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

SWORN STATEMENT
OF
RYAN WANNEMACHER

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

REPORTED BY: Heather M. Thomas,
Court Reporter

APPEARANCES FOR CITY OF JACKSONVILLE:
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ALSO PRESENT: NIELS P. MURPHY, ESQUIRE

I N D E X

WITNESS: RYAN WANNEMACHER

EXHIBITS
MARKED FOR IDENTIFICATION:

MR. LINSNER: This recorded interview is being conducted at the Office of General Counsel, City of Jacksonville. Today is January 3rd, 2020, and the time now is 9:06 a.m.

MR. MURPHY: And I'll also be recording it, too, for my record.

MR. POWELL: All right. With the understanding that this is a confidential proceeding and it's not subject to disclosure until the investigation is concluded.

MR. MURPHY: I mean, I'll comply with whatever laws or regulations there are. If you're telling me you're not going to release any evidence of this interview to the press, then I'll agree to that, but as soon as I, you know, get an inkling that --

MR. POWELL: No, that's a fact.

MR. MURPHY: Okay. Well, I mean, there was already disclosures made by this office of -- how Mr. Wannemacher, so -- and his termination.

MR. POWELL: Well, that's not anything to do with this investigation.

MR. MURPHY: Well, anything from this interview that's disclosed, then I would reserve the right to use any of the recording to rebut that in the media.

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

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

a Garrity disclosure, and Mr. Wannemacher has agreed to such disclosure.
MR. POWELL: And here it is. Essentially it says that pursuant to the limited waiver and release of rights, benefits, and obligations attached which you executed that you are being ordered by the interim CEO to cooperate and answer our questions.
This details your rights, if you'd like to have a look at it.
MR. MURPHY: Yeah.
Okay. We've got to correct this, because it says termination of his employment. So it's already happened. Why don't we say --
MR. POWELL: That's all fine. I'll initial. There are two. (Tenders.)
THE WITNESS: Okay.
MR. MURPHY: I'll take a picture of it once you sign it so I'll have a copy.
MR. POWELL: I'll make a copy before we leave.
MR. MURPHY: Okay.

RYAN WANNEMACHER

having been produced and first duly sworn as a witness, testified as follows:

EXAMINATION

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

All I ask -- all we ask -- and I'm going to be assisted in this by Sonya Harrell, another of our attorneys, Adina Teodorescu.

You are accompanied today by counsel as a witness.

Do you want to introduce yourself --

MR. MURPHY: Yes. Niels Murphy from the law firm of Murphy & Anderson.

BY MR. POWELL:

Q All right. All we ask is that you answer as completely as you can. The events that we're going to be talking about are really probably no older than 18 months, so it's all fairly current, it seems to me, so I would hope that you'd have a pretty good recall. And if there are things that you would need to look at a calendar for that you either have or don't have -- I don't know whether you've got information in your phone -- be that as it may, if we get to the end of this and need to follow up with you, we'll do that with -- if you want, through Mr. Murphy, however you want us to handle that.

Please let me know if any of my questions are unclear, and I will be more than happy to attempt to clarify them so that we get a clear question and answer record that everybody can rely on.

And lastly, because we have a court reporter, and even if she's very good at what she does, she cannot record two people at the same time, if you would please let us finish getting our questions out before you answer. I'll try to do the same so that we're not stepping on one another. Okay?

A Okay.

Q All right. If you would just state your name and what your most recent employment was and the position you had at JEA.

A Sure. My name is Ryan Wannemacher.

Do you need me to spell it?

Sure. It's W-A-N-N-E-M-A-C-H-E-R.

Most recently I was employed as the chief financial officer at JEA.

Q If you could please describe in a nutshell your duties and responsibilities as CFO at JEA.

A Sure. So I was responsible for management of treasury functions, both cash and debt, financial planning, rates, accounting, budget, insurance, corporate risk -- you know, like our FEMA receivables, that kind of thing. And that was the extent of my last -- you know, latest duties.

Q When did you become CFO at JEA?

A When Melissa was promoted to president in

April of 2018, I was promoted to the CFO. I -- prior to that I worked for Melissa. I was the director of financial planning and analysis.

Q How long had you been in that position?

A About three years at that point.

Q Was that your entry position with JEA?

A Yes.

Q Have you had any contacts, either orally or in writing, with Mr. Zahn since December 17th of 2019?

A I have not corresponded with him. He sent me a text message when the news of my termination broke and asked -- you know, I don't remember the specific -- you know, what he asked. But he sent me a text message and said, you know, something. But I didn't respond.

Q Do you still have the text?

A I probably do on my phone, yeah. I don't have my phone with me.

Q Okay. Well, you laughed when you started to answer that question. Was there something amusing in Mr. Zahn's text?

A I don't recall the specifics of it, but it was something to the effect of do I want to get a drink.

Q And you declined?

A I didn't respond.

Q All right. Have you had any -- same question

with respect to Herschel Vinyard.

A The only conversation I had with Herschel was a phone call about some kind of a legal invoice or something like that that needed to get paid, but I don't remember the specifics of it.

Q Sort of a carry-over --

A Yeah.

Q -- from your work responsibilities?

A Yes.

Q How about Melissa Dykes?

A I had some conversations with her related to my termination. That was really it.

Q Shawn Eads?

A No.

Q Prior to Mr. Zahn being appointed to the JEA board, did you have any history with him?

A No.

Q Prior to Mr. Vinyard coming on board as chief administrative officer, had you had any dealings with him?

A No.

Q Prior to Mr. Eads coming down to his position in early 2019, had you had any dealings with Mr. Eads?

A No.

Q When do you recall your first in-depth

interaction with Mr. Zahn after he was appointed to the JEA board?
A Really, I didn't have any interaction with him until he became CEO.
Q Was that in his interim CEO position or his permanent position?
A Interim position.
MR. POWELL: Excuse me. I'm going to have to step out for a minute. Can you carry on with some preliminaries?
MS. HARRELL: Yes.
BY MS. HARRELL:
Q So was it shortly after he became interim CEO that you first interacted with him?
A Yes.
Q And tell me about that interaction.
A It was a normal boss, you know, employee kind of relationship.
Q Okay. Let me just go back to that first. The first time you -- was that the first time you had met him when he became interim CEO?
A Personally? Probably. You know, I didn't really have any real interaction with board members.
Q Okay.
A So the first real substantive conversation I

would have had with him was when he became the CEO, interim CEO.
Q Do you remember if you went to his office or did he go to yours?
A I don't remember.
Q So what was the gist of that conversation? I know it's a --
A I don't recall.
Q Okay.
A It was seemingly uneventful.
Q And at that time, were you interim CFO at that time?
A Yes.
Q Okay. When did you become permanent CEO?
A CFO?
Q CFO. Sorry.
A Sometime in the fall of 2018.
Q After that initial interaction with Aaron Zahn, you meet -- something -- you have a conversation, did you have regular meetings with him thereafter?
A Yes. So he had staff meetings that he would have regularly with his direct reports. He also had -- we also had larger SLT meetings that he would attend.
Q How often would the staff meetings occur?
A I don't -- every -- it seems to be every

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

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

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

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

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

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

in January. I didn't recall what -- if the Willis Towers Watson study was presented in January. It seems as though they approved the framework, based on what you're telling me now.

Q And does that -- do you recall that development in early 2019, with respect to looking into JEA's compensation policy?

A Yes.

Q All right. I believe it is true that shortly after that, Willis Towers Watson was engaged to work on that initiative and delivered an early -- an initial draft sometime in March of 2019.

Does that sound about right to you?

A Yeah. It was sometime in the spring. I don't remember a specific date, but yes.

Q Do you recall Mr. Zahn being particularly not pleased with the long-term initiative component of the Willis Towers Watson product?

A I don't recall anything specific.

Q Did you ever hear him use the term "they had dropped the ball" with respect to the long-term incentive component of the -- of their product?

A I don't remember -- I don't recall that specifically. I do recall that he wanted them to -- he wanted them to provide the data of what was market

and -- and not design policy as it related to the board's policy.

Q And you know this from direct conversations with Mr. Zahn?

A I recall at the time -- I recall that at the time, that he -- he specifically wanted them -- from conversations at the time, I recall that he specifically wanted them to provide the data and that was it.

BY MS. HARRELL:

Q What kind of data was he looking for?

A Market 50th percentile, what was -- what was the market 50th percentile. So for base salaries, short-term incentive, long-term incentive for utilities, that was what he was looking for.

BY MR. POWELL:

Q Do you recall that -- I have to be careful about my pronouns here.

Do you recall that Willis Towers Watson informed JEA at the time of starting this work that all of its data was based on private sector utilities?

A No.

Q All right. Do you recall Willis Towers Watson informing that there is no comparable in the industry's -- in the industry, in the utility industry, for a long-term incentive plan benefiting all employees

in a public utility?

A I do recall that.

Q Did Willis Towers Watson ever tell you that there was even a single other public utility in the United States that had a long-term incentive plan that benefited all employees?

A Not that benefited all employees, no.

Q Do you know whether they informed Mr. Zahn that there was such a utility in existence?

A I believe they did.

Q Did you have a conversation with Mr. Zahn about that?

A Yeah. We -- so --

Q In other words, you're saying -- is it your recollection that Mr. Zahn was informed that there were, in fact, other public utilities in the United States that had a long-term incentive plan that benefited all employees?

A I'm sorry. Can you repeat the question?

Q I think you answered that no, you were not told by Willis Towers Watson of another public utility in the United States that had a long-term incentive plan that benefited all employees; correct? You're not aware of one?

A I'm not aware of one that benefited all

employees. That's correct.

Q And I think you just then said that you think Willis Towers Watson told Mr. Zahn that there were other utilities in the United States --

A No.

Q -- did I understand you correctly?

A No, no, no. So Willis Towers Watson communicated that there were no other municipal utilities in the United States that they knew of that had a long-term incentive plan that benefited all employees.

Q And that never changed throughout 2019; is that correct?

A That's correct. They did not update that statement.

MR. POWELL: All right.

BY MS. HARRELL:

Q Did Willis Towers Watson ever communicate that there were municipal utilities that provided LTIs to some employees?

A Yes.

Q Tell me about that.

A I don't remember the specific examples that they used, but they communicated that there were long-term incentive plans at some public utilities.

Generally those were cash-based incentives and typically either tied to a combination of performance and/or time-based, you know, thresholds. So you have to stay for three years, for example; right? Like the employment threshold.

Q And when you say performance-based, is that the employee's performance or the utility's performance?

A Both. Yeah.

Q And when these were provided to some employees, what kind of employees?

A Generally senior management appointed-type employees. Managers and above, that kind of thing.

Q Do you know when Willis Towers Watson told y'all this?

A It would have been in the context of the study that they did in the spring of 2019.

BY MR. POWELL:

Q In or about that time, do you recall describing your concept of this plan to include something that could be called "phantom stock"?

MR. MURPHY: You said the word "you" with the word "concept." You mean him personally or JEA's concept --

MR. POWELL: Okay.

MR. MURPHY: -- or Aaron Zahn's concept?

MR. POWELL: With respect, you're here as a witness, and if he has any questions, I'll be more than happy to answer your questions about my -- about the way I'm putting things. And if my record is messed up because I've used pronouns incorrectly, that's my problem.

BY MR. POWELL:

Q My question to you --

MR. MURPHY: I disagree with you, first of all, that I don't have a right to clarify your questions. He has a right to have a lawyer here --

MR. POWELL: He has a right to have a witness here.

MR. MURPHY: Well, the witness can be a lawyer. You're saying he's not allowed to have counsel?

Let's just be clear. You're saying he's not allowed to have counsel?

MR. POWELL: I'm not saying he's not allowed to have counsel --

MR. MURPHY: Okay.

