron's
2 leadership?

3 A Myself, no.

4 Q And in the -- just below that, it says,
5 Herschel T. Vinyard, Jr., Chief Administrative Officer,
6 job description and messaging to be determined.

7 Do you know why that says, To be determined, as
8 opposed to the other officers who had their descriptions
9 there?

10 A I don't know.

11 Q This was in -- on March 22 -- did you -- you
12 knew Herschel Vinyard then, didn't you?

13 A Yes.

14 Q Do you know when he came to JEA?

15 A I don't know the starting date, no.

16 Q It was about that time, wasn't it?

17 A I -- I don't know the starting date. I --

18 Q I know you don't know the date. I'm saying it
19 was about that time, in March of '19?

20 A I -- I don't know.

21 Q Okay. Do you know what year?

22 A It started in 2019.

23 Q Okay.

24 A But I just -- I don't remember -- I'm trying to
25 remember when it was in '19, but I don't remember. I'm

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1 Q And then when he was Secretary of the
2 Department of Environmental Protection?

3 A I knew him. I didn't have very much
4 interaction with him, but I knew him, yes.

5 Q And so your understanding of his joining JEA
6 was principally as administrative officer, as a legal
7 officer, as a regulatory lobbyist person which --

8 A That -- I would say that that would describe
9 for the general sense of what I interpreted as his job.
10 I was never -- I don't recall seeing a specific job
11 description, but the way you just described it is how I
12 recall his role being described to me.

13 Q Did you ever talk to Herschel about why he went
14 to JEA or what he was supposed to do at JEA?

15 A We probably did. I don't recall the specifics
16 of the conversation, but we -- we probably did.

17 Q But you -- you don't recall the substance of
18 it?

19 A I don't.

20 Q What was the purpose of his editorial board
21 meetings? What were you -- what were you trying to
22 accomplish on behalf of JEA with the editorial boards?

23 A It was introducing the senior leadership team.
24 It was talking about the various things that JEA had
25 done concerning the management operations. They had a

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1 number of financial data -- excuse me -- financial data
2 that they wanted to get out. They did not feel like
3 their story was being told directly.

4 And so one thing that I recommend to clients
5 when they feel that way, whether it's factual or
6 perceived, is that you have conversations starting with
7 the editorial board. A lot of times editorial board
8 meetings will ask reporters to come to the meetings so
9 it's not just with the person who writes the editorial,
10 it would be with editorial writers as well as reporters
11 that could be invited to attend the meeting.

12 So it's always a great way to get in front of a
13 number of media, whether, again, it's on the editorial
14 side or on the reporting side.

15 Q And when you say get their story out, what was
16 JEA's story that you were trying to get out?

17 A So if you look through the talking points, they
18 had shared a lot of information that I thought was
19 important for them to share. It had been shared in
20 board packets. It had been shared in city council
21 meetings, they had told me.

22 So I -- so it was good for them to go and talk
23 about whether it was things they have done from a
24 financial situation, operations, different things that
25 they were doing. So it's all with regards to them

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1 A I'm agreeing with what you're saying.

2 Q Yeah.

3 A Yes.

4 Q And if you would, please, look at Exhibit 13.

5 This is -- the cover of it is an e-mail from Banks

6 Willis to Gerri Boyce with a copy to you. Subject is

7 letter to editor. Attachment is updated Alan Howard,

8 op-ed.

9 Do you remember this?

10 A I remembered it when I read through the e-mail,
11 yes.

12 (Munz's Exhibit 13 was marked for
13 identification.)

14 Q And it's dated April 10, 2019.

15 Did y'all draft an op-ed for Alan Howard as the

16 Chair of JEA's board of directors?

17 A He was the former chair.

18 Q At the time of April 10th?

19 A Correct. There was a lot of conversation at
20 the time that the building headquarters site was going
21 to be going to Lot J. In fact, there was a lot of
22 conversation in the community that if the -- that's
23 where it was going.

24 So when the decision was made by the JEA
25 procurement process, it's like wine companies. I

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1 talking directly with the editors, the writers.

2 And also I thought it was important, again,
3 that the senior leadership team participate and be a
4 part of those conversations.

5 Q Well, help me understand, again, why the JEA
6 would spend \$25,000 a month on the Dalton Agency and be
7 concerned about what the editorial board thought about
8 the JEA? What was -- what was the purpose in all that?

9 Why were they devoting the energy and resources to
10 messaging as opposed to just operating the JEA?

11 A Well, as I understood it, they didn't feel like
12 they had the resources internally in order to be able to
13 articulate JEA's message of what the staff was doing,
14 whether it was the front linemen or the senior
15 leadership team. And so they wanted to have a
16 communication strategy that was telling the community
17 what was happening within confines of the operations in
18 the building.

19 Q All right. Understanding that then, I take it
20 that it's your understanding that this -- this effort
21 evidenced by Exhibit 12 and the messaging and the
22 editorial board had absolutely nothing to do with Aaron
23 Zahn's efforts to sell the JEA?

24 A No.

25 Q That is, you're agreeing with that statement?

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1 remember Alan expressing frustration that, well, what
2 everybody thought was going to happen, which was going
3 to Lot J didn't happen, we suggested that both, a letter
4 to the editor, an op-ed get written to talk about facts
5 so that's what the results of this is.

6 Q Did y'all draft this letter that's attached to
7 Exhibit 13?

8 A It's my recollection that Alan actually sent
9 some initial versions of this. I think this is the
10 final version, but I think that he started the drafting
11 and then we edited it.

12 Q And your services in editing this draft opinion
13 piece for the former chairman of the board was a part of
14 your engagement for \$25,000 a month?

15 A It would have been part of our work process.

16 Q As a part of that engagement?

17 A Yes, sir.

18 Q And if you would, please, look at Exhibit 15,
19 which is an e-mail from Banks Willis, dated May 22,
20 2019, to folks within JEA, with a copy to Maddie Milne.

21 Who's Maddie Milne?

22 A Maddie was at that time a junior account
23 executive. She still works for the Dalton Agency, but
24 at that time she was a junior account executive.

25 (Munz's Exhibit 15 was marked for
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1 identification.)

2 Q Do you remember seeing this e-mail before?

3 A I remembered it once I looked through your
4 book. I did not remember seeing it before I read the
5 book.

6 Q And it says, Gina and David, as discussed in
7 yesterday's on-camera training.

8 What's an on-camera training?

9 A So we were doing on-camera media training
10 with -- and I don't know who this would have been in
11 reference to, but with at the time the senior leadership
12 team, as well as the board chair, April Green, so that
13 she would be comfortable.

14 My opinion was that they needed to be more
15 transparent, more in front of cameras and the media. So
16 on-camera media training is a process we go through by
17 which we help our clients get comfortable being on
18 camera, answering questions, media.

19 Q And so as discussed in yesterday's on-camera
20 training, see attached draft of key messages in
21 preparation for May 28 and shortly thereafter.

22 Do you know what the May 28th date is in
23 reference to?

24 A I don't.

25 Q Does it help you if I suggest that it was a
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1 the various scenarios, but to say which scenario on
2 which date, I don't recall.

3 Q And on the next page is a -- there's a
4 question, What will be required to change how JEA
5 operates today? And the answer is: In order to address
6 our customers' changing demands and take advantage of
7 the forces that are disrupting and reshaping our
8 industry, charter change will most likely need to
9 happen. This is one of the two scenarios we're looking
10 at as a part of our strategic planning process.

11 Did the Dalton Agency help prepare that Q and
12 A?

13 A I don't know.

14 Q Do you know what's referred to when it says,
15 Charter change will most likely need to happen?

16 A I do know and I do recall when charter change
17 conversations were taking place that Melissa Dykes led
18 those conversations and sometimes Herschel Vinyard did.
19 So that may have been input from them, but that's the
20 best of my recollection.

21 Q And the next sentence says, This is one of the
22 two scenarios we're looking at a part of our strategic
23 planning process.

24 Do you know what the two scenarios are that are
25 referred to there?

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1 board -- a JEA board meeting that --

2 A I don't remember if that --

3 Q Okay. And did you look at the messages that
4 are attached to that e-mail?

5 A I did when I got the book, yes.

6 Q Do you recall these messages?

7 A I recalled them when I got the book.

8 Q In the -- at the bottom of the first page of
9 the attachment, it says, Tough topics. The May 28th
10 board meeting presentation painted a bleak picture.

11 Does that help refresh your recollection there
12 was a May 28th board meeting?

13 A If that was the date of the May 28th board
14 meeting, I'll take your word for it, yes.

15 Q How much longer can JEA operate as business as
16 usual?

17 Do you recall the development of these message
18 points?

19 A I don't recall the development, no.

20 Q Did you participate in the discussions at all?

21 A I don't recall.

22 Q Do you recall in May of 2019 participating in
23 discussions about whether or not JEA can continue to
24 operate as business as usual?

25 A I recall there were conversations related to
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1 A No, sir, I don't.

2 Q The next Q and A says, Isn't it inevitable that
3 JEA will make layoffs or privatize?

4 Do you -- do you recall that issue being
5 raised?

6 A I recall the issue of layoffs or
7 privatization, again, over a number of years. So, yes,
8 I do remember those conversations in the community and I
9 do remember conversations about layoffs being had at
10 JEA.

11 Q Do you recall that in the context of the board
12 meeting in May of 2019, there was a discussion that if
13 we don't sell or privatize that we're going to have to
14 have massive layoffs at JEA?

15 A I don't recall that, no.

16 Q In terms of 25 percent of the work force, you
17 don't recall anything in that order of magnitude?

18 A I'd have to go back and look at the board
19 minutes or other information. I don't recall off the
20 top of my head, no.

21 Q And you don't have any awareness of the --
22 Aaron creating an impression that the board's going to
23 have to decide whether or not to lay off a significant
24 portion of JEA's work force or alternatively sell, of
25 trying to create that dichotomy? You don't recall that

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1 discussion at all from Aaron?

2 **A** I don't recall the specifics.

3 **Q** Do you recall it generally?

4 **A** I recall over different periods of time that
5 conversation, but in regards to a specific date, no, I
6 don't recall.

7 **MR. COXE:** Mr. Busey, is your -- is your
8 question specific -- you keep saying specific to the
9 sale, but there were other alternatives as well.
10 Are you meaning to be specific of a sale or any of
11 the other alternatives?

12 **MR. BUSEY:** I just -- I meant what I said in my
13 question.

14 **BY MR. BUSEY:**

15 **Q** Do you recall, Michael, of yourself being aware
16 in the spring of 2019 that if the JEA didn't privatize,
17 it would have to make massive layoffs?

18 **A** I don't recall that, no.

19 **Q** Or that if JEA didn't privatize, it would have
20 to raise its rates? Do you recall that discussion?

21 **A** I don't recall that specific, no.

22 **Q** And the next question and answer: Is it true
23 that JEA plans to spin off its electric business within
24 five years?

25 Do you know why Dalton Agency framed that
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1 predicated by discussion at the board meetings in May
2 and in June.

3 And I'm taking it from my -- this conversation
4 you and I are having today, that you don't have any
5 awareness, beginning in May of 2019, of Aaron setting up
6 the board for authorization to implement a privatization
7 of JEA?

8 **A** Yeah. I don't recall that, no.

9 **Q** Look at Exhibit 16, if you would. This is an
10 e-mail from Banks Willis to Aaron Zahn and to you, among
11 others. Aaron, please see the attached suggested
12 talking points for your employee meeting starting
13 tomorrow morning. Michael, Maddie and I worked with
14 Kerri and David to update the first draft. The team
15 asked that I send you this updated draft directly. Let
16 us know of any questions. Thanks, Banks.

17 And then there's a draft dated June 17th, 2019,
18 of talking points. Do you recall this?

19 **A** I do.

20 (Munz's Exhibit 16 was marked for
21 identification.)

22 **Q** What do you recall about it?

23 **A** The thing I recall the most after I got this
24 was the fact that the first bullet, everyone is claiming
25 that I'm putting a for sale sign in front of JEA. I am
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1 question and answer?

2 **A** Let me -- if I can read it real quick.

3 **Q** Please.

4 **A** I don't recall why it was -- the question was
5 written or the answer was written.

6 **Q** Do you recall that there was a meeting of the
7 JEA board July 23, 2019, in which the board approved,
8 authorized Aaron Zahn to go forward with whatever he
9 chose among the five alternatives?

10 **A** I remember that there was a board meeting and
11 that he was given directive to look at the various
12 scenarios.

13 **Q** Authorization?

14 **A** Authorization.

15 **Q** Now --

16 **A** If that was the word that was used in the board
17 meeting, I --

18 **Q** Not only to look at, but to implement?

19 **A** I don't think -- my recollection is he wasn't
20 authorized to implement. He was authorized to look at,
21 as I recall.

22 **Q** Okay. And, obviously, the board minutes will
23 speak for themselves, but I'm just asking what your
24 awareness is.

25 And that action on July 23, 2019, was
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1 not. That was a conversation that I don't remember who
2 all was there. I think Kerri may have been, Melissa,
3 myself. Aaron was expressing a lot of frustration that
4 there were a lot of rumors going on in the JEA, there
5 were a lot of rumors in the community. And he said, I'm
6 not putting a for sale sign on JEA. And I do remember
7 saying, Well, then why don't you just say that? And
8 that made it into one of the -- of the bullet points. I
9 do remember that. It was such a specific thing about
10 the for sale sign.

11 **Q** Well, besides literally not putting a for sale
12 sign on the front of the building of JEA, were you aware
13 that Aaron was promoting discussion of J- -- of the sale
14 of JEA as being one of the viable alternatives?

15 **A** No. I believe that he was at the time looking
16 at a variety of things, but the reason I suggested
17 that -- as he kept being very insistent he was not, as
18 he said, putting a for sale sign on it. And I said,
19 Well, then why don't you just say that.

20 **Q** Well, I heard you say that. But did you
21 believe that he had no interest in selling JEA? Is that
22 what you're saying?

23 **A** I believed at the time that his frustration was
24 that he wasn't selling the JEA and that he wasn't,
25 quote, putting a for sale sign, being that literal. And
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1 I, again, remember saying, if you're going to be that
2 literal, then -- or if you're going to say that, be that
3 literal in saying it, you're not.

4 Q I heard you say that. But did -- are you
5 telling me that it was your perception, from your
6 conversations with Aaron, that he really wasn't
7 interested in selling JEA?

8 A Yeah, I don't -- well, the best of my
9 recollection at that time, I don't think I would have
10 told my client to say I'm not, if I didn't believe it.

11 Q Are you aware that by June of 2019 that he
12 had -- Aaron had assembled a significant force of
13 consultants and lawyers to assist in the privatization
14 process?

15 A No.

16 Q Did you ever become aware of that?

17 A I became aware of it through both media
18 reports, as well as then conversations after it was made
19 aware to the community.

20 Q Can you put a time frame on that awareness for
21 me?

22 A No, I'm afraid I can't because a lot of it
23 merges together.

24 Q So do I take it, from the discussion you and I
25 are having now, that this Exhibit 16 was Dalton Agency's
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1 effort to assist the JEA in messaging to the public and
2 to employees --

3 A Well, I think as Banks referenced here, this
4 was a combination of both our work, working with the
5 communications staff at JEA to assemble these.

6 Q Okay. I didn't get to finish my question.

7 A Oh, I'm sorry, I thought you did. I apologize.

8 Q That's okay. But what is it -- is it your
9 understanding in these talking points, it's your effort
10 in messaging, your objective in messaging was to
11 persuade the public and employees that Aaron Zahn was
12 not interested in privatizing JEA?

13 A As you'll read through the draft bullet points,
14 we mentioned other scenarios so it was -- and we always
15 brought up Plant Vogtle. In reading through this, the
16 best analysis I can give you of the draft June 17th,
17 2019, talking points was that there were different
18 scenarios, there were different issues, including Plant
19 Vogtle and that we were suggesting that this get out
20 into the community and also internally at JEA's --
21 through JEA's internal communications.

22 Q And when you say "this," tell me what you're --
23 generally you're referring to.

24 A This overall message that's contained within
25 these various bullets.

1 Q Including the fact that JEA was not for sale?

2 A As referenced in bullet 1?

3 Q Yes.

4 A Yes.

5 Q Okay. Would you turn to Exhibit 17, please?

6 This -- Exhibit 17 has, on its first page, an e-mail
7 from Banks Willis to a bunch of folks internally at JEA
8 and you and Maddie. And it says, Please see -- this is
9 dated July 9th, 2019. Please see attached final two
10 draft scenario 3 planning documents for your review,
11 edits, additions or deletions.

12 Do you remember this document?

13 A Only after I got the book and read through the
14 attachments.

15 (Munz's Exhibit 17 was marked for
16 identification.)

17 Q And what do you remember about it?

18 A Just what it says.

19 Q What was the purpose of the messaging that was
20 attached, the draft July 9th, 2019, scenario 3?

21 A This would -- let me reread it real quick
22 here.

23 Q Please.

24 A So this was talking about going through
25 scenario 3, nontraditional and laying out other talking
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1 points in and around that.

2 Q And -- and what is your recollection of
3 scenario 3? What was that?

4 A That was -- well, 3 kind of related to 4 as
5 well, but that was the one, my recollection, as relates
6 to the Clay op -- Clay County Electric Authority, the
7 Clay co-op is the best analogy that JEA could look at
8 possibly patterning itself after how Clay County had set
9 itself up as a co-operative.

10 Q Do you recall that as of June of 2019, the
11 senior leadership team of JEA was forecasting that
12 scenarios 1 to 2 would cause increased rates and
13 significant employee layoffs?