MR. POWELL: -- but your role is limited.

MR. MURPHY: I disagree.

BY MR. POWELL:

Q Mr. Wannemacher, did you ever use the phrase

"phantom stock" in describing the long-term incentive plan that was contemplated at JEA in the spring of 2019?

A I don't recall that. I mean, the performance units -- the concept of the performance unit is akin to, you know, a stock-type plan in a corporate-type sector. It was consistent with long-term incentive plans that give, you know, stock-based awards and that kind of thing.

But I don't recall ever specifically referring it to, you know, stock. I mean, it's not stock.

Q Do you recall having discussions with Mr. Zahn in the spring of '19 in the early stages of Willis Towers Watson's work that included a discussion of something akin to or called performance units?

A Uh-huh.

Q Is the answer to that yes?

A Yes. Yeah, we looked at several different, you know, ways to try to come up with a long-term incentive-type plan. I don't really remember how we ended up at performance units, but that was one of them.

Q Was this -- were the idea of performance units arrived at in discussion between you and Mr. Zahn?

A Not specifically between the two of us, I don't believe.

Q Where do you first recall hearing of a concept

such as performance units in relation to the development of this long-term incentive plan?

A Probably from Willis Towers Watson.

Q Do you recall the performance units being described at that time by Willis Towers Watson?

A Yes.

Q And what -- how were they described to you as how they would work?

A They were described as -- so they were described as something that would be common in a private sector incentive program where you don't have, you know, publicly traded securities. Right?

So in the public company context, right, long-term incentive plans typically include some form of restricted stock or options or something of that nature. If it's a private company, you can't really give stock in that sense.

And so what they described is that JEA, as somebody who doesn't have stock, is more similar to a, you know, privately held entity, and so, you know, they said this concept of performance units would be something that you would typically see in that setting where you didn't have publicly traded stock to -- or, you know, restricted stock to be able to grant.

Q Did you take that information and description to Mr. Zahn and discuss it with him in the spring 2019 time frame?

A I believe that -- so I had pretty limited interaction with Willis Towers Watson on my own accord. Most of the interaction was in meetings, which had, you know, multiple people in it. So I wouldn't have -- I likely wouldn't have heard that individually.

Q Is it fair to say there came a time when you and Mr. Zahn did discuss the performance units and decided upon that as the route to go for your long-term incentive plan?

A I didn't -- I wasn't really the deciding factor on the performance units -- on the decision to, you know, choose the performance units over, you know, some other plan. I think it was -- it was a combination of, you know, trying to come up with a long-term incentive plan that worked in the public sector. And, you know, it was frankly a lot of legal work.

My role in the development of the performance unit itself was pretty limited to what financial metrics would you use to tie, you know, financial performance of the business to some kind of an incentive program.

And at some point along the way, he -- he wanted me to come up with a formula to get to a pool of 10 percent for employees based on those financial

metrics. 10 percent of value creation, you know, over the performance period.

MR. POWELL: Let's go off the record for a minute.

MR. MURPHY: We don't need to go off the record. I was just pointing out that you had said he has a right to have a witness --

(Reporter clarification.)

MR. MURPHY: The agreement that you handed to Mr. Wannemacher clearly says that he has a right to be present with counsel, so I just want to make that clear.

MR. POWELL: That's fine. We won't have any problems with this as long as you limit your role to providing appropriate counsel.

MR. MURPHY: Which is what I was doing clarifying your question and the word "you."

THE WITNESS: I'm sorry. Can we take a bathroom break?

MR. POWELL: Sure.

(Recess taken from 9:50 a.m. to 9:54 a.m.)

BY MR. POWELL:

Q Mr. Wannemacher, before we broke for a few seconds here, you were talking about metrics and formula.

Do you recall providing a model of some sort for the Willis Towers Watson folks in the March time frame regarding these metrics?

A No. I may have -- I don't remember when we came up with the financial metrics themselves. I mean, the financial metrics themselves were essentially based on earnings before dividends, which is pretty common as it relates to, you know, an incentive plan.

Q Okay. Well, let me -- and this is not a gotcha-type thing. I'm just trying to kind of chronologically work through this process.

A Sure.

Q And I am obviously limited by documents, so to speak.

But let me just show you a email from David Wathen to Patricia Maillis March 27, 2019. I don't see that you're copied on it, but there's a reference to -- it reads: Pat, thanks for the update. I think the model Ryan provided today is good for now. We'll review that and let you know.

Would that help you get oriented to this time frame? And this email trail goes on for a little bit. I can share the rest of it with you.

Here's the ...

A I'll start back at the beginning.

Good.

MR. MURPHY: Uh-huh.

THE WITNESS: Okay. I don't recall sending them anything, but it appears, based on that email, that I would have provided them with what they asked for in the context of historical financials and projections around, you know, net income and some of the items that were requested there.

BY MR. POWELL:

Q And David Wathen is with Willis Towers?

A I guess so. I don't -- again, I had very limited interaction with them. It was really more HR who handled that relationship, so I don't --

Q So when he refers to a model that Ryan provided today in his email to Pat Maillis, you don't know what he's talking about?

A I don't recall, no.

MR. POWELL: For the record, these documents that we were reviewing are the numbered JEA 0620 through 0626 of the materials provided to the -- Councilmen Diamond-Salem in response to their request for records for the December 16th council meeting, and we'll attach that as, I guess, our first exhibit here today.

(Exhibit Number 1 was marked for

identification.)

BY MR. POWELL:

Q You mentioned a formula. Can you elaborate and educate me a bit on this formula that you were asked by Mr. Zahn to develop?

A Yeah. He -- I don't remember the time frame that he asked me to develop it, but he wanted to come up with something that paid out 10 percent of excess value creation above, you know, a certain threshold over a three-year period to employees, and --

Q Do you know where he got that number from?

A I don't.

Q And by -- it was his number, not yours?

A Correct.

Q Were the thresholds left up to you, or did he also provide you with thresholds?

A So I don't really recall how those got set other than to say that we wanted the -- so there was flexibility -- as the plan was drafted, there was flexibility in the plan to change those thresholds each performance period so that you -- if we were to look at like our three-year projections, for example, over that performance period, the intent was you didn't want people to have, you know, long-term incentive based on just kind of status quo operations of the business.

You wanted to incentivize people to make decisions to create value as opposed to just getting paid to, you know, keep doing, you know, status quo, so to speak.

So if you look at our projections, for example -- if you look at our projections from '19 to '22, which was the contemplated first performance period, you know, the 10 percent threshold for the challenge target that was contemplated was largely in line with kind of the -- the threshold -- like with the forecast for the three-year period.

Q And you're saying that that could be adjusted every three years?

A Yeah. So each -- so what was contemplated in the documents was that each performance period that challenge target was something that would be set -- reset, you know, at that time based on, you know, current projections and the board's approval.

Q But the performance period was three years; correct?

A Correct.

Q And once the performance period began, could the formula be adjusted?

A No.

Q So had the -- and I'm going to use the acronym

PUP. When I use that, we're talking about the performance unit plan; correct?

A Okay.

Q The same one that we've been talking about?

A Yes. Yes.

Q Had the PUP been launched -- and as I understand it -- and am I correct that the intent, at least until late October, was to launch the PUP in December of 2019?

A Yeah, I think that was the intent, although I'll say there was a ton of legal work going on to try to make sure that we could do all this. Most of the activity around the PUP itself was legal work.

Q Right. But had the PUP launched in December of '19, the formulas that you had developed would have been incorporated into the PUP and become locked in for the first three-year performance period?

A Correct.

Q Okay. When you first developed the formula -- and let me -- I know that you don't remember specifically. But do you remember having this discussion with Mr. Zahn about developing a formula in the spring of 2019?

A I don't.

Q How about prior to the June board meeting?

A Prior to the June board meeting, yes.

Q All right. June 2019 board meeting?

A Correct, yeah.

Q And to be clear, you were not doing any of this work associated with developing a long-term incentive plan and a -- which became -- and effectively in the spring of '19, it was now the long-term performance unit plan, was it not?

A At some point it turned into that, yeah.

Q Heading into the June '19 board meeting?

A Yes, although honestly, I don't really remember if the plan had really been drafted at that point. I believe --

Q I understand it might have been drafted, but it was being developed, was it not?

A Yes, I guess it was being developed. Again, I don't know that we really had -- prior to the June board meeting, I don't know that we had a draft of the documents, or I don't really recall if I had seen a draft of the documents prior to that June board meeting.

Q Well, but in the spring, Mr. Zahn was expressing dissatisfaction with the Willis Towers Watson work on the long-term incentive plan, was he not?

A I don't -- again, I don't recall that he -- I don't recall specific dissatisfaction. I do recall that

he was -- he wanted them to provide the facts on market 50th, not necessarily policy. But I don't really recall dissatisfaction, necessarily.
Q And to finish my question that I didn't complete because I didn't ask it well, to be clear, you were not doing any of this work on developing a long-term incentive plan, later working on performance units and formulas -- all of that was at the direction of Mr. Zahn; was that correct?
A Correct.
Q Okay. So you were working on the formula prior to the June board meeting; correct?
A Correct.
Q In the course of working on that formula at that time, did you ever calculate the payouts from the plan at the end of the first performance period?
A So the only thing that I did at that point -- so, again, the formula was designed to be 10 percent of X, right? So fill in the blank for X --
Q Well, did you ever fill in the blank for X based upon JEA's projected financials for the first performance period?
A Yeah, so that was what was provided to the council auditor. It was based -- those projections that were based on our financial pro forma is what was

provided to the council auditor in the fall.
Q But not until the fall of 2019?
A Correct. But -- I mean, again, it was -- it was a relatively simple formula.
So we have pro forma financials that we project out, you know, on a regular basis and update regularly. And so the way that we came up with that 10 percent threshold for the challenge target was to look at those pro forma financials.
And, you know, you look at it and you say, okay, three years from now, we expect that we were going to make, you know, this much money as far as net income. And so, you know, we need to set it at a level that's, you know, at least there, right? You can't -- again, that was the intent at that time.
So you could -- you could look at our ten-year -- at our pro forma financials and, you know, go to the balance sheet and say, all right, well, that's our net position in three years, and so that grew 10 percent, so 10 percent will be the challenge target.
But I didn't have a spreadsheet to do that. I mean, it was --
Q It was just in your head?
A Yeah. You could -- I mean, I can just look at the paper and do that.

Q Was this 10 percent -- I'm sorry.
How would we characterize the 10 percent component of the formula?
A So the challenge target that was set in the formula -- that was the number that I referred to that could change with each performance period -- was set based on the three-year pro forma projections for -- you know, at that time in July, you know.
And so we looked at -- again, we looked at those pro forma projections, and it showed that it was going to grow 10 percent. And so that was how we set that challenge target.
Q All right. And so you're saying that it would be easy for anybody to then take that formula, and -- as long as they could get JEA's financial projections and determine what? What would I be able to have determined from that?
A Well, so from --
Q Assuming I could get all this other stuff.
A No, I mean, from JEA's financial projections itself, you would have been able to calculate the projected pool amount of the -- of the performance unit plan at the end of that performance period.
So I mean -- and again, that was -- that was what we used to set that 10 percent threshold for the

challenge target.
Q But no spreadsheet or calculations were prepared by you until the fall of 2019?
A I don't think so. Again, I -- it was a pretty straightforward calculation. I mean, you're talking about ones and -- you know, tens and -- I mean, it's just moving decimals.
Q What do you recall of the presentation of the plan to the board in July of 2019?
A What do I recall? Can you be more specific?
Q Did you -- did you present the PUP to the board?
A I did.
Q And what do you recall of that presentation?
A I recall presenting it. I mean, again -- I mean, is there something specific that you're --
Q Well, did you take questions from the board about what the payout would be for the PUP at the end of the first performance period?
A Yeah, so it was described -- so I did describe the performance unit plan. I described the calculations. I described -- my recollection -- my recollection is that I described, you know, generally how the -- how the -- how the plan worked.
Q Do you recall informing the board that if

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

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

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

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

10 percent of the value creation above, you know, a certain -- a certain challenge amount. And beyond that, the legal work was done to try to shoehorn something into something that was -- you know, would work, again, in the public sector.

Q All right.

A It was never an investment plan. It was intended to be a long-term incentive plan.

Q Was Mr. Zahn fully aware of your appreciation of the potential of this plan when this was presented to the board in July of 2019?

A Yes.

Q There was really nothing you knew about the plan that he did not know; is that fair to say?

A Absolutely.

Q And although it's a completely other topic that we will come back to, there is an overlap with the issue of the recapitalization or sale of JEA; correct?

A Timing-wise, yes.

Q And the discussion of recapitalization or sale of the agency was in the mix at the time of the July 23 board meeting, was it not?

A Yes.

Q And, in fact, it was one of the action items presented to the board, was it not?

A Correct.

And to be clear, what was presented to the board at the July 23rd board meeting was a request, really, to allow us to explore nongovernmental ownership structures.

Q I appreciate that clarification.

A Yeah.

Q But it was also at that board meeting that the performance unit plan was presented for approval, and it was approved, was it not?

A It was.

Q Prior to that meeting, the July 23 board meeting 2019, did you and Mr. Zahn have a discussion about that interplay between the performance unit plan that you were proposing and the authority you were seeking to pursue the recapitalization or restructuring of JEA?

A Yes.

Q Did you discuss the potential that should the agency sell within the performance unit period, prior to the end of it, for -- let's use your 8 or $9 billion target, that the performance units would have this higher value relative to what they were purchased for?

A I don't know that we discussed the -- I don't recall if we discussed the specifics around the -- that

interplay specifically, around the purchase price and the purchase -- and the unit price at the end. We did discuss the -- we were all fully aware of the fact that it was 10 percent of value creation.

Again, it was -- it was never intended to be an investment plan. It was a long-term incentive plan. The --

Q But would you agree that when you intertwine the recapitalization event with the plan during the performance period that it effectively becomes an investment plan? I mean, isn't that the end result of it?

A Well, so -- look, even the concept of having them purchased developed very late in July as the lawyers were working to try to develop the plan. It was -- the original concept of it was that they would be granted to employees.

The -- for whatever reason, it was determined that it would -- there were some legal -- again, I'm not a lawyer, so I -- for whatever reason, the lawyers determined that there was some legal reason why purchasing it would be better. Again, and I don't know what the reason for that was.

I relied on attorneys a lot as it related to the documents themselves. I mean, there were -- we had

literally dozens and dozens of attorneys looking at all aspects of this from both OGC and specialty counsel.

BY MS. HARRELL:

Q When you say that the concept of having them purchased was developed in late July, was that before or after the July 23rd board meeting?

A Before, but it was -- as the documents were being drafted in July, the concept of purchasing them kind of grew some legs, and then the question was just, well, what's the right number, what's the right dollar amount for the -- I mean, again, you could have done $100 units and done, you know -- you know, 10,000 units instead of 100,000 units. It was just -- again, you're kind of just moving numbers, right? So --

Q So how was the $10 amount?

A I don't -- I remember that there was some discussion at a meeting in July that was at the -- so as we moved into the July board meeting, all of the -- all of the July agenda items really kind of came together like the second or third week of July. And so we had kind of an all-hands meeting here in Jacksonville with, geez, probably 40 or 50 people.

BY MR. POWELL:

Q Would that have been the meeting at the Club Continental?

A Yes.
Q And that meeting was attended by you, Mr. Zahn, Mr. Vinyard, Ms. Dykes, and Mr. Hendricks; is that right?
A Kendrick?
Q Kendrick.
A Yeah. And I believe that -- I believe John McCarthy was there.
Q Do you remember anybody else from the senior leadership team being there?
A Boy. Let me think.
I don't recall anybody else from the senior leadership team being there.
Q While we're on the topic, can you tell me what -- you were about -- I think you were describing that meeting.
Could you share what that meeting was all about and --
A Yeah. It was basically to get all the documents in order for the July board meeting. So essentially everything that you saw on the agenda at the July board meeting really kind of came together those couple of days.
Q Do you remember the dates of the Club Continental gathering?

A It was the middle of July, probably that week after the 4th. You know, second or third week in July, something like that.
It was an all-out sprint, I mean, to get everything from -- I mean, from where we stood in June, we basically had nothing done as it related to the July items. And so, you know, it was all hands on deck to try to get everything put together.
Q Sort of begs the question. Why the rush?
A Aaron was concerned about leaks.
Q About leaks?
A Yeah. He --
Q Explain, please.
A So he was concerned that the longer we took, the more likely it was that, you know, somehow information would get out about the work we were doing and that, you know, you'd have public records requests and all of that. So he wanted to act efficiently and, you know, pull everything together.
Q Why would public awareness have been a bad thing?
A I think he was concerned -- I mean, obviously public awareness was a given. It's a public entity. I think he was concerned about drafts and that kind of thing. I mean, as work's being done, things are going

back and forth. I think he was concerned about incomplete documents kind of getting out and not having control necessarily of the narrative, if that makes sense.
BY MS. HARRELL:
Q When you stay "the work we were doing," what do you mean, "the work we were doing"?
A All the work that we were doing related to the July board agenda, the items on the -- that were presented in July.
BY MR. POWELL:
Q What narrative was Mr. Zahn trying to control?
A What you saw at the July board meeting. He wanted to present it as a package.
BY MS. HARRELL:
Q So when you talk about "the work we were doing," are you talking about Scenario 1, Scenario 2, Scenario 3 that was presented at the July 23 board meeting?
A No. All the documents -- well, so partially, I guess, it was the whole thing, right, all the documents that were prepared up to that. We had WARN notices ready to go out. We had -- I mean, we had a list of employees, you know, that were going to be RIF'd. I mean, so that's all really sensitive

information, right?
We already had employees that were on edge, and so, you know, it was that whole package, right? Again, he didn't want the employee list to get requested, given the fact that there were names on that.
Q And the whole package included the long-term incentive plan?
A Yes.
Q And all the Willis Towers Watson stuff?
A I don't remember if we presented Willis Towers Watson again in July. I think the compensation committee report out was in June, if I recall correctly, to the board, and then the board directed us to put together a plan that was consistent and bring it back. And so that was what was presented in July.
I don't know there was anything regarding Willis Towers Watson that was presented in July.
BY MR. POWELL:
Q I'm going to ask if you could look at a document for me and clarify something. This is a document that's -- and, again, this is from the Diamond-Salem production, and these are JEA documents Number 0295 through 0335, and the first page is a cover sheet of Total Market Compensation Strategy. It says June of 2018.

A Yeah.
Q Is that a typo?
A That is a typo, yeah.
Q Okay.
A Yeah, I believe --
Q So this is the 2019 --
A That's correct. Yeah.
Q That was my understanding.
A Yeah.
Q I appreciate you clarifying that for me --
A Yeah.
Q -- because I've been scratching my head for -- I didn't know who to ask, but I figured I could ask you and you'd straighten it out for me.
A I believe that was a typo.
Q All right.
So if we go over here to Page 0305, this is the Long-Term Incentive Plan Design; correct? That's what it says?
A That's what it says.
Q And you roll down through it, and we see at the bottom an Estimated Cost. And by the way, it includes the payout range you've talked about, the threshold 50 percent of target, maximum 150 percent of target.

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

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

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

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

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

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

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

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

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

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A Yeah.
Q Was there anybody in the group that worked more closely with Mr. Zahn than you?
A I don't know about more closely. I would say equally as close. Anybody that reported directly to him --
Q Okay.
A -- likely talked to him on a daily basis.
Q And you would agree that Mr. Zahn's overriding -- or would you agree that Mr. Zahn's overriding focus and attention as CEO was the strategic future of JEA? Correct?
A Correct.
Q He was not a day-to-day hands-on with the operations of JEA; fair to say?
A Correct.
Q All right.
A Fair to say.
Q Based upon your working -- your close working relationship with him, as we've established, would you be of the view that in the August, September, October time frame that Mr. Zahn's hope and expectation was that JEA would get to a recapitalization event in the -- within a one- or two-year period?
A I think that Aaron saw the recapitalization

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

would need to, you know, change the rate structure as a government. We had plans on how that would work.

And frankly, from my standpoint as the CFO -- look, my job is to balance the books, right? So you sort of give me the constraints that I'm working under, and I -- you know, here's the answer, right?

Q Mr. Wannemacher, I'm not suggesting that you were the driving force of any of this. I just know that -- I mean, I only have a few people that are working closely day to day with Mr. Zahn, and you're working with him on these matters.

I understand you have all those other responsibilities and perhaps more fundamental responsibilities, but --

A Yeah.

Q -- you were working hand-in-hand with him through the spring and summer of 2019 to develop not only the long-term incentive plan that became the long-term performance unit plan and presenting proposals to the board and developing them in, you know, a all-out push effort in July of 2019 to get this package of proposals and concepts and plans to the board for approval on July 23, were you not?

A Yes, I worked with him.

Q All right. And did you-all obtain -- did the

board provide you with the outcomes you were seeking on July 23, 2019?

A To authorize us to explore additional scenarios related to nongovernmental ownership structures.

Q Plus the PUP; correct?

A Oh, yes.

Q And plus a host of employment contracts?

A Employment contracts and -- yes.

Again, to answer your question specifically around my observations of working with Aaron, I believe from my observations of working with him that there was an honest assessment done of all of the possible scenarios as it related to strategic planning. I didn't see a predetermined outcome as it related to the end of the road there.

Q Did the -- were the board's decisions at the July 23 meeting with respect to authorizing work to reconstitute the agency in a nongovernmental fashion, was that Mr. Zahn's desired objective at that meeting?

A The board's approval was -- I'm sorry.

Can you maybe repeat the question or clarify it again?

Q Well, how about you tell me what the board did on July 23 with respect to the recapitalization options

for JEA.

A So the board authorized us to look at what the options would look like under a nongovernmental -- you know, how a nongovernmental ownership structure might look and what -- you know, what that path might look like.

Q And Mr. Zahn desired that authority, did he not?

A Correct.

Q Okay.

A There was no functional way that we could have done that work without board approval. I mean, it's Sunshine. I mean, there was no -- we needed so much effort to do that work to actually get to an answer that --

Q No, I know that. But Mr. Zahn wanted the authority to do that work, did he not?

A Yes, he did.

Q And that was the principal focus of all that effort in July, including the gathering at Club Continental, was it not?

A Yes.

So I will say the gathering at Club Continental was more than just the nongovernmental ownership discussion. There was a lot of work done

that -- well, it was the entire board package, right? So there was a lot of work done that was related to the rest of the board package at that meeting. So it was -- it was the whole meeting, really, yeah.

Q I appreciate that. But there was no other component of what you were asking the board to authorize, was there, in the -- what I would call the bucket of JEA's future structure?

A No, we did, we asked them to either authorize us to do the traditional utility response, which would have included layoffs, rate increases, you know, other cost cuts, that kind of thing, or -- because we presented that plan, right -- or, you know, pursue other options to try to remove the constraints.

Q And was it not Mr. Zahn's preferred outcome that the board approve the other option to pursue other structural forms to move forward?

A Yeah, I think it was all of our preferred outcomes to not lay people off. And raise rates without at least exploring those.

Q All right. So --

THE WITNESS: I'm sorry. Can we take another break?

MR. POWELL: Sure. And, in fact, we've been going -- let's go off for a minute.