14 A I'm just looking at my notes. Those could be
15 the potential outcomes of scenarios 1 or 2, yes.

16 Q As articulated by the senior leadership team of
17 JEA?

18 A Yes.

19 Q And the -- and then further into this Exhibit
20 17, there's Q and As. And the first Q and A, the first
21 question is: Why does JEA senior leadership team make
22 so much money?

23 Do you recall, were these drafted by Dalton,
24 these Q and As?

25 A These were drafted by both Dalton and working
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1 with JEA staff, but what we were doing was -- I remember
 2 some of this as I read through it, we were coming up
 3 with questions that were either asked about in social
 4 media, were asked about by media overall. We had picked
 5 up through social media that some of the JEA employees
 6 who were using their personal Twitter handles were
 7 tagging JEA so that it would show up and JEA-related
 8 social media were asking some of these very same
 9 questions.

10 And so it was my belief, the more -- if JEA
 11 could be more transparent and clearer in some of the
 12 answers to these questions, specifically one you just
 13 pointed out, that while people may not like the answer,
 14 they would still be more informed.

15 Q The next question is: Why is JEA's status quo
 16 future so bleak?

17 Did Dalton come up with that question?

18 A That was probably a question that was asked --
 19 I don't know if we came up with it, but it was probably
 20 a result of a question that was asked -- well, community
 21 stakeholder, that kind -- I'm not -- let me answer the
 22 question. I'm not sure where the question came from.

23 Q And on the next page, there's a Q and A at the
 24 top of the page that the question is: Is this just a
 25 ploy to push privatization? Will JEA eventually

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1 A The best of my recollection would be that we
 2 were putting together questions that reflected what we
 3 were hearing either from community stakeholders, elected
 4 officials, community leaders, through social media and
 5 so these questions reflect the chatter or conversations
 6 we were hearing throughout the community.

7 Q And the proposed answer to that question was:

8 If you're asking -- if what you're asking is are we
 9 going to put a for sale sign in front of JEA tomorrow,
 10 the answer is no. To continue to ask about
 11 privatization as if it's an easy solution to JEA's
 12 challenges oversimplifies a complex business challenge
 13 and does a disservice to our community. We were
 14 thinking beyond the easy way out, beyond the status quo
 15 and strategically planning for JEA to remain relevant as
 16 a community -- key community asset today, tomorrow and
 17 to the future.

18 That's just a lot of words, but what's the
 19 message? Are we going to sell JEA or not?

20 A No. I think that what the message there is is
 21 that we were not putting a -- well, we -- JEA was not
 22 putting a for sale sign up in front of JEA tomorrow. I
 23 think the word tomorrow is just because there was a lot
 24 of, like I said, community conversation and reaction and
 25 so I think we were just being -- I don't think that had

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1 privatize?

2 Do you know why this question was posed by
 3 you-all?

4 A I'm sure it was the result of the fact that
 5 this question was being batted around the community.

6 Q Well, I'm -- I'm asking you what you recall
 7 about your discussions with JEA at the time in
 8 developing this Q and A. Did -- were you aware there
 9 was a concern about that, that the community thought
 10 that this was just a -- a way of pushing privatization?

11 A It --

12 MR. COXE: Steve, I just have two questions.
 13 Is your question that the community formed or
 14 certain persons in the community were bringing up
 15 the issue?

16 MR. BUSEY: Hank, I'm sorry, I couldn't hear
 17 you.

18 MR. COXE: Yeah. Is your question -- I think I
 19 heard you say did the community think or did you
 20 mean to ask did certain persons in the community
 21 bring this up and that's what they're putting
 22 together?

23 MR. BUSEY: I don't think either one of those.
 24 I was asking -- I was asking Michael what the Dalton
 25 Agency was -- why it proposed this question.

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1 any other meaning.

2 Q And then two to three questions down, there's a
 3 question, Can you explain the JEA specific scenarios
 4 again? And the answer suggests scenario 1, 2 and 3.

5 And scenario 1 says, Status quo presented at
 6 the May 28th board meeting. And it says, Assumes JEA
 7 will continue to operate as if we still working within a
 8 predictable low uncertainty environment, which means we
 9 will become irrelevant very quickly.

10 Scenario 2, a traditional utility's response
 11 presented at June 25 board meeting, assumes a focus only
 12 on stabilizing profitability to the level necessary to
 13 pay JEA's \$4 billion debts and maintain standard
 14 electric, water and wastewater services, which means we
 15 will become irrelevant quickly.

16 And scenario 3, nontraditional utility response
 17 to be presented at the July 23 board meeting assumes
 18 innovating to win, focuses on growth, new business and
 19 models and public-private partnerships extension of core
 20 service offerings and will require changes to JEA's
 21 operating model, which means we proactively create
 22 circumstances that will enable us to remain relevant
 23 today, tomorrow and to the future.

24 Were you aware that scenario 1 was presented at
 25 the May 28th board meeting, scenario 2 at the June 25

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1 board meeting and scenario 3 to be presented at the July
2 23 board meeting?

3 A I didn't recall that until I read this for the
4 Q and A session.

5 Q This spells out pretty clearly, succinctly, the
6 sequence of the three board meetings, doesn't it?

7 A As I read it here.

8 Q Well, you-all wrote this, didn't you?

9 A Well, as I said before, this was a combination
10 of working with JEA internal comms. Melissa had her
11 hand in this. Aaron had his hand in this. I will tell
12 you that several of the words you just read are
13 specifically Aaron's words, about becoming irrelevant,
14 that was something that he talked a lot about.

15 So we were attempting to do -- and these,
16 again, are talking points that we would suggest to them,
17 based on what they were giving us. And as, again, I'm
18 reading here, being reminded of the various dates.

19 Q Well, were you aware that at the time this
20 document was prepared on July 9th, that scenario 1 has
21 been presented at the May 28 board meeting?

22 A If this is correct, then I'm reminded of it
23 based on what I'm reading here.

24 Q And that scenario 2 was presented at the June
25 25 board meeting?

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1 July 9th, did you know where Aaron was going with his --
2 what he intended to do at the July 23 board meeting?

3 A No.

4 Q Did you know on July 9th that he intended to
5 present to the board a motion on July 23 to authorize
6 him, among other things, to sell JEA?

7 A No. I -- I do not recall that.

8 Q And you don't recall on July 9th discussing
9 with Aaron what specifically scenario 3 looked like?

10 A I don't recall that, no.

11 MR. BUSEY: Let's go off the record.

12 (Recess taken.)

13 MR. BUSEY: Back on the record.

14 BY MR. BUSEY:

15 Q I'm still talking about Exhibit 17. And I
16 asked you about the explanation for the three scenarios.

17 And then the next Q and A says, What will be
18 required to change how JEA operates today? And the
19 answer is: JEA is limited to status quo and traditional
20 utility options as outlined in scenario 1 and 2 because
21 of the following municipal-owned utility, government
22 specific, policies and regulations.

23 And it refers to the constitution of the State
24 of Florida, the Florida Public Service Commission, the
25 City of Jacksonville Charter, Florida Statutes, Bond

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1 A I'd have the same answer based on what I'm
2 reading here if that is correct.

3 Q And the senior leadership team has suggested
4 that either scenario 1 or scenario 2 means JEA would
5 become irrelevant quickly?

6 A Again, I think that those were phrases that we
7 picked up that Aaron liked to use quite a bit.

8 Q That is this is all Aaron's messaging?

9 A I believe that, as I was referencing, the --
10 become irrelevant very quickly, those were phrases that
11 he would use quite a bit.

12 Q And did you wonder what he was talking about
13 about a nontraditional utility response to be presented
14 at the July 23 meeting?

15 A No.

16 Q I said did you wonder? Did you know what he
17 was talking about?

18 A No.

19 Q Did you -- were you curious about what he was
20 talking about?

21 A As I said earlier, I was instructed by Aaron on
22 more than one occasion not to talk about policy. And
23 they would set the policy and our job was to do
24 communications.

25 Q At the time that you prepared this Q and A on

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1 Resolutions, Public -- Policy Considerations, Business
2 Structure as defined by the Charter.

3 And it says, Collectively these constraints
4 limit JEA from diversifying and implementing creative
5 profit generation initiatives and cripples our ability
6 to evolve and remain relevant to address customer and
7 community needs, as well as market and industry trends.

8 And I would like you to tell me, Michael, what
9 you recall about your discussion with Aaron or the
10 senior leadership team that caused this question and
11 answer.

12 A Sure. So in this particular section, I do
13 recall that when we would even ask, we, the member of
14 the media or others would ask, what would prevent, we
15 weren't always getting clear answers. And so I finally
16 said, We need to have specific answers what would be
17 required if any scenario was to happen.

18 And so this was, again, a Q and A draft attempt
19 that went, I'm sure, back and forth on multiple drafts
20 that had multiple people giving input, but it was
21 defining what would need to be changed. And those
22 changes, by the way, would all require a lot of
23 different folks, whether it was the city council, the
24 voters, the Florida legislature, et cetera.

25 So it was just giving answers to the questions

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1 that were being asked in the community.
 2 **Q** Well, wasn't the -- wasn't the conclusion by
 3 the senior leadership team to the strawman about how we
 4 can't change all of these public policies, statutes,
 5 constitutions so we have to do something different? Do
 6 you remember that discussion?

7 **A** I don't.

8 **Q** Do you remember Herschel being -- given the
 9 task of describing to the board and others why it wasn't
 10 practical to make all of these governmental changes?

11 **A** I do remember both Herschel and Melissa being
 12 tasked with talking about them or providing information.
 13 I don't know that it was just Herschel. I think
 14 Herschel and Melissa Dykes, both, had a role and
 15 responsibility in defining what those different policies
 16 and regulations would be, from what I recall.

17 **Q** Well, tell me what you recall on July -- this
 18 is on July 9th, about your discussion with the senior
 19 leadership team about the purpose of these questions and
 20 answers.

21 **A** Well, as I pointed out -- well, I'll try and
 22 clarify again. This was an e-mail that was going back
 23 and forth, probably had multiple people giving their
 24 opinions and giving answers in here.

25 So, you know, I'm reading this here with you
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1 today and I read it when you provided the book and the
 2 best that I can recall is to also say that from a
 3 process standpoint, documents like this end up having a
 4 lot of edits made to them. Now, who would have made
 5 what edits, it's not indicated in here, they're not
 6 tracked so I can't answer if it was the senior
 7 leadership team or the Dalton Agency person or a
 8 combination thereof. But I do know, back to the policy
 9 and regulations related to, again, the constitution,
 10 public service commission, et cetera, Herschel and
 11 Melissa gave a lot of input on those two areas is how I
 12 remember that.

13 **Q** Well, do you -- do you recall having a
 14 discussion with Herschel and Melissa and Aaron or Aaron
 15 that we can't change these things so we're going to have
 16 to privatize and that's the -- that's where we're headed
 17 with this?

18 **A** No, I don't remember that being a conversation.

19 **Q** Well, look at the next page, in the second
 20 question on the next page: Did you know the whole time
 21 that charter change wouldn't be possible? Why did you
 22 lie? Was it just a ploy for privatization?

23 Who had the foresight to come up with that
 24 question?

25 **A** I'm sure that was a question that was probably
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1 taken from either the media or someone on Twitter or
 2 someone outside of the JEA. That -- that was a
 3 conversation, I'm sure, that was picked up somewhere.
 4 It was probably recommended that they prepare for a
 5 frequently asked question and that be one of them.

6 **Q** Well, I -- I take it from your answer that
 7 you're making assumptions. You don't recall this
 8 discussion?

9 **A** I do not recall the discussion.

10 **Q** And the proposed answer to that question was:
 11 The tough part about scenario-based strategic planning
 12 in times of uncertainty is you don't know what you don't
 13 know. We thought that charter change could be the
 14 answer to JEA's challenges, however, true to its
 15 mission, our scenario planning uncovered that we'll need
 16 to look at alternatives.

17 And I assume that's alternatives to charter
 18 change; is that right?

19 **A** I can't answer that because you used the word
 20 "assume." I'm not going to assume that.

21 **Q** Well, why do you need to look at alternatives?

22 **A** I don't know the answer to that question.

23 **Q** Did Dalton assist in the preparation of these
 24 Q and As?

25 **A** Dalton did assist in the preparation of the Q
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1 and A, but as I mentioned before, I'm sure these had a
 2 lot of input from a lot of different people, both JEA
 3 and Dalton representatives.

4 **Q** The next paragraph of that answer is: We're
 5 not going to put a for sale sign in front of JEA
 6 tomorrow. Privatization in the traditional sense of the
 7 word oversimplifies a complex business challenge and
 8 does a disservice to our community. As promised from
 9 the beginning, we have been and still are thinking
 10 beyond the easy way out, beyond the status quo and
 11 strategically planning for JEA to remain the
 12 community-owned asset that it's always been, which also
 13 means staying relevant to our community today, tomorrow
 14 and the future.

15 So the answer to the question: Did you know
 16 the whole time that charter change wouldn't be possible?
 17 Why did you lie? Was it just a ploy for privatization?
 18 Was that a yes -- can you say yes or no in answer to
 19 that question?

20 **A** What's the question? I'm sorry. I was --

21 **Q** The question as you've written it here, Did you
 22 know the whole time that charter change would not be
 23 possible? Why did you lie? Was it just a ploy for
 24 privatization?

25 **MR. COXE:** Mr. Busey, who's the "you" in your
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1 question?

2 MR. BUSEY: I'm reading the question the Dalton
3 Agency wrote.

4 MR. COXE: I understand that, but you're asking
5 a different question. What -- who is the "you" that
6 you're referring to?

7 MR. BUSEY: I'm asking Michael if the answer to
8 this question could be answered yes or no.

9 MR. COXE: Could it be?

10 A Are you ask- -- are you saying should we strike
11 everything under the answer and just say yes or no to
12 the question?

13 Q Well, it just seems like the answer's just a
14 whole bunch of gobbledygook, just double speak because
15 somebody didn't want to answer the question, that's what
16 it looks like.

17 A Steve, I won't take that personally that you
18 say my work or the Dalton Agency, slash, JEA's work
19 product and communications is gobbledygook. I --

20 Q I -- I didn't mean for you to take it
21 personally, but I'm suggesting that there's this double
22 speak here because you didn't want to speak to the fact
23 that this was really set up for privatization, isn't
24 that what's going on?

25 A I'm not going to agree with that, no.
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1 Q Isn't the answer to my question yes?

2 A I'm sorry. Would you repeat your question? I
3 didn't mean to step over you.

4 MR. BUSEY: Please read it back.

5 (The following question was read by the
6 reporter: "Question: And when you say you went to
7 the meeting at Club Continental, that was the next
8 day, July 10th, wasn't it?")

9 A Yes, July 10th.

10 Q And picking up on what you just said, what was
11 this meeting at July -- at Club Continental to which you
12 referred?

13 A There's an agenda from that meeting. I don't
14 know where. It's under tab 18. I didn't know about
15 the agenda or the attendees until I arrived at that
16 meeting.

17 Q Well, let's start at the point of how you
18 learned about the meeting.

19 A I was -- go ahead. I'm sorry.

20 Q When did you learn about the meeting?

21 A I'd have to go back to e-mails. I don't recall
22 the date that I was told of the meeting. I told -- I
23 recall being told there would be an offsite meeting and
24 to hold it on my calendar, but I don't remember anything
25 else about the meeting until we got there and I saw the
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1 Q And -- but you don't have -- you don't have any
2 recollection today of the discussion that led to this
3 Q and A that I just read?

4 A The recollection I have is when I got the book
5 and read through all of the tabs and read through the
6 July 9 e-mail that I was copied on and I went through
7 the attachments and now we're focusing on this
8 particular question with you, I think that the words
9 that were put here for the various editorial board
10 meetings were answers to the questions that we thought
11 could come up.

12 Q On July 9th, did you know that Aaron Zahn was
13 getting ready to have a get-together with a whole bunch
14 of consultants, bankers and lawyers to chart the plat
15 towards the sale of JEA?

16 A I didn't know on July 9th, but I will tell you
17 that when I went to the meeting at the Club Continental,
18 I was surprised to see all the bankers, lawyers and
19 everybody else in that large meeting room.

20 Q And when you say you went to the meeting at
21 Club Continental, that was the next day, July 10th,
22 wasn't it?

23 A July 10th through the 12th was the meeting. I
24 went on the 10th and the 11th. I didn't stay for the
25 third meeting or the third day.
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1 agenda.

2 Q Can you help me in terms of how much before the
3 July 10th, 2019, Club Continental meeting you learned
4 about it? Was it days before or weeks before? Do you
5 have any recollection?

6 A I don't have recollection. I could probably go
7 back and figure that out, but I don't have a
8 recollection right here in my head, no.

9 Q But you, at some point, became aware that there
10 was an offsite meeting at Club Continental, in Orange
11 Park, on July 10, 2019?

12 A Yes.

13 Q And were you invited to it?

14 A Yes.

15 Q Who invited you?

16 A I'm not sure who sent the calendar invite.

17 Q Did you talk to anybody about it?

18 A I remember calling Kerri and asking her and she
19 said there would be an agenda provided at the meeting.
20 I don't remember talking to anybody else about the
21 meeting ahead of time.

22 Q Did Kerri tell you what -- the reason for the
23 meeting?

24 A The best of my recollection, she didn't have a
25 complete understanding of the meeting or what -- wasn't
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1 able to relay it to me.

2 Q Did she tell you why it was offsite?

3 A I don't remember if she did and I don't
4 remember if I asked.

5 Q Do you remember learning why it was offsite?

6 A It became clear to me when I got there why it
7 was offsite, that they wanted to be -- well, they wanted
8 to be at a place where they could have conversations and
9 they didn't have to worry about, I guess, who was
10 around.

11 Q Who's the "they" you're referring to?

12 A The leadership team of JEA. Aaron, possibly
13 Melissa, but mostly probably Aaron, as I got to the
14 meeting. I also was interested to see that when we got
15 to the meeting, it was set up, like, in a big U shape
16 with a projector and a screen, but my seat and where me
17 and others that weren't part of the bank or lawyer group
18 that were giving all the presentations, we were off --
19 we jokingly called it the children's table.

20 Q A different room or a different table?

21 A Well, you could actually make it a different
22 room. It had, like, dividing walls so we were at round
23 tables, behind where the main meeting was taking place
24 and I recall there were three rooms actually. There was
25 the main room, there was the room that I was in and

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1 there was a room off to the side that they would do the
2 breakouts in when they weren't giving the presentation.

3 Q And whose they?

4 A The -- and I don't know who all their names
5 were, who all the representatives -- except based on the
6 agenda I got, but they were who I'll call the bankers
7 and the lawyers.

8 And then Aaron, Melissa. I'm forgetting.
9 There was a lawyer from the general counsel's office.
10 Lynne Rhode. Lynne Rhode was also there. Those were
11 the people that I recall right now. There may have been
12 others.

13 Q Well, give me just, if you can, a better verbal
14 description of what you encountered when you got there.
15 How many people were there? What was your understanding
16 who they were? Who were you introduced to? Just
17 describe the scene for us, please.

18 A Well, it's interesting. I really wasn't
19 introduced individually to what I'll call a lot of the
20 out-of-town bankers, the lawyers and representatives.
21 And I didn't know until they spoke even what their
22 subject matter expert was.

23 Again, the room was set up in a large U shape
24 with a lot of people sitting around it, going through
25 different presentations. And then there was a side room

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1 and then there was a room behind where I sat for most of
2 the -- almost two full days. We weren't -- I wasn't
3 there until the very, very end on the second day. I
4 left probably 3:00 or 4:00 o'clock, somewhere in there,
5 I'm thinking. I was home before dinner, but --

6 Q On the second day?

7 A On the second day.

8 Q Okay. During the -- those two days that you
9 were there, I understand from what you've told me, you
10 didn't know the purpose of the meeting, you didn't know
11 the people who were going to be there, you didn't know
12 what was going to be discussed, but what did you
13 observe? What did you learn once you were there for two
14 days?

15 A Well, I learned that what they were talking
16 about was quite confusing. And I also learned that
17 there was not unanimity in their discussions about the
18 different scenarios, whether it related to public
19 service commission, legislative changes, counsel
20 changes. There was a lot of debate.

21 There were a lot of moments, I remember, where
22 they would take breaks and I would end up sitting there.
23 I described it as twiddling my thumbs because there
24 wasn't a whole lot of input for me to have. They would
25 go off and have side conversations and then they would

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1 come back in and present different components of
2 different scenarios, but it was -- quite frankly, most
3 of the work, I think, was done in those side breakout
4 conversations, the side breakout rooms.

5 Q Well, are you able to tell me, after sitting
6 there for two days, what the purpose of the meeting
7 was?

8 A My biggest takeaway is that's where the PUPs
9 plan was discussed or rolled out or -- or brought
10 forward and debated quite a bit.

11 Q When you say the "PUPs plan," tell me what
12 you're talking about.

13 A The purchase unit price plan that was talked
14 quite a bit about in the community, the public. PUPs
15 was the acronym for it. And I heard a lot about how
16 they were going to attempt to pull it together. There
17 were, again, a lot of legal conversations going on, a
18 lot of banking conversations, a lot of regulatory. I do
19 remember at one point, but I don't -- I wish I could
20 remember if it was on the first day or the second, but I
21 had a very dismal reaction, negative to this PUPs plan.
22 I was getting very aggravated by it because it seemed
23 like no one was paying attention to me.

24 And at one point -- and I think Lynne Rhode may
25 have been standing around, Kerri was, I think Herschel

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1 may have been, not sure if Melissa was or not, Aaron was
 2 in earshot, because I'll describe that in a second, I
 3 said, This was the dumbest fucking thing I've ever
 4 heard. I didn't think it was something that public
 5 policy would -- would or could support. And what Aaron
 6 heard me having -- kind of reaction I was having, he
 7 took me outside, basically, and said if I didn't calm
 8 down, the JEA contract with the Dalton Agency could be
 9 ended.

10 Q Did you calm down as a result of that threat?

11 A No. And that wasn't the first time he
 12 threatened me either.

13 Q Well, what did you understand the PUP plan was
 14 as it was proposed at that meeting that caused you to
 15 have -- that caused you to have that reaction?

16 A As it was talked about, my interpretation --
 17 and, again, I'm hearing bits and pieces of it. As I
 18 interpreted it, it was a stock buyback kind of a program
 19 that I've seen done in private sector -- the private
 20 sector world. Clients we've worked with that have gone
 21 private, some that have gone public and done programs,
 22 different scenarios. But for a public entity to talk
 23 about a -- a unit, call it, as I understood it, that you
 24 could buy and purchase so that it could increase in
 25 value was like buying a piece of stock. It was, like,

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1 buying a piece of the government. And I, fundamentally,
 2 disagreed with that and -- and did not think that that
 3 was a good idea.

4 And apparently that was not very well received
 5 by -- by Aaron. I don't think I was the only one, by
 6 the way, that had that kind of reaction to it. I think
 7 there were others, but I just remember myself just
 8 falling, sort of hitting a wall.

9 Q When you said that was not well perceived --
 10 received by Aaron, that is your opinion?

11 A When I went off and used the word fuck and
 12 expressed that I thought it was stupid.

13 Q That was not well received by Aaron?

14 A That -- that point was not well received by
 15 Aaron, no.

16 Q And who else did you hear express that negative
 17 opinion?

18 A I heard Herschel Vinyard talk about it and I'm
 19 pretty sure I heard Kerri. Kerri was more reserved.

20 Q Tell me what you recall Herschel saying.

21 A I -- I recall Herschel not going so far with
 22 language that I went, but I do recall him saying
 23 something about Michael's right or Michael's got a
 24 point. And Herschel was saying that he thought it had
 25 to be checked at a lot of different levels, wasn't sure

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1 it could ever get approved.

2 He was in more of a lawyerly fashion, I'll call
 3 it. I used to call him a gentleman lawyer. He was
 4 trying to much more artic- -- or artfully describe why
 5 it wouldn't work, where I was just sort of cutting, in
 6 my opinion, to the chase.

7 Q Why do you say you used to call him a gentleman
 8 lawyer?

9 A I -- I -- in my mind, Herschel reminds me of a
 10 southerly gentleman lawyer like you see in a movie, so
 11 that's how he would describe things. It's just I was
 12 being flippant. If that was offensive, I apologize.

13 Q No, it wasn't offensive. I was just curious
 14 about your past tense reference.

15 A Oh, that had nothing to do with anything.

16 Q You still regard him as a southerly gentleman
 17 lawyer?

18 A Yes.

19 Q Herschel is a member of the senior leadership
 20 team, is an insider of JEA, why would -- in your
 21 observation, did he use this occasion to express his
 22 disapproval?

23 A I don't know that this was the only occasion he
 24 expressed his disapproval. It was the one that was done
 25 that I could recall where it was in my presence.

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1 Q Could you tell from the conversation that you
 2 witnessed whether he had expressed this to the -- Aaron
 3 before?

4 A I could not tell. I -- I was so amped up, I
 5 probably wasn't paying attention if they had had
 6 previous conversations or I'm not aware if they had.

7 Q So try to give me an idea of the number of
 8 bankers and lawyers that were there at the meeting. I
 9 don't have any quantification of that yet.

10 A It's a pretty good size room. I -- I don't
 11 know the number of chairs around the table, but there
 12 had to have been a dozen -- well, I'm trying to recall.
 13 I'm trying to go around the room. I -- it's hard for me
 14 to say. There were a lot of people.

15 Q Well, that doesn't really help me in terms of
 16 quantifying it. Would you -- would you say that there
 17 were more than 10, more than 20, more than 30?

18 A There was more than 10, but there wasn't 30.
 19 So I would say between 10 and 20.

20 Q And what was your understanding regarding who
 21 was there besides Dalton and JEA personnel?

22 A Morgan Stanley was there, other bankers were
 23 there. There were law firms represented, who I wasn't
 24 sure who they were. I think that there was a consultant
 25 that did financial analysis for JEA, but there was never

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1 a point where, like, we all got up and at least -- well,
2 not while I was there, we all got up and said who we
3 were, who we represented or what our role was. It
4 wasn't, like, there was an introductory kind of event
5 that happened, where I would have heard names and who
6 they all represented.

7 Q Well, based on what we've talked about so far
8 today, have -- were you surprised at all of those people
9 being there?

10 A Yes.

11 Q And how did you reconcile that surprise? What
12 did you learn or how -- what did you find out about why
13 they were there?

14 A It became clear to me, after the meeting, just
15 because I wasn't involved in all of the conversations,
16 but they're apparently there to figure out PUPs and the
17 various scenarios, that's -- that's the best that I
18 could describe. Again, they were having a lot of
19 sidebar conversations.

20 Q Well, let's look through Exhibit 18.

21 Well, when you talked about the PUP plans, let
22 me go back to that, was there any quantification of what
23 the payout would be under the PUP plan in the event of
24 a -- of a privatization?

25 A Not that I recall, no.

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1 Q Did that ring a bell to you? Did you relate
2 back to your participation in the Club Continental
3 meeting, say, yeah, I was concerned about that too?

4 A Well, I was concerned about not the number
5 because, again, I don't recall a number, but I remember
6 as I read the council auditor's work when they talked
7 about how does the plan work, when they talked about
8 weaknesses and concerns, overall conclusions,
9 automatically, I remember going, yeah, council auditor's
10 right.

11 Now, again, I read those numbers and those were
12 also some very big numbers as I read them in the council
13 auditor's report.

14 Q Did that confirm your opinion that the plan was
15 stupid?

16 A You're using a nicer word than I, yes. The
17 plan was stupid.

18 Q Let's go back to Exhibit 18. Exhibit 18 is a
19 lengthy document that is -- has a title on it, Project
20 Freebird.

21 Did you see this document at that Club
22 Continental meeting?

23 A It was on the table at the meeting.

24 (Munz's Exhibit 18 was marked for
25 identification.)

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1 Q Nobody --

2 A Not at that time. Not at that time.

3 Q There's no discussion of the -- of the -- of
4 the quantum of compensation that would be available to
5 JEA employees?

6 A I don't remember the total number, if it was
7 discussed. I just remember hearing it would be a lot --
8 I don't remember a number. I remember it was a lot.
9 But I remember it was a process by which I was more
10 frustrated by, exhibited by my reaction. And that was
11 it seemed to be a -- sort of a stock option type of a
12 process and I just didn't understand how you could do
13 that within government.

14 Q So your negative reaction wasn't to the amount
15 of the proposed payouts, but it was to the fact that it
16 was suggested to be a stock option?

17 A Well, because that's what I had heard. Again,
18 if -- if I had heard numbers, I may have had a reaction
19 to that as well, but I don't remember being presented
20 with any numbers to react to that day.

21 Q Well, you're -- you're aware generally of after
22 that -- after that and after the July 23 board meeting
23 that the city council auditor raised a concern about the
24 quantum of payouts under the PUP plan?

25 A I read that when it was made public, yes.

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1 Q Did you pick it up?

2 A No. Because it was on a table that I wasn't
3 assigned to. The table I was assigned to didn't have
4 handouts on it.

5 Q You say assigned to. Who assigned you to the
6 table and how did you know you were assigned to a
7 table?

8 A When I came in -- I'm trying to remember.
9 Either Kerri or Herschel -- may have been Kerri who
10 said, we're sitting back here because we were kind of
11 milling around getting -- people getting coffee, water,
12 things like that.

13 Yeah, I'm pretty sure Kerri met me and said,
14 We're sitting back here. We're sitting here, which was
15 that --

16 Q Who was the -- who was the "we're" she was
17 referring to? You and Kerri, anybody else?

18 A Herschel would come back there from time to
19 time. Lynne Rhode sat back there, but she would go to
20 some of the lawyer conversations as well. And Aaron
21 would come in and prop his feet up on the table and sit
22 with us from time to time as well, especially when those
23 breakouts were going on.

24 Q So you didn't look at Exhibit 18 at that
25 meeting and you did not take a copy away with you; is

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1 that correct?
 2 A That's correct.
 3 Q If you -- do you -- have you looked at the
 4 agenda, which is the second page, or page number 1 of
 5 Project Freebird?
 6 A No.
 7 Q Do you know where the term Project Freebird
 8 came from?
 9 A I don't. And that was the first time I saw it
 10 was actually when I looked at this document.
 11 Q Did you ask anybody?
 12 A No. I got the book.
 13 Q Did you ask anybody where the name Project
 14 Freebird came from --
 15 A Oh.
 16 Q -- or why it was used?
 17 A No, I did not.
 18 Q And you don't know?
 19 A I don't know.
 20 Q And you see that there's an agenda, the first
 21 bullet point on the agenda is welcome and meeting
 22 objectives.
 23 Did you hear a discussion of the meeting
 24 objectives?
 25 A I don't recall that, no.

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1 Q And the second --
 2 A I looked -- I'm sorry to interrupt you, but
 3 when I looked at this agenda, I did not recall that they
 4 went through these bullets, this agenda, the way it was
 5 outlined on this page.
 6 Q The second bullet point is introduction of
 7 project team members.
 8 Did you see an introduction of project team
 9 members?
 10 A I don't recall that, no.
 11 Q When it says, Project team members, do you have
 12 any idea of what project they're talking about?
 13 A I don't.
 14 Q Do you now?
 15 A No, not really. I mean, PUPs was part of it.
 16 They were going through all these different scenarios
 17 and there were a lot of legal arguments going on all day
 18 long, but to what they were all discussing and debating,
 19 I don't know. I don't recall.
 20 Q This document is 18 numbered pages long and
 21 then it has disclaimers and appendix attached to it.
 22 And it's -- it's -- according to the letterhead on the
 23 documents prepared by J.P. Morgan, Morgan Stanley, it
 24 says, Internal notes, not for external distribution.
 25 Strictly private and confidential.

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1 Do you know why this was strictly private and
 2 confidential?
 3 A No, I don't. And, in fact, when I got this, I
 4 saw that at the top. And since this was data for a JEA
 5 meeting, that, of course, jumped out at me.
 6 Q Because JEA's a public agency?
 7 A Correct.
 8 Q And your perception that the meeting was held
 9 at the Club Continental for the purpose, in the eyes of
 10 the senior leadership team, to keep other people away
 11 would suggest there were some objective on the part of
 12 the senior leadership team to make this meeting less
 13 than transparent to the public?
 14 MR. COXE: Steve -- Steve, let me interrupt for
 15 a second. When you say senior leadership team,
 16 that's about 17 people. Who are you talking about?
 17 MR. BUSEY: Your clients.
 18 MR. COXE: My clients?
 19 MR. BUSEY: The senior leadership team is a
 20 term of art referred to frequently in the data
 21 associated with the JEA, that's what I'm talking
 22 about.
 23 MR. COXE: I'm aware of that. Who are you
 24 referring to in the question when you say somebody
 25 from --

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1 MR. BUSEY: Okay. That's fair, Hank. I
 2 understand your question.
 3 BY MR. BUSEY:
 4 Q But let's refer to Aaron Zahn. Aaron Zahn was
 5 the leader here, I think that we'll all concede that.
 6 Was it his purpose to try to keep the public out of this
 7 meeting in your perception?
 8 A My perception, yes.
 9 Q And from your participation in the meeting,
 10 what did you discern regarding -- if anything, regarding
 11 how long J.P. Morgan and Morgan Stanley had been
 12 involved in the preparation of these materials and what
 13 is described as Project Freebird?
 14 A Not having put one of these together, it's hard
 15 for me to discern how long it would take for me to do
 16 that. I can only make assumptions because this is not
 17 my area of expertise.
 18 Q And based upon your participation in the
 19 meeting, what is Project Freebird?
 20 A You know, I'm not sure. It's hard for me to
 21 even tell from reading through this what Project
 22 Freebird was meant to be.
 23 Q Well, you can get a clue if you go to the next
 24 page after the agenda, which says, Key process
 25 deliverables timeline. Summary overview of near-term

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1 deliverables. And then there's a list of deliverables,
2 including deliverables in two weeks, deliverables in
3 eight weeks. And then finalized NDA. Sign off on
4 document from management and legal counsel, early
5 September.

6 Did you --

7 **A** Right. I read that -- I read that when I got
8 the tab.

9 **Q** Does that help you understand what Project
10 Freebird is?

11 **MR. COXE:** Are you asking him to testify about
12 a document he says he hasn't seen before today?

13 **MR. BUSEY:** I'm asking him to understand
14 what -- if he understood what Project Freebird was.

15 **MR. COXE:** I thought he already answered that
16 question.

17 **BY MR. BUSEY:**

18 **Q** And on page 5 of Exhibit 18, it's entitled
19 Potential process timing and milestones. And there's
20 timing considerations and then indicative process
21 timelines. And the process timeline says, Board meeting
22 on July 23. And the next entry is, Receive mandate and
23 public announcement of ITN, July 23. And the next entry
24 is, Conduct diligence. Prepare marketing materials.
25 Begin populating online data room in August and in
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1 be completed by March 2020.