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

BY MS. HARRELL:
Q I believe you said earlier that Mr. Zahn was not happy with Willis Towers Watson because he wanted them to provide data, not design policy; is that a fair statement?
A Again, I don't -- I don't really remember him being necessarily agitated or anything like that. He -- I do remember him making a comment that he wanted them to provide the data for what is market 50th. He didn't want them to develop policy around, you know, the board's decisions.
Q Okay. Do you know what kind of policies they were providing?
A I think it was around recommendation -- I think there was some discussion around recommendation around how to get to, you know, market 50th, and what that looked like. Again -- but I don't really remember the specifics, I guess, around what -- what they were saying --
Q Okay.
A -- what Towers Watson was saying.
BY MS. TEODORESCU:
Q Are you basically saying there was a disagreement over the definition of the market?

A No. It was -- it was around plan design and the board's policy around, you know, the overall philosophy.
Q Was Towers Watson saying it doesn't have to be 50th percentile?
A No. They didn't have an issue with the 50th percentile. I think it was just a function of how you get there, right? So it was do you do it all at once, or do you do it over a long period of time, or do you kind of ignore long-term incentive altogether or -- you know, is it multiyear, multistep. It was that kind of a discussion that Aaron was pushing back on.
BY MS. HARRELL:
Q Okay. I'm going to show you what was part of the notebook at the Diamond-Salem hearings. It's hard to tell from here, but it was labeled as JEA 0306.
Does that look like one of the Willis Towers documents?
A This does -- yeah. So given the color scheme here, it does appear to be a Willis Towers slide, although it does say, Market data provided by JEA. So I don't know what that is, but --
Q Okay. I'm going to show you another copy of that. It looks like it's a -- it looks like it's from the compensation committee. It's dated June 18th, 2019, and it's also marked as Page 32, as is JEA 0306. And it has information on it that says it was provided by Willis Towers Watson.

A Right.
Q So does that -- is that consistent with you looking at the color scheme on the one that's in color and it's a Willis Towers Watson document?
A Yeah, again --
Q Okay.
A -- so this purple shading was their formatting and all that, so that's why I believe it was a Willis Towers Watson, although, again, I note that the note says, Market data provided by JEA, so ...
Q Okay. And the reason I'm asking you about this other one is it also says, Note: Market data provided by JEA, and it's got Willis Towers Watson's logo and copyright on there and all that too.
So why -- did you provide the market data to Willis Towers Watson at any time?
A No.
Q Okay. Do you know who would have provided it to them?
A I don't. Maybe someone in HR.
Q Okay. Do you know --
A No, I wouldn't have had that data.

Q Okay.
A I mean, as part of my job, I don't really do compensation, I mean, as far as individual -- individual employees.
Q Okay.
A Yeah.
Q That makes sense.
Do you know if that was the data that Mr. Zahn was concerned about or that he had said he wanted Willis Towers Watson to provide rather than policy?
A He -- so I don't know about this data specifically. Again, he -- the nature of the request to Willis Towers Watson was what is the market 50th percentile for, you know, our employees.
Q Okay. And why would you need to hire an outside firm to get that?
A Because they -- that's what they do. I mean, they do market compensation studies.
Q Okay. JEA wouldn't have that information?
A Not in -- I mean, I guess we could theoretically do our own study somehow, but I don't know how we would get that data.
Q Okay.
A Again, that's principally what they do for business is market compensation studies.

Q And then --
A And we've used them for years prior to this.
Q Yeah.
A I mean, this is a long-term kind of relationship.
Q And so is it your understanding that once Willis Towers Watson provided JEA with the data, then JEA senior leadership team, direct reports to Aaron Zahn, would design the policy to meet the compensation goals?
A The board designs the policy. I mean, that was completely in their arena.
Q Okay. Well, did the board design the PUP?
A Not the specific plan, no. But the board sets the policy around market compensation. As the board -- the compensation committee's directive around how JEA shall, you know, compensate employees was -- was what we were operating under.
Q And that's done with input from senior leadership; right?
A I guess to some degree. Again, it's -- I don't know where that board policy originated. I mean, it had been in place for a number of years. Aaron worked with the compensation committee to update it to reflect the four measures of value and sort of make some

edits to that respect, but -- so I -- it goes back probably before I even arrived at JEA, frankly. Yeah.
Q Okay. You said earlier that y'all were looking at several different ways for long-term incentives.
What other ideas were tossed out other than performance units?
A So at one point we looked at whether or not we could -- we could give employees bonds. So, again, we don't have stock as a public entity, but we do have bonds.
And so it was a question of whether or not we could do something similar and design a bond that, you know, had, you know, some coupon that would pay out and act as compensation.
We did chase that down at least on a high level. I don't know that we did a ton of work on it. But it was pretty clear that that wasn't going to work for a number of reasons. We had bond counsel look at it. And so --
Q Do you know when that took place, when, for instance, bond counsel looked at it?
A It was in the spring of '19, you know, kind of around the same time period. April, May, somewhere in there, maybe.

Q Okay.
A I don't know exactly, but it was sometime in the spring.
Q What were some of the other things that were looked at, if you remember?
A Looked at time-based awards, you know, just if you stay for three years, you will get a payment of X, right? That was, I think, dismissed because it didn't provide -- provide incentive as a -- it provided incentive to stick your, you know, butt in the seat, so to speak, but it didn't provide incentive to create the value related to the four measures of value, you know, that the board laid out in the framework.
Q Okay. Is there anything else you can think of?
A Not specifically that I can recall right now.
Q Do you remember if the bonds, the time-based awards, anything else, any of those were discussed at the Club Continental meeting?
A No. I think by that point we had ruled out those options.
Q Y'all -- your focus was on --
A On the PUPs, yeah.
Q I know you said the formula is simple and you've got it in your head; is that correct? Is that

fair to say?
A Again, you can -- it's numbers on the balance sheet. You add them up. It's pretty -- in my perspective, pretty straightforward.
Q If you were going to tell -- let's say I'm starting a business and I want to give a long-term incentive program.
A Yeah.
Q And I want to do something like the PUP that was proposed. I want to use your formula.
How would you tell me to calculate it?
A So you take -- you can look at the balance sheet. You can look at your net position.
Q Okay.
A You can look at the change in net position over that three-year period. You look at any dividends that were paid to the City in terms of the contribution, and the change in dividends, so you look at the contribution to the City day one versus the contribution to the City, you know, year three. You add those two together, and then any additional amounts paid to or distributed to customers.
And those are the three numbers you add together, and any -- you know, any amount above that challenge target, 10 percent of that's the pool.

Q Okay. And your challenge target was 10 percent above your --
A Current.
Q -- current --
A Yeah.
Q -- value?
A Current value.
Q So in three years, your goal is to --
A Exceed 10 percent.
Q -- is to get the combination of the net position, the dividends to the City, and the payments to customers --
A Higher than --
Q -- higher than 10 percent?
A Yeah. 110 percent of the, yeah, original --
Q Okay.
A -- number.
Q And then anything over that 110 percent gets paid out as the PUP?
A Gets -- yeah, it would get allocated to the performance units -- 10 percent of that would get allocated to the performance units.
Q Okay. You've got two 10 percents.
A Yeah, I know. It's a little -- that's correct. You've got two 10 percent numbers.

MS. HARRELL: Okay.
BY MR. POWELL:
Q Was there any consideration given to excluding any windfall from a recapitalization event as part of the redemption price or value of the performance units?
A Not that I can recall. Again, the incentive was designed to incentivize value creation, ostensibly, right? To incentivize employees to maximize that financial value of JEA.
Q Were you not principally thinking of or contemplating that employees would work to improve the year-to-year operations of JEA as opposed to working for some difficult-to-define, unknown concept of total value in the event of a recapitalization event?
A I'm not sure I understand the question.
Q Well, you have year-to-year performance and you can measure that, correct, of the company?
A Financial statements, yes.
Q Excuse me, of the agency.
A Yes, you have financial statements that measure financial performance.
Q And wasn't it the -- your primary thinking that employees would be working to improve the bottom line, so to speak, year to year with their effort, and in return for that, they would be compensated or

rewarded through this incentive plan at the end of each performance period?
A Yeah, that was the concept of the plan. The -- so --
Q Did it ever occur to you in the runup to the July 23 board meeting and into the fall that you had this potential windfall return through the performance incentive plan that was really unrelated to an employee's year-to-year performance?
A Well, I don't know that they're unrelated. There was a lot of action that was taken by employees as it related to the strategic planning that people were doing. So I don't know --
Q Well, I agree that there were a lot of employees on the 16th floor working on strategic planning, but the employees that are out there fixing things and making the lights stay on and the water running had nothing to do with strategic planning, did they?
A As it related to operating the utility well, they sure did. I mean, you know -- and it wasn't just -- I mean, I would -- I would -- I wouldn't characterize the strategic planning as just being, you know, SLT. There was -- you know, there was a lot of people involved in a lot of aspects of this,

particularly on my team, far down in the organization that -- you know, on many aspects of the strategic planning exercise.

And so I -- but, you know, to say that it wasn't for effort on behalf of employees, I'm not sure that's a correct characterization.

Q I hear what you're saying.

But you would agree that there's a more direct correlation between effort and year-to-year results than effort and the downstream value that somebody decides to pay for JEA?

A It would have been a whole lot easier to focus on year-to-year results than go through the process we just went through.

Q Yeah, I can hear that.

So did you and Mr. Zahn at any point in the runup to July 23 and then frankly beyond until things ended have a discussion about the fact that you had this potential windfall built into the performance unit plan in the event of a recapitalization event?

A I don't -- I guess -- I don't know what you mean by windfall. It was --

Q Mr. Wannemacher --

A -- it was known that it was going to be 10 percent of anything above the challenge target.

Q We talked earlier about a $3,333 value per performance unit on a $10 investment. Do you recall that?

A Yes.

MR. MURPHY: With a lot of assumptions.

THE WITNESS: So yeah. Again, I --

BY MR. POWELL:

Q Well, those were your assumptions, and you provided them to me.

So do you not consider 3,333 back on a $10 investment to be a windfall?

A It was never -- it was never contemplated as an investment plan.

Q I understand that.

A It was contemplated --

MR. MURPHY: Let him finish, Steve.

THE WITNESS: It was contemplated as an incentive plan.

BY MR. POWELL:

Q I do understand that, but that wasn't my question. My question was, did you and Mr. Zahn have a discussion -- call it an aha moment -- in the runup to the July 23 board meeting that because you were pursuing dual tracks, the performance unit plan on the one hand and you were also seeking authority from the board to

pursue efforts to restructure JEA and get it out of its governmental -- out of its public sector into the private, at the same time, that if those both moved along at the same time and you had the recap event, that you would have this extreme -- this high return on a $10 performance unit? Did you have that discussion?

A I don't recall having the discussion around the price of the performance unit specifically, because it wasn't an investment plan; it was a incentive plan. So there was conversation around the size of the pool being 10 percent of anything above the -- the challenge target.

But again, it was speculative to know -- I don't know what that pool was, I mean, because it was -- it was 10 percent. We hadn't received bids.

Q So y'all never talked about carving out -- making some sort of exception in the return to the -- return in value on the performance units in the event of a recap event? You never talked about that?

A On the price of the performance unit?

Q Okay, we'll use -- okay, fine.

If you want to call it that, fine. But it's the same question, isn't it?

A Can you repeat the question?

Q Just simply this, so are you telling me -- are

you telling the board of directors, because when you're answering here today, that's who you're talking to.

Are you telling the board of directors that you and Mr. Zahn never had a discussion about a change or modification to this performance unit plan that would have carved out that windfall in the event of a recap event that would have yielded the kinds of returns that we talked about earlier that you gave me in your analysis of the numbers?