2 Did you discern that from your participation in
3 this meeting?

4 **A** I didn't discern that at the time of the
5 participation of the meeting because a lot of these
6 conversations, I was not privileged to.

7 **Q** Are you -- are you now aware that that was what
8 was presented at this pro- -- at this meeting at the
9 Club Continental and --

10 **A** You know, again -- and I would ask what a
11 signed PPA is, but this is describing a -- sorry. Go
12 ahead.

13 **Q** No. Go ahead. I'm sorry, didn't mean to
14 interrupt you.

15 **A** I'm sorry. This is describing a process that's
16 not my area of expertise. So I would probably come to
17 an attorney and ask will you sit down with me and walk
18 through exactly what this is all about?

19 **Q** But what you're telling me today is that you
20 did not understand, on July 10th and July 11th, 2019,
21 that this was what was going on in that meeting?

22 **A** No. What -- what I thought the biggest part of
23 that day was around was PUPs and how complicated that
24 was. Again, I've given you my opinion of that. Having
25 read this, after gotten the agenda and the tabs, you
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1 January.

2 Do you know what an online data room is?

3 **A** I know what they can be used for, but I don't
4 know specific regards to what they're referring to.

5 **Q** And the next entry is, Kick off process and
6 begin marketing effort, sign CAs, confidentiality
7 agreements, in September.

8 Do you know what marketing effort they're
9 referring to?

10 **A** No. And I wondered that when I read through
11 this. I actually circled it.

12 **Q** And the next entry is, Distribute confidential
13 information memo and process bid letters in October.

14 And the next entry is, First round indications
15 of interest in November.

16 And the next entry is, Second round process
17 diligent -- diligence, including opening of electronic
18 data room, and that's December - February of 2020. And
19 that's December, dash, February 2020?

20 The next interest -- entry is, Binding
21 indications of interest, February 2020.

22 And the next entry is, Sign PPA and/or
23 definitive agreement, March 2020.

24 So my reading of this looks like it's a
25 complete blueprint for a process for the sale of JEA to
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1 know, I'm reading all these -- read them and then
2 reviewed them and now reading them along with you, but
3 some of these are not specifically in my wheelhouse so
4 I'm not really familiar and --

5 **Q** And if you go two pages beyond the page we were
6 just looking at, there's a page that's entitled,
7 Proposed introductory process timeline. Estimated
8 transaction signing and announcement in mid March.

9 And it's a timeline, which if you read the
10 left-hand column all the way to the bottom --

11 **A** Yeah, I'm having a hard time reading it because
12 it's really blurry.

13 **Q** I understand that's not a very legible copy you
14 have, but the bottom -- the bottom line on the left-hand
15 column is board meeting, approved transaction. It's
16 designed in March -- at the end of March 2020 and --

17 **MR. COXE:** Steve, which page -- which page are
18 you on?

19 **THE WITNESS:** Number 7.

20 **MR. BUSEY:** That's correct.

21 **BY MR. BUSEY:**

22 **Q** So this -- this -- this document, a cold
23 reading suggests that it's a process to get to a
24 transaction to sell JEA to be completed in March of
25 2020. And my question to you is: Did you have any
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1 awareness -- and I heard what you said about what you
2 participated in, you didn't participate in at this
3 meeting, but did you have any awareness, while you were
4 there, that that's what was going on, that's what all
5 the bankers and lawyers were assemble to do?

6 **A** No. When I read through this timeline that you
7 provided me and went through all of this is when I
8 became aware of these dates that you just described.
9 But, again, I -- even in my own prereading of this, I'm
10 having a hard time reading all the stuff down the
11 left-hand column, but I can see the dates.

12 **Q** And the process starts with the July 23 board
13 meeting. Was there a discussion that you heard on July
14 10th or July 11th about what was going to be presented
15 to the board on July 23?

16 **A** Not that I recall, no.

17 **Q** And did you have any understanding of what you,
18 that is, the Dalton Agency, were -- why you were
19 participating in this meeting?

20 **A** No, quite frankly. And I was somewhat
21 frustrated by that.

22 **Q** Did you express that frustration to anyone?

23 **A** Yes. I know I expressed it to Kerri. Herschel
24 probably heard it. I expressed it to Aaron. I don't
25 think Lynne was around at that point. Can't think of

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1 anybody else, but I was quite frustrated.

2 **Q** Did any of them respond to your expression or
3 frustration?

4 **A** I don't remember specifically. I remember
5 Kerri trying to -- what's the right word? -- appease me.
6 And that we just needed to wait and let Aaron come and
7 tell us what our marching orders were going to be.

8 **Q** Marching --

9 **A** That's what I thought about -- I'm sorry to
10 interrupt. Go ahead.

11 **Q** Marching orders for what?

12 **A** For whatever we were supposed to be there for.
13 And that's -- quite frankly, by the way, I talked to
14 them about there was no need for me to be there and
15 spend the whole third day because I was not
16 contributing, I was not being productive, a lot going on
17 that's not JEA related and I needed to go back to work.
18 If they didn't need me for something, I didn't need to
19 be sitting back there while they were all having a lot
20 of conversations and meetings. So I didn't go back on
21 the third day.

22 **Q** And you didn't know what they were having
23 conversations or meetings about?

24 **A** Again, the biggest thing, I thought it was
25 about PUPs. The PUPs took a lot of the day, especially

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1 the first day. But as they got into other conversations
2 and some of the stuff that I'm reading about in here, I
3 was not aware of that, no.

4 **MR. BUSEY:** Let's go off the record for a
5 minute.

6 (Recess taken.)

7 **MR. BUSEY:** Okay. We're back on the record.

8 **BY MR. BUSEY:**

9 **Q** Michael, you said that during the first and
10 second day mostly a large part of what you heard had to
11 do with the PUP plan. What did you hear and from whom
12 did you hear? Who was speaking and what did they say,
13 to your recollection?

14 **A** I don't know, again, who the different lawyers
15 and all who they were, but I could tell some were
16 lawyers, some were bankers, just by words they were
17 using. I was having a lot of interaction with the
18 senior leadership team, as you were describing a minute
19 ago with Hank. Aaron, of course. That was really it.

20 **Q** Well, were -- were the bankers speaking to
21 the PUP plan lawyers or the JEA senior leadership
22 team?

23 **A** They all were right -- there were moments when
24 they would all come back in and they would talk about a
25 different way to do PUPs. Again, some of it was over my

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1 head, quite frankly, but they were talking about
2 different ways they could do the units, how they
3 could -- what's the word? -- put value to them, how they
4 could sell them, how long you would have had to have
5 been employed by JEA.

6 I do remember also, remembering this, there was
7 discussion about if they were to go forward, how they
8 would do it, who would be receiving the -- the PUP's
9 opportunities, who would be able to purchase. There
10 were a lot of those conversations going on.

11 Again, some of which I could hear because they
12 were standing back in the main room. Some of which they
13 were having all their sidebar conversations. But I was
14 within close enough earshot that I could make out, at
15 least, some of what they were saying.

16 **Q** Well, do I -- I take it from your description
17 that at least a significant or a large part of the
18 agenda for this two days that you were there was a
19 discussion of the PUP plan and how to accomplish it?

20 **A** That was a big part and a part that I remember
21 the most. I don't recall a lot of other -- there was a
22 retention program, I think, was talked about. Different
23 scenarios were talked about, that's -- I'm sorry. I'm
24 just getting a little tired here.

25 Did that answer your question, Steve? I'm

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1 sorry.

2 **Q** Well, I'm trying to find out who said what
3 about the PUPs, but I take it you're not really able to
4 help me with that.

5 **A** Yeah, I'm sorry. I don't -- I wish I could say
6 Aaron got up and gave X or Herschel got up and gave Y,
7 but I really don't have that level of detail in my
8 head.

9 **Q** Was it principally presentations by the senior
10 leadership team or did everybody participate?

11 **A** Everybody participated, but the presentations,
12 as I remember, and I'm just trying to recall some of the
13 stuff I saw up on the screen, it was branded by J.P.
14 Morgan or Morgan Stanley. They -- there were templates
15 that were indicating more along the lines of what you've
16 got in Exhibit 18.

17 **Q** When you -- I think I heard you say templates
18 more or less along the lines of what we've got in
19 Exhibit 18. What do you -- what do you mean?

20 **A** Like -- so if you look at the first page of
21 Exhibit 18, I call that a template. So you've got the
22 name of the company, the top, J.P. Morgan, Morgan
23 Stanley at the bottom, that's a PowerPoint template. If
24 you look at the following pages, you've got sort of the
25 similar formatting, so you've got meeting agenda with
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1 that gray line, so I would see, up on the screen,
2 presentations or a template like these.

3 **Q** You mean -- are you saying this -- what is
4 Exhibit 18 was a PowerPoint presentation that was on the
5 screen?

6 **A** I -- I don't remember if this one was on the
7 screen. I remember seeing this laying on a table. I
8 didn't go through it, but I did remember seeing
9 presentations up on the screen that looked like this,
10 had different information, but was in this format. The
11 pages looked like this.

12 **Q** The pages of Exhibit 18? The pages that you
13 saw on the screen looked like the pages of Exhibit 18?

14 **A** Correct, from a template -- PowerPoint template
15 standpoint.

16 **Q** Do you recall -- I think you -- when you said
17 you heard people talk about -- negatively about the PUP
18 plan, I think you included Kerri in that. What did
19 Kerri Stewart say about the PUP plan, to your
20 recollection?

21 **A** The best of my recollection, she had a similar
22 opinion, that it would be difficult to do this in
23 government. The perception would be horrible, that it
24 would also be challenging to get people to participate
25 or understand or trust it.

1 Again, my -- my reaction was a lot quicker and
2 to the punch, but she was -- Kerri tends to be a little
3 bit more cerebral and I was a little bit more this was
4 just a dumb fucking idea.

5 **Q** Was Tim Baker --

6 **A** I'm sorry. Are you guys getting a bad
7 background? We've got a lawnmower right outside the
8 window, just want to make sure it's not coming over the
9 audio.

10 **Q** No, we're okay.

11 **A** Okay.

12 **Q** I didn't -- can't envision any grass around the
13 Bedell building, but --

14 **A** There's a couple of bushes.

15 **Q** Oh. Who's living under the bushes?

16 Do you recall Tim Baker participating in the
17 meeting?

18 **A** I recall Tim Baker being there for part of the
19 meeting. I don't recall him being there all day on the
20 first day. I don't recall him being there at all on the
21 second day and I wasn't there on the third.

22 **Q** Do you recall his participation in the
23 discussion about the PUP plan?

24 **A** He was sitting at a table further away than
25 where I was sitting with my group, but I know he heard
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1 when I went off and -- and gave my opinion. I remember
2 he and Aaron going outside and talking and then Aaron
3 taking me outside.

4 **Q** Separately?

5 **A** Yes.

6 **Q** Did you talk to Tim Baker about the PUP plan?

7 **A** I may have. As we were standing around, he may
8 have been there when I was having my reaction to it, but
9 I don't remember getting into a back-and-forth dialog on
10 the pros and cons of it. Because at that point, Aaron
11 had taken me outside and, basically, told me to calm
12 down and that was it.

13 **Q** Do you recall Tim Baker expressing any opinion,
14 one way or the other, on the PUP plan?

15 **A** I recall him -- he may have said something
16 about it would be awfully hard get the voters or the
17 council with their constituents. He may have given an
18 opinion that was more voter based and I was giving an
19 opinion more this is a bad public policy based, but he
20 may have been giving an opinion about how it could be
21 reacted to.

22 **Q** Are you aware that we have had an interview
23 like this with Tim Baker?

24 **A** I have heard that, yes.

25 **Q** Have you talked to Tim about it?

1 A No.

2 Q Have you seen the transcript of it?

3 A No.

4 Q All right. Tim testified that after Kyle Billy
5 made his public pronouncement about the PUP plan, after
6 the July 23 board meeting, that Tim had a meeting in his
7 office, which I understand is in your office, in the
8 Dalton Agency quarters --

9 A They lease space from us, yes.

10 Q -- with a group of people from the senior
11 leadership team, including Kerri and Herschel and, I
12 think, Aaron in which he expressed to them, he told us,
13 the same attitude about the PUP plan in almost the same
14 words you used.

15 Are you aware of that meeting?

16 A I believe I was in that meeting.

17 Q That was my next question.

18 A Yeah. I'm pretty sure I was in that meeting.
19 At -- if it's the meeting that I'm recalling, he was at
20 one end of the room, I was at the other. Yeah, I think
21 that was that meeting. And he pretty much said -- I
22 think he was more artful in the meeting at the Dalton
23 Agency than he was out at Club Continental, but made the
24 same point, that it was not a good idea.

25 Q And that specifically was in response to the --
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1 Kyle Billy's suggestion of extraordinarily large payouts
2 under the PUP plan?

3 A I believe that is correct.

4 Q And who was in that meeting, to your
5 recollection?

6 A I'm going to try to go around the room and it's
7 going to be the best of my recollection. I believe
8 Melissa Dykes was there, myself, Tim, Kerri, Herschel.
9 I don't know if -- I'm trying to remember her name real
10 quick. Oh, Sherry Hall. Sherry Hall might have been.
11 I'm going around the room. Oh, Ryan Wannemacher.
12 That's all I could remember.

13 Q That's a pretty significant group of the senior
14 leadership team. Do you recall how that meeting came to
15 be or called in Tim's office in the Dalton Agency
16 building?

17 A No. Tim had the ability to rent -- or with his
18 rent, he has the ability to use conference rooms
19 whenever he needs to so he just checks with the
20 receptionist and books conference rooms. We've got one,
21 two, three, four, five conference rooms -- no, six
22 actually. And part of his agreement with us is that if
23 he needs to use a conference room for a meeting, he's
24 able to clear it through the receptionist.

25 Q Do you recall how he called that meeting?
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1 A I don't.

2 Q Do you recall why you were there?

3 A Why I was there?

4 Q Yes.

5 A I'm going to make an assumption. I don't
6 recall that day. The assumption is that whatever came
7 out of that meeting was going to have to have some sort
8 of communication evolving, but I don't remember anything
9 specific coming out of it.

10 Q Do you recall when the meeting was?

11 A No, I don't. I'd have to go back through my
12 calendar and look. I don't recall the date.

13 Q It was after Kyle Billy's announcement about
14 his findings on the PUP plan?

15 A I believe it was after that, yes. But I don't
16 recall the date.

17 Q And what do you recall about the reaction of
18 anyone on the JEA senior leadership team to what Tim had
19 to say about the PUP plan at that meeting?

20 A I think between the council auditor's
21 information and then Tim's advice, that this would be
22 hard to get the community support, that it was looking
23 like PUPs was a bad idea.

24 Q Okay. That's not really directly responsive to
25 my question. What I'm --
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1 A Oh, I'm sorry. I tried to answer the best I
2 could.

3 Q My question was: What do you recall people
4 saying? Do you recall what any individual --

5 A Oh.

6 Q -- said in response to what Tim said?

7 A Oh, I'm sorry. I didn't hear that
8 specifically. I apologize.

9 No, I don't recall a -- person A saying
10 something or person B saying something. I recall the
11 census of the room, wow, this is -- this is looking like
12 it's not a good idea.

13 Q Including Aaron?

14 A You know, I would have to interpret -- Aaron
15 was very cold-faced in a lot of these meetings from time
16 to time. He would -- he would tell you how he felt when
17 he would get with you one on one, but in a meeting, it
18 was hard sometimes to read him. So I'm not sure I could
19 recall what his reaction was or even reading his face,
20 I -- I can't recall that.

21 Q Do you recall how long after that meeting it
22 was that the JEA announced that they were going to put
23 the PUP plan on hold indefinitely?