A So we didn't have a discussion -- I don't recall having a discussion around any caps, you know, prior to that July board meeting.

Q All right. Do you remember coming over and meeting with the council auditors on October 31 to talk about the PUP?

A Yes.

Q Do you remember any discussion at that meeting about excluding the recapitalization receipts from the PUP plan payout?

A I don't recall that specifically. There was some conversation around a cap at that meeting. Based on the council auditor's follow-up to that meeting, they -- you know, they had some recommendations and that kind of thing.

We went back and sat down those with --

Herschel and I sat down. We called -- we had a phone call with Foley to go through them. And there was some discussion around putting a cap in at that time, around some of the changes that they recommended.

They had a number of changes. A lot of them, frankly, I think were good suggestions. You know, one of them was to have the -- have, you know, independent auditors sign off on the calculation. We -- you know, we agreed that that was a good change to make.

There was some work being done by Foley after that as it related to, I think, those suggestions, or they -- there were some takeaways that they were going to look at.

Q After the October 31 meeting?

A After the October 31 meeting.

But at some point in the time frame between the October 31 meeting and any of those changes coming to fruition, OGC, you know, determined that they couldn't get there from a structure standpoint of the plan.

And again, there was -- there was lawyers continuing to look at this, you know, all over the place. And so ultimately the plan got pulled and so, you know, those -- those changes to the documents never materialized.

Q Was Mr. Zahn involved in these discussions after the October 31 meeting about potential changes to the plan?

A So Herschel and I briefed him on the conversation with the council auditor and their suggestions and -- and talked through some of that with him. He was not on the call with Foley, I don't believe. I think Pillsbury was on that call too.

Q Did you assist Mr. Zahn in writing his November 12 letter to the General Counsel regarding the plan?

A No.

Q Okay. Did you ever read it?

A I don't recall if I ever read -- I'm aware of the letter. I don't know that I ever really read it.

Q Okay. I'm going to read to you a sentence from that letter and see if you can explain it to me.

Quote: The decision to not implement the plan is based in the incongruity of the plan's long-term nature and the very real potential short-term implications of the JEA's strategic planning process.

A I don't know that I can -- I'm not sure I can speak for Aaron as to what that means.

Q I'm just trying to figure out from an English language standpoint what that means. I was hoping that

maybe there was some financial magic in it that I didn't understand and you could help me with.

A No, there's not.

Q Does that sentence make any sense to you?

A Can you read it again?

Q "The decision to not implement the plan is based in the incongruity of the plan's long-term nature and the very real potential short-term implications of the JEA's strategic planning process."

A I can guess, but I mean -- I can't speculate -- I don't want to speculate.

Q All right. So let's not speculate.

Did you and Mr. Zahn talk about the decision that he reached that is -- was communicated in this November 12 memo to the General Counsel?

A Yeah, I think the short answer is that the lawyers couldn't get comfortable with it, and so we had to pull it. Again, you know, there was -- there was attorneys --

Q Well, there's nothing in that sentence --

MR. MURPHY: Let him finish, Steve. He was middle of his answer.

MR. POWELL: All right.

THE WITNESS: There was attorneys looking at this thing, you know, all over the place. And, you

know, we were -- we were relying on them, essentially, to be able to design a plan that worked and was, you know -- you know, doable under our -- under our structure. And so I think ultimately, you know, they couldn't figure out how to get there.

BY MR. POWELL:

Q Is it fair to say that nothing was done at JEA by Aaron Zahn, to your knowledge, to address this potential high-value return to the performance units, as we've been discussing, between the July 23 board meeting and the end of October?

A Other than the conversation that we had based on the council auditor's feedback where we did talk about, you know, their comments, including the cap, those -- that was really the only conversation -- frankly, there wasn't a whole lot of conversation that I can recall between the July board meeting and the council auditor's questions.

Q Well, thank you. You've reminded me of another thing I wanted to understand.

So were you aware of the intent of Mr. Zahn to brief the members of the senior leadership team one-on-one about the performance unit plan to explain it after the board approved it on July 23?

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

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

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Q Did you ever have any discussions with Mr. Zahn or -- let's just say with Mr. Zahn for the moment, about the number of shares that members of the senior leadership -- I'm sorry -- number of units that the members of the senior leadership team would be entitled to purchase?
A No.
Q Did you ever have any discussions with anybody inside JEA about the number of shares that members of the senior leadership team -- units -- excuse me -- would be allowed to purchase?
A No.
Q Any discussions outside of JEA on that topic?
A No.
Q Up to and including when the plug was pulled on the plan; is that right?
A I know Aaron was working on allocations, but he never shared the information with me.
Q Okay. How do you -- if you could elaborate. How do you know he was working on allocations, and what does that mean? What do you mean by that?
A He was working on allocating the performance units to -- you know, what his recommendation would be as it related to those performance units.
Q How do you know that?

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

A Yeah, there was a lot of wood to chop on getting it to where it could be implemented in December, again, particularly around the legal work. As we -- as we moved in and they were -- they were still making changes to the documents, they were -- I believe they had asked the State Attorney General for an advisory opinion at that point. There was a discussion around then asking the State ethics office for an opinion.

The -- so I think there was a -- there was a -- there was a goal to try to get it done in December because you had to. It was -- it was structured as a deferred compensation program, so you had to make the deferral the year before.

But to my knowledge, they weren't going to do anything until they got all the legal boxes checked.

Q All right. Well, I'm looking at a email dated October 3, 2019, from Lynne Rhode to Jessica Lutrin. It's JEA document 0666 in the Diamond-Salem package.

"Kevin and Jessica, attached are the" -- all caps -- "final versions of the plan and the plan agreement."

And you can see the attachments, JEA form of long-term performance unit agreement as revised, final. JEA long-term performance unit plan as revised, final.

"Going out October 3. It's -- the plan is

done October 3. Legal is finished."

So no discussions even at that point through the end of October until the time when the plan was pulled, you had no discussions with Mr. Zahn about allocations of the units?

A As I said, I know that he was working on the allocations of the units. I asked him for the spreadsheet. He said he was working on it, and he wasn't providing it.

Q Did he -- do you know that he actually prepared a spreadsheet, that something -- that a spreadsheet actually exists?

A So I have to assume there's something, but it's an assumption. Again, I -- he was working on it. He asked for employee, you know, lists from Melissa. And I believe -- again, I believe he asked for the ratings and rankings -- you know, performance ratings and rankings and all that, bargaining units and all that information. So he was working on something.

Q How could there be a final version of the plan if the allocation of units had not been determined?

A Well --

MR. MURPHY: Calls for a legal conclusion. You want to show him the document too? You're just reading from something that he hasn't presumably

seen.

MR. POWELL: I'm just looking at -- I just read the email. I don't have the attachment.

BY MR. POWELL:

Q I'm just asking you, how can there be a final version of the plan if the allocation of the units hasn't been determined?

A Well, it's two separate things. The plan is the legal documents. The operation -- or, you know, administration of the plan is a separate, you know, item.

Q Okay. So the plan might have said the units will be allocated by the plan administrator? I mean, that may be the answer to that; yes?

A I don't know what the plan said specifically. But the plan was the framework for the plan. The implementation is a separate work product.

Q All right. Would -- were you aware that as far as Lynne Rhode was concerned, the plan was done as of October 3?

A Not that -- not that I can recall. And the reason I say that is because there was a lot of conversation about like Attorney General opinion and -- like there was a lot of stuff still going on.

So I'm a little confused by you reading that

email, I guess. I don't -- again, I wasn't part of that email. I mean, you'd have to ask Lynne as to what she --

Q I grant you that, you're not copied here.

A Yeah. Yeah, you'd have to ask Lynne as to what she meant by that.

But there was a lot of work that was, from my perception, still going on related to making sure we, you know, did all the legal work around it.

Q Okay. What would you have had to have done as CFO? What -- would you have had a role in the rollout of this plan?

A I don't know. I don't know what my role necessarily would have been, specifically. It would have been to calculate the -- you know, as designed in the document, I would have had to calculate the starting point based on the audited financials as those came in in December. And we would have set the challenge target based on those, you know, which would have been the 10 percent, you know, higher number. And I think that really would have been my principal role in that.

MR. POWELL: Okay. Well, that does get us to a breaking point, as far as I'm concerned --

MR. MURPHY: Sure.

MR. POWELL: -- at noon. And so let's take a

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

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

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

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

Q Yes.
MR. MURPHY: You mean --
THE WITNESS: At the -- at the --
MR. MURPHY: At the --
(Simultaneous crosstalk.)
MR. POWELL: At the Diamond-Salem hearing, yes.
MR. MURPHY: You mean the City Council meeting?
MR. POWELL: Yes.
MR. MURPHY: Okay. I didn't know -- I didn't know you refer to that as a two-commissioner meeting. Is it a council meeting or --
BY MR. POWELL:
Q It was the Diamond-Salem hearing. You were there where --
A I know the meeting you're referring to, yeah. I don't recall --
Q Sent your attorney the link to watch it yesterday. Okay.
A Yeah.
MR. MURPHY: That's what you're referring to?
THE WITNESS: I don't recall Aaron's specific comments at that meeting.

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

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

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

I -- the first time I saw the documents was when I walked into that meeting.

And so there was a meeting that was scheduled where we did get together the weekend before, and it was at that time that we became aware of the conversations around the board getting ready to fire Aaron. That was -- it was the weekend before the -- I think it was the Sunday, Saturday or Sunday, before that board meeting on -- the Tuesday that he was -- that he was -- that he was let go.

So you had the weekend, and then you had the Diamond-Salem meeting on Monday, and then the board meeting was on Tuesday.

That was -- I think it was the intent -- the intended purpose of that meeting was to kind of get together and chat about the hearing, but it got sidetracked pretty quickly with the news of Aaron.

Melissa ended up leaving because she was a little bit shaken, and, you know, it just -- it never really -- frankly, it never really amounted to much of a conversation.

Q Okay. So you did not get with him and prepare for the meeting, other than --

A Other than that, that's correct, yeah.

Q Do you know -- and I think I did ask you

whether you had talked to Mr. Zahn about his rethinking of the timing of the presentation of the PUP to the board, and you're saying you don't remember talking to him about that before the hearing here?

A I don't recall before the hearing. And I'm -- and I'm pretty sure that we didn't talk about it before July.

Q So if he had reached that second thought place in his mind, you don't know when he reached that conclusion?

A I do not.

Q I'm aware of -- we -- we are aware of four off-site meetings at Ponte Vedra in 2019 to work on what I'm going to globally call the strategic plan and long-term incentive plans and such; recapitalization, restructuring of JEA, all of that stuff; correct?

A Yes, everything that was encompassed in the strategic planning process generally was discussed in those off-sites.

Q Just out of curiosity, why the need to meet off-site with your senior leadership team to do this work?

A I don't know. It wasn't my decision.

Q Whose decision was it?

A I assume it was Aaron's, but I don't know that

for a fact.

Q Okay. Were these meetings in the budget? Were these budgeted expenses?

A So we don't budget down to like line item -- I mean, you know, we wouldn't budget like to that level of granularity.

We have a $1.8 billion annual budget, so -- but yes, they were within the budget that was approved by the City Council as far as the authorized, you know, appropriations. They were within that 1.8 billion.

Q Well, I'm sure that's true. But obviously within the 1.8 billion, you have a more detailed budget, do you not?

A We do, but not to that level of detail.

Q Well, I can appreciate that. But where -- what account would expenses for meetings like this be paid out of? You are the CFO.

A It would probably be in Aaron's cost center.

Q And do you know whether the total expenses for these four meetings, April 4, June 11, August 19 and 20, were within his cost center budget as approved by City Council?

A I don't know.

Q Okay. Same question with respect to the costs of the Club Continental meeting in July?

A So I believe that was -- I believe Foley booked that, maybe, and billed it through as a -- you know, on their invoice, you know, as far as --

Q Yes, I used to work in a private firm.

A Does that make sense?

Q Sure.

A So I believe Foley billed that through, and that would have hit our legal -- it's professional services. I mean, there's a broad bucket of professional services.

Q All right. Speaking of outside expenses through the law firms, are you aware of a second contract that McKinsey entered into with Pillsbury to provide services associated with the strategic planning process?

A I know that -- yes, I'm aware of it. I don't know the details of it. I didn't negotiate that contract.

Shawn Eads worked with McKinsey. He was kind of the McKinsey, I don't know, liaison, if you will, in terms of the -- that relationship, so he would probably have been much more intimately familiar with it than I was.

Q All right. But to be clear, JEA entered into a contract with McKinsey to work on the strategic

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

they were performing additional work for Pillsbury outside of that, that, you know --
Q Well, JEA was being billed for it if they were. So that's my question, why was it necessary for there to be a contractual relationship between Pillsbury and McKinsey following on the million-dollar-plus contract that JEA had with McKinsey for strategic planning? Do you have any --
A I don't know.
Q -- idea? All right.
A Yeah, I don't know.
Q Are you familiar with the innovation summit that took place back in 2018?
A Uh-huh. Yes.
Q Do you recall the date of that event?
A I don't recall the date. It was sometime in the fall is my recollection.
Q Do you recall a consulting bill having been presented to JEA by Deno Hicks for services associated with that -- the planning for that work, for that summit?
A I don't recall that.
Q So you don't have a recollection of being presented with a consulting -- a bill to pay Deno Hicks for $25,000 of consulting services for the innovation

summit?
A I don't recall that, no.
Q Don't have any recollection of that being passed over to the Jacksonville Chamber of Commerce to pay and then rebill JEA?
A No.
Q Okay.
A I was pretty -- I don't think I was really involved in that innovation summit planning in any real material capacity.
Q I'm simply asking as the --
A Yeah.
Q -- CFO and whether something like that would come to your attention if it was a special --
A Yeah.
Q -- discrete bill of that nature.
A No. Generally something that size would not rise to -- you know, on an individual basis.
Q Do you have any recollection of JEA contracting with Deno Hicks to provide consulting services for the innovation summit?
A No.
Q Are you familiar with a monthly stipend that was contracted to -- for with Susie Wiles to provide consulting services during Mr. Zahn's tenure?

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

that she was paid through Holland & Knight in that instance was because that's what she was doing.

Q Do you recall being directed by Mr. Zahn to approve payment of an invoice to Holland & Knight for Susie Wiles' services?

A I don't recall being directed by Aaron to do that, but legal invoices would typically come to me. I would see them.

They ran through OGC first, and typically the OGC attorney reviewed it with -- reviewed the documentation and the invoice and all that and provide sign-off as far as the validity of the expenses and -- that those services were indeed received.

And then it would also come to me for, you know, kind of a check clearance.

Q Did you work closely enough with Mr. Zahn that you would recognize his hand notes on a -- on a typed document?

A I don't know. I've seen his handwriting before. I don't know that I could -- I'm not a handwriting expert. So I'm not sure that I could stand here and definitively tell you what is or is not his handwriting.

Q All right. I'm going to show you a document and -- that's got some hand notes on it. And my simple

question is whether you recognize these notes to be by Aaron Zahn.

A Okay.

Again, I'm not a handwriting expert, so I don't think that I can definitively say whether or not these were written by Mr. Zahn.

Q All right. Do you think -- do those appear to be Aaron Zahn's notes?

MR. MURPHY: It calls for speculation. He's not a handwriting expert. Come on.

MR. POWELL: This is an evidentiary thing.

BY MR. POWELL:

Q I'm just asking you, you've seen the man. You worked with the man. I'm showing you notes. And you won't -- and you're going to lay it off on not being a handwriting expert?

MR. MURPHY: He's answered the question. Move on.

BY MR. POWELL:

Q Be a lay opinion. Be a lay witness. Do those look like notes made by Aaron Zahn? It's just a simple question.

A Again, I am not a handwriting expert. I can't -- this is a --

Q All right. You don't want to answer the

question because you're not a handwriting expert. Is that what you're saying?

MR. MURPHY: That's not fair.

BY MR. POWELL:

Q Is that your answer?

A I can't definitively say whether or not those are his notes based on handwriting. I mean, that doesn't --

Q Well, that's a different answer. And I appreciate that.

A But that's -- but that's what you asked me, is whether or not I could definitively say if those are his notes based on the handwriting.

Q I don't think I used the word "definitive." You used the word "definitive."

You don't -- you don't -- you can't tell whether those are Mr. Zahn's notes? It's just a simple question.

A I cannot tell --

Q Okay.

A -- definitively if those are his notes.

BY MS. HARRELL:

Q Does the handwriting look familiar to you?

A Again, I -- so -- I don't know -- look, again I can't say definitively whether or not it's his. I --

Q I'm not asking you if it's definitive.

Does the handwriting look familiar to you?

A So I will say in the context of this document that you're showing me here and given these goals, I would say that it could have been written by either Melissa Charleroy, whose name is at the top, or Aaron.

BY MR. POWELL:

Q Thank you. I appreciate it.

Do you know anything about a wife grade being incorporated into Melissa Charleroy's performance objectives by Mr. Zahn?

A I had no input into Melissa Charleroy's --

Q That's not the question.

A No.

Q Did Mr. Zahn discuss with you -- did he ever talk to you about the fact that one of his criteria for grading Melissa Charleroy's performance was his family balance and that she was going to get a grade for how satisfied his wife was with her job performance?

A I don't recall having that conversation specifically, no.

Q Okay. I appreciate it.

A No.

MR. POWELL: Okay.

BY MS. HARRELL:
Q I'm going to ask some follow-up questions on what Steve asked, just some general follow-up --
A Yeah.
Q -- then I have some -- need to introduce a new topic.
Were you given any printed materials at the Club Continental meeting?
A There were some drafts of -- draft documents that were -- that were provided related to the board materials.
Q Okay.
A We had a draft of the -- we began working on the invitation to negotiate, you know, documentation and some of that stuff. And so there were some drafts of that information that was going around.
Q Okay. Were there drafts of employment agreements?
A I believe so.
Q Do you remember discussing employment agreements at that meeting?
A Yes, I do. Again, that was part of the total package. That would have been something that was -- that was discussed at those meetings.
Q Yeah, because that was on --

A Yeah.
Q -- the board agenda; right?
A Yeah, yeah.
Q Was one of those your employment agreements -- or your employment agreement?
A Yeah, my employment agreement was on the board agenda for July, and so that would have been something that would have been worked on at that meeting.
Q Did you have an employment agreement before that meeting?
A No.
Q Okay. Were there drafts sent around regarding the presentation of the various scenarios, like status quo, traditional utility response, and the other one? Do you remember any of those?
A I don't recall specifically on those presentations. Again, I would suspect that they probably were, you know, passed around, but I don't -- I don't recall specifically.
Q Okay. Do you remember if there was an agenda for that meeting, for the Club Continental meeting?
A No, I don't recall. No.
Q Steve may have asked you this, and I apologize if I'm being redundant. But you said at the very beginning of today's meeting that Herschel Vinyard had

talked to you recently about a legal invoice that needed to get paid.
Do you know who that was from?
A I don't -- I don't recall. There's a lot of attorneys that we hired. I'm sorry.
Q Okay. That's okay. And it was a recent conversation?
A It was, but, again, I -- there's just been so many attorneys. I don't remember the specific conversation.
Q Do you remember the amount of the invoice?
A No.
Q Do you know why Mr. Vinyard called you about it?
A I don't know -- no, I called him about it.
Q Okay.
A I got an email about something that was still outstanding. I called him and I said, hey, you know, we need to take care of this.
But I don't remember -- again, I'm sorry. I don't remember who -- like what the specific invoice was or even who it was from.
Q Do you know who emailed you?
A No.
Q Was it on your --

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

you know, the strategic plan for the year and what we wanted to accomplish and all that sort of thing.

But not on the scale that we had -- that this round was. The last time we did that kind of an activity was 2012.

Q Prior to this round, while you were at JEA -- so not talking about the 2012 strategic planning, but prior to this round, were financial projections ever discussed during strategic planning?

A I'm sure they were.

(Discussion off the record.)

THE WITNESS: I'm sure they were, at least for me. I was always focused on the financial projections.

BY MS. HARRELL:

Q Yeah. That's your job; right?

A So it's a little hard for me to say perhaps what was -- what got through to the front lines, so to speak.

But finances have always -- again, from my perspective, finances have always been part of the strategic plan, and you know, what do the financials look like, you know, what's the rate path look like, what's the, you know, rating agency conversations, investor conversations. I mean, that was part of my

day-to-day job.

Q Okay. So in any of the prior strategic planning, was there ever a conversation you had with anybody about these numbers are looking bad for JEA?

A Well, so to be clear, our current numbers don't look bad. I think part of the concern is given the nature of the electric industry in particular, there were some real challenges facing the business, particularly around a combination of things; you know, rising costs. You know, costs continue to rise. The volume of our sales are declining, and we had a rate structure that was highly tied to that volume, to that consumption.

And so you end up with a situation where revenues, you know, are at best flat to declining, and costs continue to increase. And at some point you have to take action and either cut those costs or raise rates.

Q And that's something that's not just particular to JEA --

A No.

Q -- right?

A No, that's really the whole industry. You know, that's -- that's kind of a nationwide issue. I think it's a little bit magnified in our instance for a

couple of reasons.

The technology facing -- the technology advancements that have been made really kind of hit us a lot harder than maybe some other places because of the nature of our -- just our geography and where we're located.

We have both a summer and a winter peak. So when you think about your -- at home, your HVAC unit. Well, when you switch out your HVAC unit, right, it's both your cooling mechanism but also your heating mechanism.

And so in areas that are further north, you typically have gas heat. So when you switch out those newer HVAC units and that kind of thing that are much more efficient and use less energy, it drops off some load in the summertime but really doesn't impact the winter load.

Conversely, further south, you don't really have heating load, right? It's too warm in the winter. It's beautiful weather in Miami this time of year. And so same issue there, right? So you don't have as much load tied to both seasons. And so I think there are some things that magnified it here.

The other thing was just our balance sheet. We had a lot of debt, and that created some additional

pressure that I think maybe some other utilities didn't necessarily face.

Q So the summer and winter peaks you mentioned, that's always existed; right?

A Oh, the peaks? Yes. The peaks have always existed.

Q That's not something that's a 21st century problem?

A No, not the peaks. The peaks have always existed. I think the 21st century problem is the fact that HVAC units have gotten a whole lot more efficient. And so what sort of used to just be kind of steady Eddy, you know, type load growth for 100 years really kind of changed with the advancement of technology.

I mean, I'm sure you see it in your own home with LED lightbulbs, programmable thermostats. Every time you switch out an appliance, it's more efficient.

Q And that's an industry-wide problem?

A It is. Yeah, it is.

Q Not just JEA?

A That's correct.

Q So that's always been kind of in the back of your mind, these issues, as --

A As someone who knows the business, yes.

Q Okay.