24 A I would need to go through the documents
25 because there was a point where it was decided that the
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1 PUP plan would be rescinded and that we would start to
 2 put together some communications around that.
 3 And I do remember telling Aaron at some point,
 4 and trying to remember the date, but I'd have to go back
 5 and look, but at some point, he needed to own it. And
 6 so I do remember a conversation where I finally said to
 7 him, You need to go to the city council, before the
 8 committee, you need to say to the board, you need to say
 9 to the community, you owned it, you're pulling it back.
 10 But I think that was after a lot of input from a lot of
 11 different people. Whether it was me or Tim or others, I
 12 don't know.
 13 Q At that meeting in -- in your --
 14 MR. COXE: Steve, let me interrupt. Take a
 15 five-minute break.
 16 MR. BUSEY: Sure. No problem. We'll come back
 17 in five minutes.
 18 MR. COXE: Sorry about that.
 19 MR. BUSEY: No problem.
 20 (Recess taken.)
 21 MR. BUSEY: All right. We'll go back on the
 22 record.
 23 BY MR. BUSEY:
 24 Q In this meeting at Tim Baker's office, we were
 25 talking about after Kyle Billy's announcement, did --
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1 and you -- you heard Tim express his opinion about the
 2 PUP plan, did -- did you hear Herschel speak up and say,
 3 yeah, I thought so, too, and I told y'all that?
 4 A I think I recall that. I'll say, yes, I think
 5 I recall that.
 6 Q Are you aware of Kerri or Herschel or anybody
 7 else ever expressing to the JEA board their reservations
 8 about the PUP plan?
 9 A I don't know about conversations they may have
 10 had with the board.
 11 Q I'm just asking, are you aware of any
 12 participation they made to the board about the PUP
 13 plan?
 14 A I'm sorry, I thought I answered your question.
 15 No, I'm not.
 16 Q Let's look at Exhibit 19. What is that?
 17 A Those are notes I made to myself. Mostly as a
 18 reaction to Aaron taking me outside and dressing me down
 19 the way he did because I felt like I needed to have some
 20 notes to myself based on what I was thinking or reacting
 21 to that day.
 22 (Munz's Exhibit 19 was marked for
 23 identification.)
 24 Q Did you make these notes on July 10th, 2019?
 25 A I went home and typed them up that night when I
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1 got home.
 2 Q On the first page, about a third of the way
 3 down, there's a paragraph that starts, During the board
 4 meeting, what --
 5 A First page? I'm sorry. On the first page?
 6 Oh, I see it. Got it. I'm with you.
 7 Q What board meeting are you referring to?
 8 A I think I meant the next board meeting, but
 9 since I didn't put that in there. I'm not 100 percent
 10 sure.
 11 Q Well, that would be the July 23 board meeting,
 12 wouldn't it?
 13 A Sequentially that would be correct.
 14 Q And you say, During that -- the board meeting,
 15 they will be reminded.
 16 "They" is the board?
 17 A I believe my reference to they means board,
 18 yes.
 19 Q They will be reminded that they received
 20 information on SQ1, SQ2 and now they're being presented
 21 with a third option.
 22 That's scenario 1 and scenario 2?
 23 A That's what I would have been referring to,
 24 yes.
 25 Q You -- you've -- we've talked about the fact
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1 that Tim Baker was at this meeting on July 10th, at
 2 least, 2019. Were you aware that he was a paid
 3 consultant to Florida Power & Light in July of 2019, Tim
 4 Baker?
 5 A No, not at that time, I was not aware. I was
 6 aware that he was a consultant prior. I was not aware
 7 that he was a consultant at that time.
 8 Q Tim -- Tim told us he terminated his
 9 consultancy at the end of July of 2019. Did -- you said
 10 at that time, did you ever become aware that he was a
 11 paid consultant while -- for FP&L while he was at the
 12 Club Continental JEA meeting --
 13 A No.
 14 Q -- on July 10th and July 11th, 2019?
 15 A No.
 16 Q Do you find that a little incongruous?
 17 A Can you explain your question?
 18 Q Do you think it's appropriate for Tim Baker, as
 19 a paid consultant for FP&L, to be at that board meeting
 20 discussing the future of JEA?
 21 A I can't answer how another consultant comports
 22 themselves. I can only answer for myself. I can give
 23 you an example related to FP&L of how I would conduct
 24 myself. So I was contacted because I've got a
 25 relationship with a person at FP&L through Leadership
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1 Florida, which I'm alumni of, and they called to ask
2 would I consider working for them.
3 And I had to cut her off in conversation and
4 say, We can't discuss this any further, you're not
5 aware, but I work for JEA. And she quickly said, Oh, I
6 get it. And so that ended that conversation and we
7 never discussed it again.

8 Q When was that?

9 A That -- whoa, that would have been -- it was
10 the summer of '19. I can go back and check because --
11 well, it was the summer or fall. Maybe it was later. I
12 have to go back and look because I was at a meeting
13 for -- sorry, somebody's phone's going off -- I was at a
14 meeting for Leadership Florida when the conversation
15 took place.

16 Q But your best recollection, it was the summer
17 or fall of '19?

18 A Correct.

19 Q And why would you be concerned about working
20 for the same time, in the summer or fall of '19, for
21 both JEA and FP&L?

22 A Well, it was no secret that FP&L, should JEA
23 decide to go down the scenario that would have done
24 privatization, that FP&L, as well as others in the
25 country would have been a potential suitor. And I

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1 A I'm trying to recall the exact language of the
2 ITN. It's been so long since I read through it. But it
3 was as what could have been described in the public as
4 privatization.

5 Q Thank you.

6 Do you know who drafted the invitation to
7 negotiate that was issued on August 20 -- August 2?

8 A I don't know specifically who did, no.

9 Q Do you have any idea? You say specifically, do
10 you have any idea?

11 A No, I have no idea.

12 Q Referring to the third page of Exhibit 19, near
13 the bottom, you have a paragraph that starts, Once the
14 ITN is developed, we will develop -- we will create a
15 comms road map.

16 So that tells me that on July 10th, 2019, you
17 were aware that an ITN was going to be developed?

18 A Well, the way I read that and the way I wrote
19 that is once -- meaning it could be. You're making it a
20 lot more definitive than I meant that to be there.

21 Q Well, that's what it says, isn't it? Once the
22 ITN is developed.

23 A Well, if I was writing this as a letter to
24 someone, I would have probably chosen my words more
25 artfully, but I was, again, just putting thoughts down

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1 didn't feel it would be appropriate for me to represent
2 JEA. And at the same time -- you -- you just wouldn't
3 do that.

4 Q Because FP&L was a potential suitor of JEA?

5 A If the board had gone down one of the scenarios
6 that would have gone through an ITN privatization.

7 Q Well, in July -- as of July 23, 2019, isn't
8 that where JEA was headed?

9 A What's your question in there? I'm sorry.

10 MR. BUSEY: Terrie, can you read it back,
11 please?

12 (The following question was read by the
13 reporter: "Question: Well, in July -- as of July
14 23, 2019, isn't that where JEA was headed?")

15 A Is your question after the board made it's
16 action on July 23rd?

17 Q Yes.

18 A Yeah. I mean, after the July 23rd board
19 decision, yes.

20 Q You're aware that JEA issued this invitation
21 to negotiate just nine days later, on August 2, aren't
22 you?

23 A Yes.

24 Q An invitation to negotiate what? What was your
25 understanding?

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1 on paper that were in my head. And so I think that I
2 was a little loose with the wording there.

3 Q Let's look at Exhibit 20. Can you tell me what
4 that is, please?

5 A This was a letter that I edited. I don't know
6 who the originator is and it was a letter -- and you'll
7 see the red lines in here and it was a -- a dear
8 employee letter.

9 (Munz's Exhibit 20 was marked for
10 identification.)

11 Q From whom?

12 A There's not a signatory here.

13 Q Look at the third page of Exhibit 20.

14 A Oh, okay. Sorry, from Aaron. Okay. That is
15 -- I didn't go to the third page. Sorry. So that would
16 have been coming from Aaron.

17 Q And Dalton edited -- you edited it?

18 A I don't know how I received this, but I do
19 remember editing it.

20 Q In the third paragraph, the last sentence
21 reads, These scenarios could follow two paths: The
22 first bullet point, one, remain a governmental entity
23 and focus on changes to the JEA Charter, state statutes,
24 the Florida Constitution and other rules and regulations
25 that limit JEA's ability to grow business.

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1 And the second bullet point is: Explore
 2 nongovernmental options that eliminate the existing
 3 barriers and allow JEA to compete and grow business.
 4 This concept concluded the issuance of an invitation to
 5 negotiate that is intended to XXX.
 6 That looks like it -- that last sentence I read
 7 looks like a red line. Was that edited by the Dalton
 8 Agency?
 9 A No, if it was edited by me, it would have
 10 had my name on to it, so that came from somebody else.
 11 See at the top right, tweak the date, it had the wrong
 12 date.
 13 Q Yes.
 14 A So if my red lines were in there, it would have
 15 had my name associated with it. So I'm not sure where
 16 or who in the editing process that was added.
 17 Q The sentence reads, This concept concluded the
 18 issuance.
 19 What does that mean, concluded the issuance?
 20 A I don't know. Not remembering, being the
 21 author of it, I don't know what that means. And sitting
 22 here reading it with you today, I don't know what that
 23 means.
 24 Q And the whole sentence, This concept concluded
 25 the issuance of an invitation to negotiate that is
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1 intended to XXX.
 2 Do you know why the XXX is there?
 3 A I don't. Again, I'm reading this with you and
 4 I'm not sure what it means.
 5 Q And you don't know -- you don't know what the
 6 invitation to negotiate was intended to do?
 7 A Not as it's written here, no.
 8 Q Do you recall talking to anybody at JEA about
 9 this letter or your edits to it?
 10 A I do not.
 11 Q And at the last line on the first page of
 12 Exhibit 20, the paragraph reads, If a change of control
 13 occurs, the following would take place subject to board
 14 approval at its July 23 meeting.
 15 What does that mean, if a change of control
 16 takes place?
 17 A I don't know. I can assume. You want me to
 18 make an assumption?
 19 Q I'm -- I'm -- I'm very interested in your
 20 assumption.
 21 A My assumption means it would be a change of
 22 control, meaning who controls the operations of the
 23 JEA.
 24 Q That is ownership?
 25 A Well, you're inserting a word now. I answered
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1 the question to the best of my ability.
 2 Q Doesn't ownership control?
 3 A Not necessarily.
 4 Q Who controls, if it's not the ownership?
 5 A I think there are plenty of situations where
 6 nonowners have control over entities.
 7 Q Can you look at Exhibit 21, please?
 8 A Sure.
 9 (Munz's Exhibit 21 was marked for
 10 identification.)
 11 Q Do you recognize this e-mail?
 12 A I recognize it, having read it in the folder.
 13 I didn't recognize it from before. I didn't recall it
 14 from before, no.
 15 Q You don't recall it from July of 2019?
 16 A No. And I don't think I was a recipient of it.
 17 Q The second page of the e-mail has Scenario 3
 18 Crisis.
 19 Do you know what that's referring to?
 20 A No, I'm afraid I don't.
 21 Q 12 months, Overall Timeline. And there's
 22 several bullet points. I'll read them sequentially.
 23 Board meeting.
 24 ITN drops.
 25 Pension legislation.
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1 Responses to ITN due.
 2 Ranking process for ITN responses.
 3 Selection of ITN/short listing board approval
 4 of selection.
 5 City council approval of deal and referendum.
 6 And referendum.
 7 Do you know what that's referring to?
 8 A Referendum?
 9 Q All of those bullet points. Doesn't that refer
 10 to an ITN, which leads to a selection of a purchaser and
 11 city council approval of the deal, being the sale of JEA
 12 and the referendum, if a referendum of the voters to
 13 approve or disapprove of the sale of JEA pursuant to
 14 that process?
 15 A Yeah. I can't answer that because I -- until I
 16 got the book and read through this, I had not seen this
 17 or don't recall seeing it. So I'm not sure if I can
 18 answer that definitively or not.
 19 Q Doesn't what I just said make sense to you?
 20 A Steve, I -- I -- I'm not going to argue with
 21 you, but I can't answer the question definitively
 22 because this is -- again, I -- I don't -- this is --
 23 these bullets are taken out of a context that may
 24 have -- mean something else, I don't know.
 25 Q Do you know of any other process of the -- of
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1 the five scenarios that would require a public
 2 referendum, other than a sale?
 3 A There was talk actually that if they went to
 4 the Clay County co-op, that it might have a better
 5 referendum. There was conversation around that, I
 6 remember.
 7 Q So you think that's what this was referring
 8 to?
 9 A I don't know. I --
 10 Q And then the next -- excuse me.
 11 A Steve, I'm sorry to interrupt you.
 12 Q Go ahead.
 13 A Scenario 3 is the Clay County co-op so this
 14 could have been the co-op. And, again, I'm -- I'm now
 15 making a summary here or a judgment, trying to help you
 16 out, this could have been -- if scenario 3, which was
 17 the Clay County co-op example, had gone forward that
 18 this would have had to have taken place.
 19 And something else, let me just say this too,
 20 real quick. We were putting together different comm
 21 scenarios, comms plans based on the different scenarios.
 22 So all I can assume here is, really thinking and staring
 23 at this, is that had the board gone down scenario 3,
 24 this would have been a bulleted list of things that
 25 would have to have been thought through.

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1 Q Let's look at Exhibit 22, which is an
 2 e-mail --
 3 A Okay.
 4 Q -- from Banks Willis to Gina Kyle and Sherry --
 5 A Okay.
 6 Q -- forwarding a message from Maddie, with a
 7 copy to you. And there's an attachment.
 8 Do you know -- do you recognize the
 9 attachment?
 10 A Just from reading the book here. I didn't
 11 recognize it from before.
 12 Q What is the attachment?
 13 A It listed across the top time of day, activity,
 14 activity lead, audience, corresponding assets, asset
 15 deed, asset due, questions and notes. So it looks like
 16 a process to start informing people after various
 17 scenarios were decided upon. Again, I'm reading this
 18 pretty quickly with you here, but --
 19 Q Was this attachment created by Dalton?
 20 A I'd have to confirm that. I'm not sure.
 21 Q Well, it came from Maddie, didn't it?
 22 A Right, but I don't know if she would have
 23 gotten it from somewhere else.
 24 Q There's a process that's under the week of July
 25 15th and it's -- the activities are scheduled a post

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1 board meeting with reporters, upload board agenda and
 2 package to website, draft pension legislation.
 3 And then the next section is Monday, July 22,
 4 which is the day before the board meeting. And the
 5 activities are that afternoon, internal meetings, JEA,
 6 HR, business partners and SLT and external meeting, key
 7 city council members. And they've described who was to
 8 do them and when they're to be done.
 9 A Right.
 10 Q And then the next section is Tuesday, July 23,
 11 2019, board meeting -- well, let's -- let's look above
 12 that. Just above that, it says, on July 22, connect
 13 with the mayor's office, Zahn is to do that. And the
 14 audience is the mayor's office.
 15 Do you know why that's there?
 16 A I'm going to assume it's because whenever a CEO
 17 or anyone of authority has a major issue that's going to
 18 go before a board, the CEO would alert the mayor's
 19 office.
 20 Q The section -- next section is Tuesday, July 23
 21 and it talks about what's going to happen before and
 22 during the board meeting and after the board meeting on
 23 July 23. Among the activities immediately after the
 24 board meeting is Alan Howard to call Bobby Stein and
 25 Mike Ward.

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1 Do you know why that's there or why Alan Howard
 2 would call Bobby Stein and Mike Ward?
 3 A Yes. At that time Bobby and Mike were both
 4 leading a subcommittee of the civic council. And for
 5 disclosure, I'm member of the civic council. I'm sure
 6 it was to alert them as to whatever the board's -- what
 7 was on the 23rd.
 8 Q Are -- Michael, do you have any awareness of
 9 what the -- Zahn's communications with the mayor was on
 10 the 22nd?
 11 A No. Aaron kept me very far removed from that.
 12 Q Do you have any awareness of what Alan Howard's
 13 discussions were with Bobby Stein and Michael Ward on
 14 the afternoon of the 23rd?
 15 A No, I don't recall. But, like I said, I'm sure
 16 it was because they were leading the review of the civic
 17 council of the JEA.
 18 Q But, again, you don't have -- you don't
 19 recall this chart prior to your reading it yesterday or
 20 today?
 21 A No, I don't.
 22 Q Does it look like something your office would
 23 prepare?
 24 A You know, the formatting does not. It's not a
 25 format that I'm familiar with.

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1 Q But it is a communications rollout plan, isn't
2 it?

3 A It's a communications rollout plan, to use your
4 language, but I'm not familiar with the layout, the
5 format.

6 Q Were you personally involved in the rollout of
7 the communication plan resulting from the July 23 board
8 meeting?

9 A Help me understand when you say "personally
10 involved."

11 Q Dalton was -- excuse me.

12 A I'm sorry. Go ahead. I didn't mean to
13 interrupt.

14 Q Dalton was engaged to do the communications --

15 A Correct.

16 Q -- and that's what this is, a communications
17 rollout plan for whatever happened at the July 23
18 meeting.

19 My question was: Were you involved in those
20 activities at all?

21 A I would not have been involved in activities
22 related to having communications. For example, I'll use
23 Michael Ward and Bobby Stein, that would have
24 been appropriate with Alan Howard. I would not have
25 been involved in making communication to another city

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1 council member. I would not have done any city council
2 outreach.

3 I would have talked to a member of the press,
4 editorial board writers, had I had a role, but I'd have
5 to go back and look. But if my role was to engage in
6 any conversations outside of JEA, it would have been to
7 media, media relations. It would not have been to
8 stakeholders or elected officials.

9 Q Let me be more clear, were you personally
10 involved in the development of the rollout plan?

11 A I don't -- well, are you defining this document
12 as a rollout plan?

13 Q Are you aware of any rollout plan for the
14 actions of the board on July 23?

15 A No. Except for looking through this. I think
16 I'm following your chain of question. I'm sorry, if I'm
17 getting confused.

18 Q Let's look at Exhibit 23. It's an e-mail from
19 Kerri Stewart to Melissa Perez, forwarding an e-mail
20 from Banks Willis, that's copies to you, among others.
21 And attached is a draft dated July 22, 2019.

22 Are you familiar with that document?

23 A I am familiar with it after having read it.
24 And I will point out that the -- I'm sorry, it's another
25 tab. Never mind.

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1 Yes, I'm familiar from having read it in the
2 tab.

3 (Munz's Exhibit 23 was marked for
4 identification.)

5 Q And it says, July 23, internal leadership
6 meeting talking points, 8:00 to 8:30 a.m., pre board
7 meeting at 9:00. Spokespersons: Zahn, union
8 leadership. Dykes, JEA leadership.

9 Were you aware of these bullet points that were
10 presented by the Dalton Agency for the JEA senior
11 leadership team?

12 A I probably saw a draft of these, yes.

13 Q What was your understanding of the -- what was
14 being presented by the JEA senior leadership team to the
15 board on July 23?

16 A It was my understanding that they were still
17 going through talking about the various scenarios, that
18 they were going to get to a conversation related to
19 recapitalization, which, in my mind, is not equal
20 privatization, but how they were going to reconfigure
21 the assets, income, debt, et cetera, of the JEA and that
22 could have fallen under any one of the numbered
23 scenarios.

24 I -- maybe I was being naive, but I was still
25 under the impression that they still had various

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1 scenarios that they were going to be reviewing and going
2 through. Our job was to figure out if they went down
3 scenario A or scenario 1, 2, or 3 or whatever, but we
4 had talking points.

5 But these were -- for example, I'll take you to
6 the page that's got July 22nd, scenario 3, it says,
7 board chair scripts for video to employees.

8 So we were surmising that based on what could
9 happen to get April ready to be able to cut videos
10 immediately after board meetings, there has been
11 internal communication. One thing I was very focused on
12 was that the employees of the JEA would not read about
13 these things. I read they would watch the board
14 meetings, but they would not read about things, but they
15 would hear things directly from the board chair. And so
16 we were putting together scripts and scenarios,
17 depending on what action the board took.

18 Q On the second page of the talking points for
19 the July 23 internal leadership meeting talking points,
20 there's a bullet point that says, Ryan Wannemacher will
21 then present a third option to the board of directors,
22 scenario 3, the nontraditional utility response, which
23 is a plan to remove the government-affiliated
24 constraints limiting JEA's ability to grow, compete and
25 stay relevant in our community today, tomorrow and into

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1 the future.

2 Did -- why didn't you just say a
3 nongovernment -- a sale? When you say you want to
4 remove governmental constraints?

5 **A** Because I don't think that -- and, again, I'm
6 just giving you my opinion here. I don't think that at
7 that time a sale was the final decision. Nontraditional
8 utility response, while I understand that can sound
9 convoluted to some people, as I heard it from the
10 professionals in the utility world, they could still be
11 government-owned, but have the ability to do things like
12 I was talking about a few hours ago, compete with Google
13 or Nest or some of these other technologies to be on the
14 other side of the meter versus just being a water, sewer
15 or electric authority.

16 **Q** Well, let's read the next bullet point. His
17 presentation will show that the problem with our
18 business constraints isn't that we are owned by the
19 community, the problem is that we are government
20 affiliated. Please know that the nontraditional
21 approach may mean privatization, but it doesn't
22 necessarily mean a neighbor utility buying us. It
23 could mean utility ownership, community ownership,
24 initial public offering, private placement, technology
25 conversion, oil and gas conversion or utility buyout.

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1 the July 22 board meeting messages. And the first Q and
2 A says, Tough Q and A, key messages.

3 **A** Can you tell me what's at the top of the page
4 you're looking at so I could catch up?

5 **Q** Tough Q and A, key messages.

6 **A** Okay. I found you.

7 **Q** The next page over, the question is posed, What
8 is recapitalization? Aren't you just going to
9 privatize, paren, sell JEA?

10 So that's the tough question. And here's the
11 answer that's proposed.

12 Did Dalton propose these answers?

13 **A** I'm reading it right now to refresh my memory.

14 **Q** Tell me when you're ready.

15 **A** Okay. Give me just a second. To the best of
16 my recollection, this came from either lawyers or
17 finance people. The way this was written, these three
18 paragraphs, I don't know that we would have had the
19 skill set to craft these. We may have edited it, which
20 I'm not seeing an edited version, but this is -- I don't
21 think that this is an answer -- we may have proposed the
22 question. I don't think the answer was drafted by
23 Dalton.

24 **Q** Well, let's read the first two paragraphs of
25 the answer to that question.

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1 The next bullet point, We are calling it a
2 recapitalization event because it would recast JEA's
3 entire capital structure with any one of these
4 alternatives.

5 Isn't all this -- you used the word
6 "convoluted," I use the word double speak, but isn't all
7 this just ways of trying to avoid the word "sale" and
8 avoid the sale versus don't sale issue?

9 **A** No, I don't agree with that.

10 **Q** Didn't you participate in the meeting on July
11 10th and July 11th where the bankers and the lawyers
12 were presenting a blueprint to cause the transaction to
13 be concluded by March of 2020?

14 **A** I don't think I said that earlier, no.

15 **Q** I didn't ask if you said it earlier. I said
16 didn't you participate in that meeting where the
17 blueprint was presented in Project Freebird?

18 **A** I don't know that that was -- I don't know that
19 that's a correct summarization -- sum- -- sorry -- a
20 correct summary of that day. It had a lot of other
21 things. And, again, the thing that I was most aware of
22 was the PUPs contracts and the PUPs proposal.

23 **Q** And, further, you have questions and answers
24 that were part of this exhibit. And the pages aren't
25 numbered, I'm sorry, but this is part of the draft of

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1 Answer: To continue to use the term
2 "privatization" in the negative context oversimplifies a
3 complex business challenge, ignores the hard work that
4 was done as a part of JEA's scenario-based strategic
5 planning process, does a disservice to the employees,
6 the community and, most importantly, it's false.

7 Recapitalization event means the closing and
8 funding of a transaction or a series-related transaction
9 in accordance with Article 21 of the Charter of the City
10 of Jacksonville and any other applicable law that
11 results in at least 50 percent of the net depreciated
12 property, plant and equipment value of either JEA
13 electric system or its water and wastewater system being
14 transferred, assigned, sold or otherwise disposed of.

15 Isn't that just double speak for what a sale
16 is?

17 **A** Steve, I'll have to give you the same answer.

18 I -- in looking at the second paragraph also, that
19 definitely sounds like it came from either a lawyer or a
20 finance person, so.

21 **Q** You're saying --

22 **A** I understand your question, but I don't agree
23 with the conclusion.

24 **Q** You're suggesting a lawyer more likely than
25 Dalton would engage in double speak?

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1 A I'll let the lawyers in the room answer that
2 question.

3 Q Oh, please don't.
4 On the next page --

5 A Yes, sir.

6 Q -- the question: Why sell for a one-time
7 windfall? What about the future?

8 A Where are you? I'm sorry.

9 Q The next page.

10 A Oh, down at the bottom of that page. Okay.

11 Q Why sell for a one-time windfall? What about
12 the future?

13 The answer is: Under current governmental
14 constraints, the trajectory for JEA and its value will
15 only decrease. By recapitalizing JEA, we will eliminate
16 the government-affiliated barriers to our ability to
17 compete and grow in today's dynamic marketplace.

18 Isn't that just double speak for sale?

19 A Well, I will tell you that that was something
20 that Ryan said to us over and over again. I do
21 recognize that point being a point that Ryan made to us
22 over and over again.

23 Q Ryan is the fellow, who on December 16th, 2019,
24 denied to the Jacksonville City Council that he never
25 calculated whether a sale and PUP intersect?

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1 reporter: "Question: Now, that's -- that's the
2 Project Freebird process as we saw it outlined on
3 July 10th, 2019, isn't it, culminating in March
4 2020?")

5 A I'd have to go back and compare it to that to
6 refresh if it has the dates, but -- so we may have come
7 up with the question. And, again, I would remind us
8 that these were all questions that we thought would
9 happen, depending on the direction of the board vote.
10 And so if they were to go in that direction,
11 nontraditionally utility response, then these answers,
12 and I'm assuming they came from either someone at
13 finance or someone at legal for the answer to the
14 question, what are the next steps?

15 Q And let's look at Exhibit 24, which is the JEA
16 board meeting minutes of July 23 in which the -- Aaron
17 Zahn was authorized --

18 A What page are you on? I'm sorry.
19 (Munz's Exhibit 24 was marked for
20 identification.)

21 Q I'm just referring to Exhibit 24 generally.

22 A Okay.

23 Q Page 3, Resolution 2019-07, A resolution
24 authorizing the CEO to take any and all action to
25 investigate and pursue scenario 3: The nontraditional

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1 A I can't speak to what he testified before
2 council.

3 Q Now, on the next page, there's a question, What
4 are the next steps and timeline -- this is at the bottom
5 of the next page. What are the next steps and the
6 timeline for implementing the unconstrained,
7 nontraditional utility response as approved by JEA's
8 board of directors on July 23?

9 And the answer is several bullet points, which
10 read sequentially.

11 ITN drops.

12 Pension legislation.

13 Responses to ITN due.

14 Ranking process for ITN responses.

15 Short listing, selection, board approval of
16 selection.

17 City council approval of selection.

18 And referendum.

19 Now, that's -- that's the Project Freebird
20 process as we saw it outlined on July 10th, 2019, isn't
21 it, culminating in March 2020?

22 MR. COXE: Steve, will you repeat the question,
23 please?

24 MR. BUSEY: Would you read it back, please?

25 (The following question was read by the

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1 utility response.

2 To a discussion you and I had earlier, the
3 scenario was not that the CEO was not only authorized to
4 look into, but he was authorized to take any action
5 necessary to pursue, isn't that right? He was
6 authorized to take action?

7 A I --

8 MR. COXE: Steve -- Steve, it says what it
9 says. How is Mike supposed to --

10 MR. BUSEY: Because he told me earlier that he
11 didn't recall whether or not the CEO was merely
12 authorized to look into it or to take action. I'm
13 saying now that we're looking at the answer of that
14 question and I'm asking if he agrees with me.

15 MR. COXE: Well, what can it be answering the
16 question? It says what it says.

17 MR. BUSEY: Hank, I'm not going to argue with
18 you. If you're instructing him not to answer, tell
19 him.

20 A He's not telling me to not answer.

21 So is your question for me agree with what's on
22 the page?

23 Q Or disagree with it.

24 A I don't disagree with it, so I'll agree with
25 what's on the page.

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1 Q Looking at page 4 of that exhibit, chairs
2 report. Chair Green reiterated Mr. Zahn's message and
3 also reiterated that there was no vote to sell JEA. The
4 vote gave leadership the direction to go back and pursue
5 an unconstrained nontraditional response to make JEA
6 better for the employees, customers and community as a
7 whole.

8 Did you have any role in drafting that
9 language?

10 A No.

11 Q Did you have -- participate in any discussion
12 with coming up with the idea to mask the sell, don't
13 sell issue as a, quote, "unconstrained nontraditional
14 response to make JEA better," closed quote?

15 A No.

16 Q Look at Exhibit 25. And this is an e-mail
17 dated July 24th, the day after the board meeting --

18 A Right.

19 (Munz's Exhibit 25 was marked for
20 identification.)

21 Q -- from Gina to Aaron. And she's attaching
22 op-ed for Chairman April Green and the op-ed is
23 attached.

24 Did Dalton have any role in preparing this
25 op-ed or editing it?

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1 Q And the first tough question that's proposed,
2 Government corruption. False statement. Mayor Curry
3 hired Aaron Zahn to sell JEA.

4 Do you remember participating in any
5 discussions about how to answer that question?

6 A I'm reading the answer real quick. Give me a
7 second.

8 We may have participated in the wordsmithing of
9 it.

10 Q But my question is: Do you remember
11 discussing -- participating in discussions about how to
12 answer the question?

13 A No, I don't remember that.

14 Q And the next question is: JEA leadership is
15 exaggerating about its financial situation in order to
16 push privatization.

17 Do you remember participating in discussions
18 about how to answer that question?

19 A No, I don't remember that.

20 Q Was Dalton at all en- -- engaged in trying to
21 help JEA change the public debate about what happened on
22 July 23?

23 A I don't agree with you about changing the
24 debate. What I would say is that we were working to set
25 the record straight on the board action that took place.

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1 A I would have to go back and double-check and
2 confirm, but I think that we edited what April
3 started -- the start of the first draft.

4 Q And the title of the op-ed is, "We didn't vote
5 to sell JEA, we voted to make JEA better," closed
6 quote.

7 Is this more of the masking of the fact of
8 trying to avoid the sell/don't sell debate?

9 A Yeah, I don't -- I don't know that I agree with
10 the masking point so I can't -- I can't really answer
11 the question.

12 Q Okay.

13 A I think the title was reflecting or was
14 intending to reflect what the actions of the board were
15 on the 23rd.

16 Q Not to sell JEA, but to make it better?

17 A Yes.

18 Q And look at Exhibit 26, which is an e-mail from
19 Maddie to people at JEA. And it attached JEA Tough Q
20 and A Message Buckets.

21 Is this a Dalton work product that's attached?

22 A Based on my recollection, this would have been
23 the result of back and forth, but we probably were
24 owning the drafting of it, but I think others had input
25 into it, as I recall.

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1 There were, between the board meeting and this August
2 time frame, a lot of articles in the paper, social
3 media, conversations, conversations throughout the
4 community. And as I'm reading through this, the way I
5 interpreted it is that we were working to help JEA set
6 the record straight, to try and pull some of the emotion
7 out of the conversation.

8 Q Well, speaking to that, let's look at Exhibit
9 29, which is an e-mail from Banks to April Green, dated
10 Wednesday, November the 6th. It says, Hi, April.

11 Thanks so much for taking a look at the attached draft
12 op-ed for targeted placement in the Times-Union this
13 Sunday. Let us know your feedback and/or edits by 5:00
14 p.m. I can call you if it's easier.

15 A Yeah.

16 Q And there's an op-ed attached, a draft dated
17 November 6th, 2019, for the *Times-Union* on November
18 10th. And the title is, Let's put anger aside in favor
19 of what's best for Jacksonville.

20 Did Dalton draft this op-ed for the Chair of
21 JEA?

22 A I do recall this because I recall April
23 calling, was very upset. She actually gave ideas to me
24 specifically over the phone. She may have actually
25 started with the Ben Franklin quote. And then we worked

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1 to refine the message she wanted to put out there, but
 2 she was very frustrated that there was a lot of anger,
 3 if that's the word, and there was a lot of, as you-all
 4 know, conversation, again, traditional media, social
 5 media and she was feeling a lot of community pressure.
 6 So she wanted to put her voice out there so that's --
 7 that's what this was intended to do.

8 **Q** How would you characterize that media pressure,
 9 that social pressure? What was it?

10 **A** How would I characterize it?

11 **Q** Yeah. Describe it to me.

12 **A** It was, I think, a lot of misinformation. I
 13 think it was -- as it built up into this point when we
 14 got to November of '19, it was a lot of emotion, not
 15 based on a lot of fact and I think that April was
 16 feeling a lot of pressure to get her point of view
 17 across.

18 **Q** You described that there was pressure and
 19 emotion, but you didn't describe what the -- what the
 20 concern was. How would you describe the concern that
 21 was bubbling up in the social media?

22 **A** There were all sorts of misperceptions, the
 23 JEA, you've brought it up several times, was being,
 24 quote, sold. The people were going to be just let go
 25 without any kind of a plan. The JEA was going to be

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1 broken up into different parts. There was a lot of
 2 social media chatter about was this to benefit or get
 3 out of the Plant Vogtle contract? That was in social
 4 media.

5 There were a lot of different points that were
 6 being said, mostly in social media, but sometimes in the
 7 traditional media. And, again, April, she wanted to get
 8 her voice out there.

9 **Q** And what was her voice?

10 **A** She wanted to calm the waters, as I recall.
 11 She wanted to explain the scenarios and she wanted to --
 12 she wanted to be heard is the best way I could describe
 13 it.

14 **Q** Or as it -- as being in charge of
 15 communications for JEA, wasn't it your mission to try
 16 to make what was happening to be clear to the public
 17 and to be transparent about it?

18 **A** As long as it was factual, yes.

19 **Q** Well, then to be clear and transparent,
 20 wouldn't you tell the public that the JEA had a secret
 21 meeting at Club Continental, on July 10 and 11 with the
 22 Project Freebird blueprint to sell JEA by March 20th,
 23 '20?

24 **MR. COXE:** Mr. Busey, we've been over this a
 25 number of times. It was in the packet of

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1 information on the table, but he did not read it
 2 until you gave it to him ahead of this deposition.

3 **MR. BUSEY:** Do you need to have the question
 4 read back?

5 **MR. COXE:** No, sir. That's a -- the premise is
 6 wrong. He testified earlier that he did not read
 7 the Project Freebird presentation until before this
 8 deposition. So he cannot answer that question
 9 because he did not have the information at the time.

10 **MR. BUSEY:** Okay.

11 **BY MR. BUSEY:**

12 **Q** Well, accepting that, if you had the
 13 information that's contained in the Project Freebird
 14 blueprint that was presented with the bankers and the
 15 lawyers and JEA in secret on July 10th and July 11th,
 16 2020, at the Club Continental, would you have brought
 17 that to the attention of the public?

18 **MR. LOCKAMY:** Mr. Busey, are you representing
 19 that the Project Freebird presentation was given at
 20 that meeting because he did not testify that way?

21 **MR. BUSEY:** Oh, yeah, we had lots of people say
 22 it was given.

23 **MR. LOCKAMY:** So you're representing that
 24 today?

25 **MR. BUSEY:** Listen, I'm not going to argue with
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1 you. If you don't want him to answer the question,
 2 tell him, otherwise, let's go.

3 **MR. LOCKAMY:** No, I want you to be accurate in
 4 the question that you asked him.

5 **MR. BUSEY:** We're not here on your wish list.

6 **MR. LOCKAMY:** What?

7 **MR. BUSEY:** He's either -- either going to
 8 answer the question or he's not. Let's move on.

9 **MR. LOCKAMY:** Ask your question, please, sir.

10 **MR. BUSEY:** Read it back, Terrie.

11 **MR. LOCKAMY:** Can she speak up, please?

12 **MR. BUSEY:** She's talking to me. She's trying
 13 to define the question.

14 **MR. LOCKAMY:** I'm sorry, I thought she was
 15 reading it back.

16 **MR. BUSEY:** Well, let me try to rephrase it.