A Yeah.
Q So what -- why the change in the strategic planning, then, when Mr. Zahn came on board? Why was this -- why this big shift?
A I don't know that it was really -- so from my perspective, it wasn't really a big shift. I think the shift was the fact that we -- that we were talking about it more.
Aaron was much more -- look, he was a different kind of CEO, right? He was much more sort of out there, willing to really talk about, hey, these are real challenges for the business. You know, nobody likes to say things are hard, right? Things are not doing so good. These are -- you know, these are real challenges.
And so I think there's -- you know, generally there was always a -- an attitude, I guess, of, well, we'll just -- we'll figure it out, it'll be fine, we'll get there.
So the difference, I think, was the fact that we were more forceful in talking about it. It wasn't a new problem, and in fact, we had been talking about it, I think since 2012, really. I mean, since Melissa -- Melissa, as CFO, when I reported to her, I mean, these were conversations that were -- you know, we were

constantly talking about the impact of solar and new appliances and energy efficiency and all that, I mean, from a financial standpoint.
I think it was just the fact that maybe it was a broader conversation with Aaron.
Q How were you involved in putting together the board presentations regarding the various scenarios? And again, Scenario 1, status quo -- is that a familiar concept?
A Yeah, yeah.
Q Okay. So if I refer to Scenario 1, we're both talking about status quo?
A Sure.
Q Scenario 2 is the traditional utility response, Scenario 2A is the traditional utility response with some law changes, charter changes, things like that. And then Scenario 3 is the ITN, the recap -- or the recap?
A The various other nongovernmental --
Q Okay.
A -- structures.
Q Yeah. So what was your involvement in putting that together?
A So as far as the actual presentation?
Q Well, let's -- yeah. Let's start with the

presentation.
A So there was a lot of people that worked on the presentation. I was, yeah, certainly reviewing it and that sort of thing.
Q Did you have to provide data for the presentations?
A So as it related to the financial projections, my team worked with McKinsey. That work was done at a much lower level in the organization as far as the actual, like, you know, nuts and bolts calculations, that kind of thing.
Q When were you involved with McKinsey in providing information and otherwise working with them? When did that start?
A Yeah, again, it was more of a -- so I was involved working with them, you know, from the time they started working on it in probably January of 2019, somewhere in that time frame is when they started. And it took several months of work. They were on-site four days a week digging in on all various aspects of the business and operations and finances and all that.
And, you know, that was sort of the genesis of the status quo or Scenario 1 process, was really just to say, look, if we do nothing, absolutely nothing, you know, what does -- what does this look like if we just

set it on autopilot and kind of go. And that was -- that was the genesis of that -- of that first round.
I certainly got updates on that as it was progressing, and they would give, you know, status updates on, hey, here's what we're seeing for solar penetration; here's what we're seeing for electric vehicle adoption; here's what we're seeing for energy efficiency.
And they would give us updates on how they came to those assumptions and the modeling they used and the data sets that they had and all that sort of thing.
Q Did you ever look at any of those data sets and think, wow, this can't be right?
A No. You know, those data sets -- well, so I never saw the data sets specifically. The data sets were data sets that they had internally based on their studies that they had done in the industry, and -- you know, they do a lot of kind of academic-type research, so to speak.
And so it was -- they referenced those data sets. I never actually saw the data sets, but I got output, you know, charts and things like that to say, well, for example, here's the solar adoption curve as the price of solar approaches parity for the local service territory.

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

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

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

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

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

A So the financial numbers as far as the rate

increases were all done internally by staff.

Q Internally by your staff?

A By my staff, yeah.

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

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

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

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

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

Q Sure.

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

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

A Uh-huh.

Q Or we have to lay off workers?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A That the ratings were unchanged?
Q Yeah.
A Yeah, I would have made him aware of that.
Q Do you remember his reaction?
A No, I don't.
Q When did -- when did the rating agencies make their decisions? After your presentation to the board in February 2019?
A When did they?
Q Yeah.
A I don't recall specifically. Typically, if they're going to issue a report, they'll issue a report in, I don't know, a few weeks.
Q So it would have been --
A A few weeks to a month, something like that, yeah.
Q It would have been before y'all started the heavy work on the --
A Yes.
Q -- preparing for the board?
A Yeah.
Q How much of the rate increase was -- was there a number tied to the rate increases that were presented to the rating agencies?
A In February?

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

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

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

some reasonable financial projection around weather-adjusted sales. We always wanted to be conservative around the weather.

So if you look at our sales, our actual sales that come in, anywhere from 12 million -- a couple years ago it was like right at 12 or just over 12 million -- to 12.4 million megawatt hours, something like that. And that's largely just driven by weather fluctuations, hot summer, cold winter, that kind of thing.

So we typically tried to be -- put a reasonable forecast together for the rating agencies that kind of reflected a weather forecast that, you know, we thought, hey, depending on what happens with weather, we think we can hit these numbers.

Q Okay. Did you get into the weather discussion with the board?

A In July?

Q Yeah. Was that part of Scenario 2?

A So there was a -- I don't remember if we talked about it with the board specifically.

There was a note, I think, on one of the slides where we kind of gave a range of sales in, you know, 2030 based on weather, you know, because there was sort of the weather normalized number which was kind of talked from.

But there was a range, I think, that was maybe pointed out in one of the slides, or at least in one of the drafts there was a range. I don't remember if it ended up in the board package.

Q Okay. I know that you provided an update in August 2019 to the rating agencies. Why was that done?

A A couple of the rating agencies -- I think it was S&P and Fitch -- were on a timeline where they had to publish an update. And so they called us and said, hey -- I guess they have some period of time where they have to refresh the reports.

I guess they didn't do a full report in February, and they needed to do a full report. They sometimes will do like little notes. But they have bigger reports that they do that are more fulsome, and they have to do those, I think, every so often. And so I think their requirements were coming up that they needed to do those.

Q Did they reach out to you for that update?

A Yes. Yeah, S&P in particular. I don't remember -- I don't remember how the conversation started with Fitch, but S&P did in particular.

Q Was the -- and so what did you provide to them?

A Well, so we went in and gave them an update,

and what we did was we said, hey -- you know, we didn't have audited financials at that point. We weren't going to have them to meet their timeline. The -- and they agreed to take, you know, unaudited results, and that was okay. So we sent them unaudited results after the end of the fiscal year in September.

Q Did you include the Scenario 3 information?

A So we -- I think we probably gave them an update on the strategic planning process in August when we sat down. We would have walked them through what the board had done. We would have talked to them about the, you know, different nongovernmental structures. We would have, you know, given them an update on what was going on.

Q Did you advise them about the PUP?

A I don't recall that ever coming up, no.

Q Would that have been important?

A No.

Q Why not? To a rating agency.

A It's immaterial.

Q Why is it immaterial?

A It -- again, from a rating agency standpoint, something of a couple million -- or, you know, several million dollars on a -- on a program that's designed to increase the financial health of the business whereby

90 percent of any value that's created improves the financial health of the business, there's not really -- from a rating agency standpoint, that wouldn't be an issue for them.

Q What if the program was uncapped?

A No matter what the -- no matter what the program -- no matter what the outcome is, 90 percent of the value that's created stays with the organization and would accrue to the benefit of bondholders, presumably, in the sense of increased -- you know, increased coverage and, you know, all the good things that they care about in terms of balance sheet and financial metrics.

So it would have been aligned to positive financial outcomes, from their perspective.

Q I'm going to show you an email that you were cc'd on. It's an email from Mr. Zahn about -- and he says rating agencies are actively inserting themselves.

Do you remember seeing that email?

A I don't recall this email specifically.

Q Do you know what he's talking about, rating agencies inserting themselves?

A Yeah, so I can surmise based on the date of this being October 18, 2018, and based on who is copied on the email -- without seeing the slides themselves, which are attached -- I would say the topic was probably related to the litigation that was filed against -- in regards to MEAG and plant Vogtle.

The rating agencies did not like the lawsuit that was filed. There's no secret. Moody's downgraded us. So my guess is that there was some element of this presentation which referenced the lawsuit, and so that's probably what it's referring to.

Q Do you know who the Jim Fuller is that's referenced in the last line of that email?

A Yeah, that's why -- that's why I say that. Jim Fuller is the CEO at MEAG Power.

Q Okay.

A So that's why I came to that conclusion.

MS. HARRELL: Okay. Can we take a break?

(Discussion off the record.)

(Recess taken from 2:34 p.m. to 2:43 p.m.)

BY MS. TEODORESCU:

Q I have one brief question. I'm going to show you this document. I'm going to tell you that it comes from the June 25th package that went to the board.

I'm giving you the first page and the last page just for context. I'm really curious about the slide in the middle.

If you can explain what that disclaimer is

actually saying.

MR. POWELL: And for the record, that slide that you're looking at, Page 2 of that, is part of the June -- the June 2019 presentation.

THE WITNESS: So this was a statement that we worked with counsel on regarding forward-looking statements. So in the context of -- you know, we have 4 -- well, sorry -- $3.4 billion or so of publicly traded securities that are governed as publicly traded securities, right? Bonds. They're governed by the SEC and securities rules.

One of the requirements of disclosure related to those rules is that if you're -- if you're having conversations that you reasonably expect to reach, you know, the investing community -- which certainly something like this would have risen to that -- you need to be very clear about what is a forward-looking statement, right?

So as to be -- and you'll see this in -- you'll see it commonly in quarterly earnings reports. If you dial into a conference call or something like that, you typically will have conversations about what they expect to happen, projections. You know, they talk about the future of the business and where they see the next

quarters coming and that kind of thing.

And so that was the reason for that disclaimer was to basically tell people, hey, these could be wrong, basically. It's common, though, in the industry -- or with anybody that has publicly traded securities.

BY MS. TEODORESCU:

Q This document is from the July 23rd packet to the board. Unfortunately, this one is very, very small. It's right at the top. It's a disclaimer that seems to be quite similar to this. Can you help us --

A Yeah, I think it would have been a similar disclaimer. I think at one point -- and I don't really recall how -- what the genesis of it was. But at one point we just put it on every page of the document, and so I'm sure that was how it ended up here. I'm sure that was the idea there.

Q So what is this saying about the current situation -- well, current at the time, you know, June 25th, July 23rd? What is it saying about the situation of JEA on those particular dates?

A What does the disclaimer say about this?

Q Yes.

A Well, it doesn't really address anything -- I mean, it's a disclaimer. It's a disclaimer about the

fact that there are projections that may vary, you know, based on any number of factors. So --

Q And some of those factors may be wrong?

A Of course. That's why the disclaimer is there.

BY MR. POWELL:

Q So what you're saying is that this disclaimer was not really -- or not intended by the presenters to alert the board of directors to the fact that some of these projections might not be reliable; rather, you intended it to be communicating to investors that some of these projections that you were presenting to the board of directors to act on might not be reliable?

A Yeah, so -- yeah, so I'll clarify that. That's correct. The disclaimer was directed toward investors.

It's important to note that we don't typically present ten-year financial projections. In fact, to my knowledge, I don't know that we had ever projected ten-year financial projections in a public setting, right? Like we typically really shied away from it even with the rating agencies.

Up until the last couple of years, I'm not sure we provided anything beyond five to the rating agencies, and we typically tried to keep it to five unless they specifically asked, you know, follow-up information and that kind of thing.

So was unusual to have numbers that showed financial performance over a ten-year period. Obviously, a lot can happen in ten years. So we were concerned about the fact that this is information that wasn't available prior to, you know, these kinds of -- these board meetings. And so, as such, one of the things we did was work with bond counsel to, you know, make sure that we had appropriate, you know, disclaimer language in the presentation.

BY MS. TEODORESCU:

Q So Scenario 2, the traditional response, it was a response projected for sometime in the future?

A I guess I don't understand the question.

Q Well, if you look Page 1, the one just before the disclaimer --

A Yeah.

Q It talked about strategic planning overview. There's a Scenario 1 and a Scenario 2, traditional response. Then you turn the page and you have the disclaimer, and it says --

A Right.

Q -- whatever it says to the investors.

A There were financial projections in the presentation, yes.

Q And they were for the future?

A Yes.

Q Not --

A Not past.

Q -- for the moment? And not for the present?

A I think we showed a starting point of where we are today and then, you know, where we expect -- you know, based on whatever scenarios and options, where we project it to be at the end of the ten-year period, 2030.