17 **BY MR. BUSEY:**

18 **Q** I accept the premise that you said that you did
 19 not know what was in the Project Freebird blueprint that
 20 was dated July 10th, 2019, and presented at Club
 21 Continental. And I'm -- I'm -- this is in the context
 22 of your describing that meeting being held offsite for
 23 the purpose of trying to keep it from the public and be
 24 less than transparent.

25 As a communications director for JEA, once you
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1 learned about what was going on, did you try to get the
2 JEA leadership to explain more directly about what
3 Project Freebird was?

4 **A** I didn't get into a conversation specific to
5 Project Freebird, but what I did keep coming back to
6 were all the different scenarios. And I kept coming
7 back to the fact that the board had been presented
8 different scenarios and they had to make a decision.

9 And now we're in November, after there have
10 been board decisions and we're talking about the
11 chairman, again, wanting to make a point to the
12 community and that's what this op-ed was about.
13 Hopefully, that helps clarify or answer your question.

14 **Q** Let's look at --

15 **A** I'm doing the best I can.

16 **Q** I appreciate that. Let's look at Exhibit 30.
17 This is an e-mail from you, dated November 8th, 2019, to
18 Jay Magee.

19 Who's Jay Magee?

20 **A** He was a digital communications person at JEA
21 or is. I don't know if he's still there or not.

22 (Munz's Exhibit 30 was marked for
23 identification.)

24 **Q** We're showing copies to an awful lot of folks
25 at JEA, including Herschel and Melissa. And I'll read
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1 they're headquartered here in Jacksonville, but they're
2 all over. But they're a design/build firm.

3 **Q** So your reference was to the Haskell Company,
4 not to Preston Haskell?

5 **A** That's correct, to Haskell. When I say
6 Haskell, the Haskell company rebranded themselves as
7 just Haskell.

8 **Q** And why do you want to make sure the engineer
9 company and the Haskell company did not speak to the
10 media?

11 **A** Because the issue at hand did not have anything
12 to do with the project that they were working on, which
13 was the water project. The person maintaining the post,
14 as I'm recalling this, was talking about a different
15 project and he was conflating the two. And so we wanted
16 to let them know that this was not an issue for them to
17 have to deal with.

18 **Q** And let's look at Exhibit 31 --

19 **A** Okay.

20 (Munz's Exhibit 31 was marked for
21 identification.)

22 **Q** -- which is an e-mail from Banks Willis to
23 Melissa Stone and Kerri, with a copy to you and Maddie.
24 Subject is Kerri and Melissa PUP messages. And it --
25 and it says, Kerri and Melissa, I translated Aaron's
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1 the e-mail. It says, FYI, I just called Paul and he's
2 going to make sure Black and Veach, V-e-a-c-h, and
3 Haskell don't speak to media. Thank you. Sent from my
4 iPhone, Michael Munz.

5 Can you tell me what this is about?

6 **A** The best of my recollection is that this is in
7 response to a Tweet that's on the next page from AG
8 Gancarski. And he was talking about -- and this goes
9 back to what we talked about earlier, with their water
10 treatment purification. As I recall, he was combining
11 two different conversations into one. JEA wants \$25
12 million for water and sewer and I really wasn't clear
13 about what that was. And the next, Request is live,
14 draft version, whatever.

15 It seemed like he was getting the water
16 purification project and whatever was happening at the
17 time conflated. And so Black and Veach and Haskell were
18 on that project and we were letting them know if they
19 get a call from the media, that this was not about that
20 particular project.

21 **Q** Who is Black and Veach?

22 **A** They're an engineering firm. I think they're
23 either national or international.

24 **Q** And Haskell?

25 **A** They're a local design/build firm -- well,
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1 initial PUP letter to OGC into the attached one-page
2 backgrounder and key messages. Michael asked that I
3 send, please see attached.

4 Michael, is that you that's being referred to
5 there?

6 **A** Yes, sir.

7 **Q** And what is this that's attached? What do you
8 mean she's translated Aaron's initial PUP letter into
9 this one page?

10 **A** So he had drafted a letter. He was going to be
11 going before the city council meeting. And this is
12 where I was advising him that he needed to talk about
13 PUPs, the background, where it came from and, basically,
14 own the message.

15 And these were bullet points that we were
16 suggesting that he use. And he did not want a typed up,
17 like, script. He wanted bullets. So we were
18 suggesting, you'll note in here, Long-term plan does not
19 align with potential short-term implications of JEA,
20 et cetera, et cetera.

21 So we were trying to succinctly help him
22 deliver that message when he was going to go before
23 council.

24 **Q** Under the top, key players. It says:
25 JEA board of directors.

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1 JEA board chairman.
 2 JEA senior leadership team.
 3 Willis Towers Watson, third-party compensation
 4 consultant that recommended the plan's framework.
 5 Is that correct, did Willis Towers Watson
 6 represent the PUP plan's framework?
 7 **A** Based on what I'm reading here, the answer
 8 would be yes. And I'm having to just rely on what's on
 9 the paper. I don't recall specifically why the reading
 10 is on the paper.
 11 **Q** Well, I -- okay. Accepting that, you don't
 12 have any knowledge about whether or not Willis Towers
 13 Watson recommended the plan's framework independent of
 14 this piece of paper?
 15 **A** No.
 16 **Q** And then down towards the bottom, it says,
 17 Potential plan, next steps in the context of JEA
 18 scenario based strategic planning process. And it
 19 outlines the five scenarios.
 20 Do you see that there?
 21 **A** Yes, sir.
 22 **Q** And scenario number 5 is strategic alternative
 23 from ITN 127-19.
 24 You see that?
 25 **A** Yes, sir.

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1 **Q** Do you know that ITN 127-19 is the invitation
 2 to negotiate that was issued on August 2?
 3 **A** I will take your word for that's the number.
 4 **Q** And so that's distinct from scenario 3 and
 5 scenario 4?
 6 **A** That would be the fifth scenario.
 7 **Q** Let's be clear. The invitation to negotiate
 8 that was issued by JEA on August 2, 2019, which is
 9 127-19, is distinct from scenario 3 and scenario 4?
 10 **A** Yes, I'm agreeing with you.
 11 **Q** Okay. At the top of that page, it says JEA
 12 Long-Term Performance Unit Plan Postponement, background
 13 and key messages.
 14 Was -- was this a part -- as I recall, the plan
 15 was proposed -- it was adopted by the JEA board on July
 16 23, at some point in time subsequently it was postponed
 17 and some point in time subsequent to that, it was
 18 rescinded.
 19 Do you recall that sequence of events?
 20 **A** I do recall that sequence of events.
 21 **Q** And so what we're looking at with Exhibit 31 is
 22 a summary relating to the postponement as opposed to the
 23 cancellation of the PUP plan?
 24 **A** I would interchange the word postponement for
 25 cancellation.

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1 **Q** When you say interchange it, you mean you think
 2 they mean the same thing?
 3 **A** Yes.
 4 **Q** Well, you said you -- you understood my
 5 sequence of events. My sequence of events was that
 6 there was -- it was authorized and then it was postponed
 7 and then it was cancelled --
 8 **A** Oh.
 9 **Q** -- at successive points in time.
 10 Do you recall that or not?
 11 **A** Yes. I do recall that.
 12 **Q** So not -- so do you agree with me that
 13 postponement and cancellation are not the same thing in
 14 that context?
 15 **A** I will agree with you on that, yes.
 16 **Q** Okay. Do you recall the discussion that led to
 17 the postponement prior to the cancellation?
 18 **A** There were a lot of discussions that led to the
 19 postponement prior to cancellation. I don't -- is there
 20 specific conversation to recall?
 21 **Q** Yes. What I'm -- what I'm asking you is do you
 22 recall why they wanted to postpone it and why they
 23 changed their minds later to cancel it? That's what I'm
 24 trying to get at.
 25 **A** I can give you what I think sitting here today

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1 and what I recall from that period of time is that they
 2 faced, they being JEA, faced a lot of opposition. The
 3 council auditor's report was a part of that. And that
 4 the postponement, which led to the cancellation, was
 5 inevitable.
 6 **Q** Inevitable because of what?
 7 **A** I'll go back to what I said at Club
 8 Continental, it was a dumb fucking idea.
 9 **Q** That's a fairly succinct answer.
 10 Let's look at Exhibit 32. Do you recall this
 11 e-mail, dated October 16th, from you to in Melissa Stone
 12 and Kerri Stewart?
 13 **A** I did not recall the e-mail until I got the
 14 book, but I did remember reading the interim report
 15 that's attached to it once I got the book and read over
 16 the e-mail or the -- the document from Carla Miller.
 17 (Munz's Exhibit 32 was marked for
 18 identification.)
 19 **Q** Do you recall why you forwarded this to Melissa
 20 and Kerri?
 21 **A** I don't. And when I read it, I was trying to
 22 remember why I would have and I don't remember why.
 23 **Q** Okay. Look at Exhibit 33. This is an e-mail
 24 from Banks Willis to Gina Kyle and to you. Subject:
 25 Final Final Ricky op-ed.

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1 Who is Ricky Caplin?

2 **A** Ricky Caplin is a business leader here in
3 Jacksonville. A business owner, business leader.
4 (Munz's Exhibit 33 was marked for
5 identification.)

6 **Q** And do you recall this communication and the
7 attached draft op-ed?

8 **A** I recall that when I read your attachment. And
9 I did recall the op-ed when I read the attachment. And
10 this was an op-ed that was drafted back and forth
11 between Ricky, myself, others at JEA. He wanted to
12 express a point of view about everything that was going
13 on JEA-related.

14 **Q** How do you know he wanted to?

15 **A** He is a member of the civic council. And I
16 remember having a conversation where he was frustrated.
17 He thought that there were a lot of facts that were
18 missing and there was a lot of information that needed
19 to be changed. I think that the whole reason he had the
20 conversation with me and it even started was because he
21 was friends with Aaron.

22 **Q** That would be a good reason.

23 Let's go to Exhibit 34. And this is an e-mail
24 from Gina Kyle to you and Kerri with a copy to Melissa
25 Stone, dated December 4.

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1 **Q** So when you read this, you didn't understand
2 what performance targets were being referred to?

3 **A** No.

4 **Q** And you didn't seek any clarification?

5 **A** No.

6 **Q** And then the next sentence says, Instead, they
7 would have been established by a third-party group.

8 Do you know what third-party group?

9 **A** I don't know the group, but I know that on more
10 than one occasion, especially during this time period, I
11 do remember this, that there was a lot of what I'll call
12 finger pointing as to who came up with the numbers, and
13 as she wrote here, the draft performance unit proposal.
14 And a lot of fingers were being pointed at Ryan and Ryan
15 wanted that corrected. I remember being on a call about
16 that. And it may have been around this time. So this
17 may have been to correct that point, that Ryan was upset
18 with being misconstrued or misquoted about him.

19 **Q** In what respect?

20 **A** That he was not the drafter of that.

21 **Q** Of what?

22 **A** What's referred to there as the performance
23 unit proposal that she references.

24 **Q** He was not the drafter of the PUP plan; is that
25 what you're saying?

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1 Do you recall this communication?

2 **A** When I read the attachment or read the tab 34,
3 I recalled it.
4 (Munz's Exhibit 34 was marked for
5 identification.)

6 **Q** The -- the last sentence of that second
7 paragraph, Additionally, it is important to note that
8 JEA CFO Ryan Wannemacher would not have established the
9 performance targets under the draft performance unit
10 proposal. Instead, they would have been established by
11 a third-party group, as in the case of other performance
12 programs.

13 The term "performance targets," do you know
14 what's being -- what's referred to there?

15 **A** No, I don't.

16 **Q** And the first paragraph says, I like Melissa's
17 point regarding Ryan so I've added it for consideration.
18 I think what's missing is a reference to the city
19 council being aware.

20 So did -- you didn't know --

21 **A** That was --

22 **Q** Go ahead.

23 **A** I was going to say that was a note from Gina to
24 me, Kerri and Melissa, so I don't know what -- except
25 for what I can read what her point was.

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1 **A** Based on her first paragraph, and then as she
2 wrote it, she added in making a point that Ryan --
3 because, again, I do remember, not in regards to this
4 e-mail exchange, but that Ryan was complaining quite a
5 bit that he was being unfairly targeted as the creator
6 of PUPs, I'll call it. And I think, as I'm reading what
7 Gina's trying to do here, is she's trying to correct
8 that point by adding that in.

9 **Q** But you -- I'm assuming, you tell me, do you
10 have any personal knowledge about whether Ryan was or
11 wasn't involved or what involvement he had?

12 **A** I do. I don't have personal knowledge, no.

13 **Q** Okay. And let's look at Exhibit 35, entitled
14 Transition management process, December 17, 2019.

15 Do you recognize this document?

16 **A** I do after I read it in here. I remember some
17 of the context of it. And it's familiar to me after I
18 reread it.

19 (Munz's Exhibit 35 was marked for
20 identification.)

21 **Q** Can you tell me what it is?

22 **A** It appears to be the transition plan that was
23 being put in place to communicate Melissa's lies and
24 Aaron's departure.

25 **Q** After -- after Aaron was dismissed as the CEO

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1 of JEA?
 2 **A** Correct.
 3 **Q** And the Strategy, the second section, Strategy,
 4 develop strawman transition plan.
 5 What does that mean?
 6 **A** A lot of times what we'll do is develop
 7 strawman transition plans, that is just a form of art
 8 that we use in communications, so that we may not know
 9 all the answers to the questions, but, again, as we've
 10 seen in other exhibits, we'll come up with a lot of
 11 different questions we think could get asked, whether
 12 it's by community stakeholders, community leaders,
 13 media, et cetera. So that's what that refers to.
 14 **Q** Did Dalton draft this document?
 15 **A** I think that we worked on this with Kerri. And
 16 Melissa Dykes, I'm pretty sure had input into this as
 17 well.
 18 **Q** Under Tactics, do you know who came up with the
 19 phrase Melissa D. is not Aaron?
 20 **A** I do not know who was the author of that.
 21 **Q** And underneath that, there's a bullet point, it
 22 says, Apology or acknowledgement of missteps.
 23 Do you recall any discussion about what to say
 24 about that?
 25 **A** I'm reading it. Yeah, I think what this
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1 referred to was Melissa wanted to make sure that --
 2 yeah, I think Melissa, where it said M.D., she was
 3 adding her comments that she wanted to make sure that we
 4 understood that mistakes were made and that we're
 5 working to increase transparency, et cetera, some of the
 6 words that are on the page.
 7 **Q** On the next page, there are bullet points posed
 8 questions. What if the *Times-Union* had not
 9 investigated, would the process have continued as it
 10 was?
 11 **A** And there's another question, Was Melissa Dykes
 12 aware of Aaron's foibles?
 13 **A** And there's another bullet point, Why did she
 14 sand by and let the process continue?
 15 **A** Do you know who developed those questions?
 16 **A** I think that that was a combination of
 17 probably myself and Melissa Stone and Kerri all talking
 18 back and forth, based on what we thought the questions
 19 would come either from media or community leaders.
 20 **A** And I'll just -- I'll add this point, as I'm
 21 reading through these now, I think that it's pretty
 22 obvious -- well, it is at least to me, this was a lot of
 23 community conversation that was going on. So we were
 24 trying to put answers to questions that we were hearing
 25 in the community.
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1 **Q** And let's look at Exhibit 36, which is a
 2 *Times-Union* op-ed by April Green. Topic: Moving on.
 3 Draft: December 18th. Due: December 19th. Subject:
 4 Transparency is key for us moving forward.
 5 Do you know who drafted this?
 6 **A** Actually, I do recall this one specifically.
 7 April drafted this, it then got edited by myself. I
 8 believe Kerri had a hand in it. Melissa Dykes may have
 9 looked at it. But April was very focused on, again,
 10 wanting to get her voice heard and she was -- use the
 11 word emotional. She was emotional at this time because
 12 she was getting a lot of criticism in the community and
 13 so she was trying to put a forward-moving statement out
 14 there.
 15 **Q** And the first paragraph says, After what is
 16 sure to be one of the most fraught periods in JEA's
 17 history, I want to apologize on behalf of JEA's board of
 18 directors to the entire Jacksonville community.
 19 What was your understanding of what she was
 20 apologizing for?
 21 **A** I think that that was a broad apology about all
 22 of the frustration, anger, emotion.
 23 The one thing that I will say about April that
 24 impressed me in her role as chair, and I've seen a lot
 25 of chairs of different boards over the years, nonprofit
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1 or City-related or whatever, she owns -- she took
 2 responsibility and I think that she felt an obligation.
 3 And now I'm interpreting for her, but from what I
 4 recall, she wanted to just lay it on the line and say,
 5 I'm sorry.
 6 **Q** The next paragraph says, As chairman of the
 7 board, I too felt misled and am wholly embarrassed by
 8 the now defunct paid for performance plan.
 9 Did you discuss with April that she felt
 10 embarrassed?
 11 **A** I recall her being mad and upset. I don't
 12 know, in our conversations, if the word embarrassed was
 13 specifically used. I know it made its way into the
 14 op-eds, but I know she and I discussed she was mad. She
 15 was mad at Aaron. She was mad at a lot of people.
 16 **Q** Why was she mad at Aaron, if you know?
 17 **A** I -- I could just answer to one specific. She
 18 was mad about the PUPs. She felt like he misled her and
 19 others and I do recall that she was very focused on
 20 that.
 21 **Q** Do you know or do you have any understanding of
 22 why she felt misled by Aaron?
 23 **A** I think you'd have to ask her. I don't -- I
 24 don't -- I'm not comfortable going further into
 25 analyzing her emotional state at the time, but I just --
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1 I do know in talking with her, she was mad.
 2 Q I don't want -- and I'm not asking you to
 3 analyze her emotional state. I'm asking you if she told
 4 you what Aaron did to mislead her.
 5 A All I can recall is PUPs being the specific
 6 one. And she -- I recall that when she did that, it was
 7 he not only misled her or the board, he misled the
 8 community as it came to the PUPs program.
 9 Q What I'm trying to get to is what is the
 10 misrepresentation to which you're referring?
 11 A That question -- let me think through. I
 12 can -- I can interpret -- I don't know that I can
 13 remember specific. I think she was just really mad that
 14 he tried to make her think that that was a possible
 15 public policy that could be instituted in Jacksonville.
 16 And as everything that then came out since her vote on
 17 it, it turned out not to be.
 18 Q Was it because it involved the transfer of
 19 ownership in a public entity or was it because it
 20 involved the payout of extravagant sums of money or
 21 something else or do you know?
 22 A I recall the payout of some of the money. I
 23 don't recall it being tied to the -- the sale, per se,
 24 but it was the amount, the size, but also the process.
 25 Going back to what I was so upset about, it appeared to
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1 be a -- a stock purchase kind of a thing. And I think
 2 April's got enough business sense about her as well to
 3 realize, especially after all the analysis that went on
 4 and especially after the council auditor's analysis,
 5 that it's not a program that should have been put before
 6 her or the board or the community.
 7 Q When you refer to being embarrassed or misled
 8 about the amount, what -- what information do you have
 9 or understanding do you have regarding what Aaron knew
 10 as opposed to what he said to the board about the
 11 amounts of payout?
 12 A That I don't have an answer to. I just
 13 remember in the context of the conversation with April,
 14 they thought it was -- I'm going to use this as an
 15 example, a dime and it turned out to be a dollar,
 16 meaning the gulf between those two is pretty huge and
 17 what they were presented was a much smaller -- again, we
 18 could argue whether or not it's even doable, but let's
 19 just stay with the dollar amount, there was a much
 20 smaller dollar amount than what it ended up being once
 21 the council auditor and others really dived into what
 22 PUPs was all about.
 23 Q Do you have any information that Ryan
 24 Wannemacher or Aaron Zahn knew, when they were
 25 designing the PUP plan, that it would propose the
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1 order of magnitude that it turned out that --
 2 A No.
 3 Q -- Kyle Billy discovered?
 4 A No. In fact, I will say that it was surprising
 5 to me when I read the numbers from Kyle Billy.
 6 Q Let's look at Exhibit 37.
 7 A Okay. I'm there.
 8 (Munz's Exhibit 37 was marked for
 9 identification.)
 10 Q Do you recognize that?
 11 A I do.
 12 Q What is it?
 13 A This was an op-ed that was written by Melissa
 14 to go into the *Times-Union*.
 15 Q And what role did Nelson Mullins or you play
 16 with it?
 17 A I made a couple of edits, as you'll see, in
 18 the -- actually, three edits in the draft here.
 19 Q Did you discuss this proposed op-ed with
 20 Melissa Dykes?
 21 A I did.
 22 Q Is it fair to say Melissa Dykes felt that
 23 Nelson Mullins' analysis of what JEA had done was in
 24 error?
 25 A I think that's a fair description.
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1 Q Do you know whether or not Melissa was right or
 2 wrong in that regard?
 3 A I relied on Melissa's representation, so my
 4 assumption, based on what she shared with me, and
 5 because of my respect for her and what I've seen her do
 6 over the years, and her reputation, I didn't have any
 7 reason to believe that what she was saying here was
 8 incorrect.
 9 Q Did you read the Nelson Mullins' report to
 10 which she's referring?
 11 A I did.
 12 Q What was your takeaway from reading it?
 13 A I agree with her.
 14 Q You thought that she was right and Nelson
 15 Mullins was wrong, is that what you're saying?
 16 A Yes.
 17 Q That was based on some pretty technical
 18 information about the utility and the industry. Did you
 19 have that level of familiarity to be able to make that
 20 judgment?
 21 A No. She actually helped me come to that
 22 conclusion when I had questions about it.
 23 Q She helped lead you to that conclusion?
 24 A Yes.
 25 Q Let's look at Exhibit 38. Have you seen this
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1 before?

2 **A** I recall reading it. I don't know if it was
3 sent to me or Melissa gave it to me. I don't remember
4 how I saw it. I remembered reading it after getting the
5 notebook and reading the exhibits.

6 (Munz's Exhibit 38 was marked for
7 identification.)

8 **Q** Well, my -- my understanding is it came from
9 the documents you provided us. So do you know how you
10 came in possession of it?

11 **A** Oh, no, I'm not sure if it came -- Melissa sent
12 it to me or I don't know how I became aware of it. I
13 didn't have any e-mail attachment to it so I'm not sure
14 how I have it.

15 **Q** She wrote this before she was terminated as CEO
16 so she was still the CEO of JEA when she wrote this.

17 Were you surprised to learn that the Office of
18 General Counsel had hired Nelson Mullins for JEA without
19 the knowledge or approval of JEA?

20 **A** Yes, based on what Melissa told me, it was.

21 **Q** So your only understanding about this is what
22 Melissa told you?

23 **A** That is correct.

24 **Q** You never talked to Jason Gabriel about it?

25 **A** No.

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1 MR. COXE: Steve, the senior leadership team, I
2 think that was much later, right?

3 MR. BUSEY: All right. Let's just stop with
4 Aaron Zahn.

5 THE WITNESS: Okay. Just to help me out,
6 please, could you re- -- either restate -- or,
7 Steve, could you give me the question again.

8 MR. BUSEY: Can you read it back? Stop with
9 Aaron Zahn, please.

10 (The following question was read by the
11 reporter: "Question: But you understood that the
12 nature of this communication from Melissa to Jason
13 Gabriel was her, as the CEO of JEA, complaining to
14 the general counsel of the City of Jacksonville
15 about general counsel's hiring of Nelson Mullins to
16 represent JEA in the context of investigating the
17 termination of Aaron Zahn.")

18 **A** So is the question -- and I'm sorry to be
19 trying to define the question. The question, was I
20 aware that this letter was sent from Melissa as CEO --
21 interim CEO of JEA? Is that your question?

22 **Q** I don't know if interim needs to be in there or
23 not, but she was -- she was the chief executive officer
24 at the time she wrote the letter.

25 **A** Okay. So interim or CEO, your question is was
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1 **Q** But you understood that the nature of this
2 communication from Melissa to Jason Gabriel was her, as
3 the CEO of JEA, complaining to the general counsel of
4 the City of Jacksonville about general counsel's hiring
5 of Nelson Mullins to represent JEA --

6 **A** One thing I will say that --

7 **Q** Let me finish.

8 **A** I'm sorry.

9 **Q** -- in the context of investigating the
10 termination of Aaron Zahn and the senior leadership
11 team?

12 **A** Okay. Now, I'm confused. Sorry.

13 **Q** Well, let's -- let's be clear with the
14 question.

15 MR. BUSEY: Terrie, could you read the question
16 back? If it's not clear, I'll restate it.

17 (The following question was read by the
18 reporter: "Question: But you understood that the
19 nature of this communication from Melissa to Jason
20 Gabriel was her, as the CEO of JEA, complaining to
21 the general counsel of the City of Jacksonville
22 about general counsel's hiring of Nelson Mullins to
23 represent JEA in the context of investigating the
24 termination of Aaron Zahn and the senior leadership
25 team?")

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1 she writing this while she was serving in that role? Is
2 that your question?

3 **Q** Right, for the purpose of complaining about the
4 general counsel's hiring of Nelson Mullins to represent
5 JEA.

6 **A** Yeah, the only point I would make of that is
7 this was not on JEA letterhead and she did not sign it
8 in her official position, so I don't know the answer to
9 your question.

10 **Q** Did you have any discussion -- do you know
11 whether the letter was sent or not? Was it given to
12 Jason?

13 **A** I don't know.

14 **Q** Did you have any discussion with Melissa as to
15 why the copy that we're looking at doesn't have JEA
16 letterhead on it?

17 **A** No, I don't remember ever asking her about
18 that.

19 **Q** Did she just send you this or did she talk to
20 you about it before she sent it?

21 **A** We talked about her wanting to go on the record
22 and make her case to Jason Gabriel. And then this
23 letter apparently was written after that, but I didn't
24 talk to her about the draft.

25 I also -- had I been involved with it, this is
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1 just a little thing nipped by me, but a business letter
 2 is never dear whoever, comma, it should have been Jason,
 3 colon. So if I was involved with this letter, for
 4 example, I would have changed that. I would have told
 5 her it needed to be on JEA letterhead. She should sign
 6 it as her correct title at the time under JEA.

7 Hopefully, that clarifies the point you're
 8 getting at.

9 Q My takeaway from your answer is that you recall
 10 talking to Melissa about this before she sent the --
 11 before she wrote the letter, before you received the
 12 letter, but not afterwards?

13 A I think that's a fair statement.

14 Q And you don't know whether or not she actually
 15 transmitted the letter to Jason Gabriel?

16 A No, I have no -- nothing that shows that it was
 17 received by Jason that's in my possession.

18 Q Help me understand why Melissa would even talk
 19 to you about this.

20 A About the whole topic?

21 Q Yes.

22 A At the time she was the CEO of the organization
 23 that we did still represent. And my recollection is
 24 that she was calling me as a communications person and
 25 she was going to do this. I do seem to recall, under

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1 2018, 2019?

2 A I found out -- and I don't remember the
 3 sequencing or timing of this, but I found out -- I also
 4 don't remember who. I may have found out from a member
 5 of the media that Deno was working for JEA or Southern
 6 was, his company.

7 I also found out through the media that Deno
 8 and Aaron had a business deal together.

9 Q You found that out through the media?

10 A Yes.

11 Q All right. But you didn't talk to Deno about
 12 it?

13 A Did I talk to Deno prior to me finding out
 14 about it through the media?

15 Q Yes?

16 A No.

17 Q After you found out --

18 A Not --

19 Q After you found out about it?

20 A After I found out about it, I actually called
 21 him and said, Could you please tell me what's going on?
 22 And he -- I believe he told me the advice of counsel or
 23 somebody had told him he shouldn't talk to anybody about
 24 it. I was trying to understand what was going on. I
 25 couldn't get ahold of anybody at the time.

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1 the previous -- hold on, I'll tell you what. Tab number
 2 37 was where I saw it before. We talked at length about
 3 the op-ed so at the same time we may have talked about
 4 the letter itself.

5 She had a lot that she wanted to get off of her
 6 plate on this. I think that Exhibit 38 is a result of
 7 that, as I read it.

8 MR. BUSEY: Okay. Let's go off the record.
 9 (Off-the-record discussion.)

10 MR. BUSEY: All right. We're going to go back
 11 on the record now.

12 BY MR. BUSEY:

13 Q Michael, are you aware of any role that Deno
 14 Hicks played in the innovation summit?

15 A I was aware based mostly on what I read in the
 16 newspaper, that he was involved in fundraising to help
 17 pay for the expenses.

18 Q Okay. Putting that aside, you didn't have any
 19 communications with Aaron Zahn or Deno Hicks about his
 20 involvement -- or about Deno Hicks' involvement?

21 A I don't recall any, no.

22 Q Okay. And so are you aware -- I heard what you
 23 said. Are you aware of -- besides that, are you aware
 24 of any other involvement by Deno or Southern Strategies
 25 with JEA in connection with the activities of JEA in

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1 Q And I take it from what you just said, he -- he
 2 didn't want to talk to you about it?

3 A No.

4 Q And he didn't tell you anything about it?

5 A No, he didn't want to go into any detail with
 6 me about it, from what I can recall him telling me. I
 7 was pretty pissed when I found out about it, though.

8 Q Why were you pissed?

9 A Because it was a surprise. I mean, A, he's got
 10 some sort of business relationship with Aaron; and, B,
 11 he's doing work for the JEA. It goes back to the same
 12 principle I described earlier about FP&L. I mean, I
 13 just -- that kind of stuff -- I call those
 14 self-inflicted wounds. And I would define that as a --
 15 a superior self-inflicted wound. And when it came to
 16 the issue, it was a media issue, it was a social media
 17 issue so then it landed on my plate.

18 Q To deal with?

19 A To deal with. And there was no way to deal
 20 with it.

21 Q Did you talk to Aaron about why he didn't
 22 disclose that to you?

23 A I don't remember the specifics of the
 24 conversation, but I can recall calling him up. And that
 25 was another one of those where he said that I was

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1 crossing the F'ing line. And that, basically, that it
 2 was his business. It was a private business entity and
 3 it was his business.

4 Q And that you should stay in your lane?

5 A I don't know if he used that at that time. He
 6 used that more than once with me. I don't know if he
 7 used it that particular -- I remember we had a very
 8 terse conversation, but I don't know if he said, Stay in
 9 your lane, at that point, but said something to that
 10 effect.

11 Q Are you aware of anybody commissioning any
 12 polling of the public regarding JEA issues in 2018,
 13 2019?

14 A I don't recall ever seeing or either questions
 15 or polling results.

16 Q Apart from questions and results, are you aware
 17 of anybody conducting any polling?

18 A Not that I'm aware of, no.

19 Q You know that Tim Baker does polling?

20 A Yes.

21 Q All right. You haven't talked to Tim Baker
 22 about any polling he was asked to conduct in connection
 23 with any JEA issue?

24 A No, I've not had that conversation with Tim.

25 Q And apart from your having a conversation with
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1 him, you're not aware of his doing any polling; is that
 2 right?

3 A No, I'm not aware -- I'm not aware of him doing
 4 any polling.

5 MR. BUSEY: Michael, that's all that we have.
 6 I really appreciate your taking the time to talk
 7 with us today.

8 MR. COXE: Steve, this is Hank. Let me go on
 9 one small item. Okay?

10 MR. BUSEY: Yes, sir.

11 MR. COXE: Just so it's clear to you. Early
 12 on, Mike had used --

13 MR. BUSEY: Hank, do you want this on the
 14 record or off the record?

15 MR. COXE: I think on the record is fair to
 16 Mike.

17 MR. BUSEY: Okay.

18 MR. COXE: But, anyway, it's very brief. He
 19 had used a phrase and if I wrote it down correctly,
 20 I came to learn that perhaps it was overstated. I
 21 think it was in response to questions you had asked
 22 about future financial projections, so in the
 23 context of doom and gloom. And I think if there had
 24 been follow-up, he would have -- Mike would have
 25 said because he was concerned about it, that a great

1 deal of that comes from watching McElroy and the
 2 current board, measuring the two, not from what he
 3 knew at the time.

4 THE WITNESS: Correct. I was trying to make
 5 that point. I'm not sure if it came across clear or
 6 not.

7 BY MR. BUSEY:

8 Q Well, go ahead and make it now. So let's be
 9 clear.

10 A So the point is that as I look at the
 11 financial -- sorry -- look at the financial situation of
 12 the JEA and as I watch board meetings or read the
 13 articles in the paper, it seems that the doom and gloom
 14 that we thought then has been either mitigated or dealt
 15 with by policies and things the board's doing. For
 16 example, they settled with Plant Vogtle, which was a
 17 pretty big settlement, from what I read in the
 18 newspaper.

19 So what I'm seeing today versus what I saw then
 20 is false actions as he and the board had been working
 21 since he became CEO after -- after Melissa.

22 MR. BUSEY: Okay. Anything else, Hank?

23 MR. COXE: No, that's it.

24 MR. BUSEY: All right. We're done. Thank you.

25 We're going to disconnect. Thank you, guys.

1 THE WITNESS: Thank you. Y'all have a great
 2 day.

3 MR. BUSEY: All right.

4 (Witness excused.)

5 (The interview was concluded at 3:16 p.m.)

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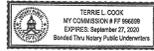
1 CERTIFICATE OF OATH
2 STATE OF FLORIDA)
3 COUNTY OF DUVAL)
4

5 I, Terrie L. Cook, RPR, CRR, FPR, Notary
6 Public, State of Florida, certify that MICHAEL MUNZ
7 personally appeared before me on September 14, 2020, and
8 was duly sworn.
9

10 WITNESS my hand and official seal on
11 September 25, 2020, Jacksonville, Duval County, Florida.
12
13
14
15
16
17

Terrie L. Cook

18
19 _____
20 Terrie L. Cook, RPR, CRR, FPR
21 Notary Public-State of Florida
22



23 Hedquist & Associates Reporters, Inc.
24
25

1 E R R A T A S H E E T
2 DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES
3 In Re: JACKSONVILLE CITY COUNCIL
4 SPECIAL INVESTIGATORY COMMITTEE ON JEA MATTER

5 INTERVIEW OF MICHAEL MUNZ
6 TAKEN - September 14, 2020

7 PAGE NUMBER LINE NUMBER CHANGE/REASON

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20 under penalties of perjury, I declare that I have read
21 the foregoing document and that the facts stated in it
22 are true.

23 _____ Date MICHAEL MUNZ
24
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3 STATE OF FLORIDA
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6 I, Terrie L. Cook, RPR, CRR, FPR, certify that I
7 was authorized to and did stenographically report the
8 interview of MICHAEL MUNZ; that a review of the
9 transcript was requested; and that the foregoing
10 transcript, pages 1 through 200 is a true record of my
11 stenographic notes.
12

13 I further certify that I am not a relative,
14 employee, attorney, or counsel of any of the parties,
15 nor am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.
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