Q And the traditional response would have kicked in when?

A The way it was modeled was immediately. The cost reductions were immediate. Again, I don't recall the timing of rate actions. Again, the rate -- the rate conversation was really more of a -- just looking at the end and saying what's the revenue requirement in year ten and, you know, kind of what's the change over that time period.

Q So the cost reductions were seen as necessary immediately?

A That was how they were modeled, and that's how I think it was contemplated.

You know, Melissa and I had this conversation

about the -- about the reduction in force, timing of it, that kind of thing. Part of the problem is, you know, as a government, you're not very good at like letting people go, honestly. I mean, it just doesn't happen. I mean, you guys all know. It's very unusual.

And so part of the discussion around the timing was really just the fact that, you know, you kind of had to rip the Band-Aid off and almost go as far as you thought you needed to go, and then if you needed to add people, you'd go back, right?

Because if you tried to go the other way and like slowly decrease through attrition or whatever, you'd never get to an appropriate number from a cost reduction standpoint.

BY MR. POWELL:

Q Well --

A That was the feeling from a management standpoint.

Q That does raise an interesting look at it, though, because six months earlier or less, you were up in New York projecting a solid one- to three-year forecast; correct?

A Uh-huh. Uh-huh.

Q You present the traditional response in the summer. And you're representing that there's a need for

immediate reductions in force. And I gather fairly immediate rate increases; yes?

A Yeah, again, I don't remember the timing of the rate increases.

Q But you had, did you not, from your representations to the rating agencies, three years to work with? Am I not interpreting all of this correctly?

A No, I think -- so what I would say is, you know, it's fair to say that today the agency is good financially. I think that, you know, it comes down a little bit to what is the right time to -- to stop doing something that's unsustainable, right?

So, you know, the longer you wait, the harder it gets to respond in terms of the timing, right? So if you wait till solar panels are, you know, cheaper than the cost to provide service, well, then you're kind of really in a tough spot, because now you've got to raise rates and people have an option to jump off the grid, right? So you've now just perpetuated your problem, right?

So, you know, I think the conversation's kind of like, well, look, we're in pretty good shape today, and we've got a runway to be able to make some of these changes, but the longer you wait, the less runway you get, right? So --

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Q I understand what you're saying. I'm simply asking whether that runway -- it seems me that the runway was fairly lengthy and that the changes that you're talking about that take a long time to make, for example, a substantial reduction in the number of employees, could be accommodated by that rather lengthy runway as opposed to a need for the immediacy, which was, I believe, contained in the materials.
A I think --
Q Do you disagree -- I mean, do you see what I'm saying, and do you have any thoughts on that?
A Yeah, I see what you're saying. I think the longer you push it, the more the impact -- the more action you have to take. Because you -- so, for example, if you were to do it immediately, you could pay down more debt more quickly, which would reduce the need for additional rate increases in the future, and it would allow you to have more of a smooth transition to where if you didn't -- if you didn't take any of the action and you tried to cut costs but you didn't do anything -- you know, you didn't do any rate increases and all that sort of thing, then yeah, you could have raised rates at some point in the future and paid down debt then, but then you're raising your rates at some point in the future when solar is more economical for

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people to disconnect, you know, from the system.
So, I mean, you could have the debate on timing. That's sort of a business kind of conversation. But I think if you look at -- if you look at the problems facing the business, it is logical to come to a conclusion where the quicker you take action, the less the action ultimately needs to be over the long term.
BY MS. TEODORESCU:
Q How many people were going to be laid off under Scenario 2, approximately?
A Gosh, I wish I could remember the specific number. It was several hundred, but I don't remember --
Q It was closer to 200 or 800?
A No, it was -- I don't -- I wish I had the materials. I don't have --
Q It was more than 200 --
A It was more than 200, yes. It was less than 800.
Q Okay. You think it was more than 500?
A I don't remember.
BY MR. POWELL:
Q But certainly at least 10 percent of the workforce?
A Oh, yeah. 10 percent would have been 200 people, yeah.

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Q At a minimum, at a --
A In orders of magnitude, it was -- my recollection -- and I'm sorry, I can't remember. My recollection is orders of magnitude, it was similar to what we had done over the prior 10 years. So from the prior 10 or 12-year period or so, since '06, '07 kind of time frame, we cut a little over 400 employees.
And it was somewhere in the same kind of ballpark, I think. But I don't remember the specific number.
BY MS. TEODORESCU:
Q And when would they have been laid off, by what date?
A I don't know. I do know that they're working on WARN notices -- the WARN notice. And we had provided -- all the senior leadership team had provided, you know, who -- a list of -- I think they did it by position. I don't know that we did it by specific name, but I think we did it by like position title.
So, you know, I would get rid of one analyst, for example, right? And so that was how -- that was how we came up with the number. Ultimately it was basically -- the question that was posed to the SLT was, you know, what's your bare-bones staff to be able to continue to operate the business; what does that look

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like in terms of numbers and head count and that kind of thing.
Q But do you recall approximately when it would have happened, by October 1st, by the beginning of the new fiscal year?
A I don't recall.
Q Was it going to be this year -- I mean, 2019 or ...
A If the board would have approved it -- are you asking if the board would have approved it in July, how long would it have taken?
Q Yes.
A So I don't -- I don't recall like a specific conversation around it. My guess is it probably would have been taken, you know -- call it a year, six months to a year, something like that, to --
Q So it wouldn't have happened yet by today?
A It would have been right around now, yeah.
Q Could have been?
A Yeah.
Q And today JEA is in good financial health?
A Yeah, the balance sheet -- so they still have too much debt. Financially, if you look at kind of coverage metrics and, you know, the liquidity and things that the rating agencies and the investors care about,

it's in good financial health aside from the debt issue.

The challenges it faces really are future-based. It's the plant Vogtle contract, which will come online in 2021 and 2022. That's going to be really expensive, like really expensive.

Our total base revenue requirement today is about, I don't know, 750 to $800 million, somewhere in that ballpark. Vogtle is going to cost about 200 million alone. So, you know, that's at least 25 percent of our current total revenue requirement that we collect from customers today.

Q Is that per year?

A That's per year, yeah. And that will be once both units are online.

And then when you factor in some of the other concerns around additional energy efficiency, solar penetration, batteries, even with the electrification in terms of electric vehicles -- which will help offset some of that, I think, as electric vehicles kind of get more prominent, that will help.

But between the combination of those cost increases and some of the challenges on the sales side, it mandates that we're going to have to do something.

BY MR. POWELL:

Q Without going into the weeds on plant Vogtle,

how -- and I recognize that plant Vogtle looms.

But how would shifting to a nongovernmental structure or a recap have solved that debt issue?

A So that's a good question. I don't think we ever really got to an answer on that.

Q So is it fair to say that plant Vogtle really isn't in the factoring that you-all went through to arrive at what you were presenting to the board in July of 2019?

A Well, it was factored into the financial projections for sure, and it was an element of that. So when we talk about rate increases and all that kind of thing, a significant portion of that is related to plant Vogtle.

Q But that would have been the case whether -- regardless of which scenario you opted for or the board opted for, wouldn't it?

A The plant Vogtle obligation? Yeah --

Q It wasn't going away?

A No, it was not going away. I think -- so unfortunately, you know, we never really got to a financial projection on the recapitalization structure, so I don't really know what the difference would have been around those financial projections relative to --

Q I mean, there wasn't --

A -- Scenario 1 or 2.

Q There wasn't any discussion going on about conjuring up some way to sell JEA and carve out plant Vogtle and allow a purchaser to acquire JEA free and clear of Vogtle, was there?

A Yeah, there was some discussion around doing a joint service territory. So the Vogtle contract was extremely -- it's a terrible contract as far as JEA is concerned.

Q But it is what it is.

A It is what it is.

It's very restrictive as it related to assignment.

Q I understand that.

A Yeah. And so there were some discussions around, well, is there a way that you could essentially split the service territory. There were some discussions of whether or not you -- so we had a number of discussions related to settlement of the Vogtle litigation that would have potentially unwound the contract.

I'm getting a little nervous here in terms of the active litigation and confidentiality and --

Q All right. I don't want to push you into nervousness.

A -- so I don't know how far I can go there.

We talked -- we disclosed that we were working with MEAG to try to come to some resolution around how to fix our claim under that lawsuit, restructuring a deal effectively.

(Brief interruption.)

BY MR. POWELL:

Q All right. I think you've answered my questions about Vogtle's place in the scenarios in July.

A Yeah, it was in the scenarios.

Q It was in all the scenarios?

A Correct.

Q No scenario solved the plant Vogtle situation?

A So there was some discussion around -- and again, we never got to --

Q Let me ask it differently.

It certainly wasn't presented to the board in July --

A No.

Q -- that any one scenario or the other is going take care of plant Vogtle?

A No.

MR. POWELL: All right. So that's really not an issue, then, for us any longer here.

Did you have more that you wanted --

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

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

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

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

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

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

wouldn't be -- that wouldn't be unusual in any way.
Q That's considered a long-term --
A Yes.
Q -- three years?
A Yes.
Yeah, every long-term incentive plan that I've participated in in other, you know, jobs, you know, in the corporate sector, was a three-year plan.
Q So was the purpose of the long-term incentive plan to motivate workers?
A Yes.
Q So they would perform better?
A Yes.
Q But the incentive was tied to the financial value of the company. Now, the financial value of the company may go up for reasons completely unrelated to worker performance; is that true?
Let me put it this way. Can real estate value go up?
A Can real estate value go up?
Q Yes.
A Well, real estate value can go up, but it doesn't affect the value of JEA from an accounting standpoint.
Q It doesn't?

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

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

on the entire strategic planning process.
Q That is true. But we're not talking about everybody at -- all JEA employees and a couple of other individuals.
A Yeah, I would say -- look, I would say that the value of JEA really is the quality of the system itself, and that's tied to all employees. I mean, it's a -- it is a well-run system. It is a system that's pretty good size.
I think it does have some real challenges as it relates to scale in the context of some of the challenges facing the business.
But, you know, again, ultimately, today it's a pretty well-run system. And that's in thanks -- you know, to all the employees working to make it that.
So I understand your question about direct, you know, influence, like as far as, you know, directly interfacing with the ITN process, I understand that. But I would say that it's -- the characterization that it's not dependent -- that the value of JEA is not dependent on all the employees, I'm not -- I don't agree with that.
The value of JEA is dependent upon all the work of the employees, I mean, that's -- that's a huge part of it.

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

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

to do it. It's supposed to motivate employees from this day onward.
But a recap could very well be based on JEA's existing value. That's got nothing to do with how these employees perform from today onward.
A I think -- I understand your point. I mean, this is kind of a speculative conversation, I guess. I don't know how to -- I can't quantify how a buyer might view, you know, ongoing operations and whether or not -- I mean, you certainly can't just let the operations go to tank --
Q Sure.
A -- you know, once you sign some kind of a agreement, right? So I don't know how to -- I can't quantify a number or anything.
Q But let me ask the question again. I think it may have been asked before and you may have answered it and maybe I just wasn't paying attention. I'm sorry.
Whose idea was it to tie the performance unit value to a recap as well?
A So it wasn't tied specifically to a recap. It was tied -- the formula didn't change based on regular operations or recap. There was a observation by someone along the lines -- I believe it was probably an attorney -- who said, hey, what happens if there's a

recap, because this plan -- you know, you got to have -- you know, you can't really -- if you're part of a larger company, you can't really calculate the value, you know, three years from now if you -- if two years from now you changed hands, for example, right?
So somewhere along the lines there was -- there was an attorney who said, hey, we've got to figure out what to do on a recap. It has to contemplate it. And so, you know, that was contemplated in the documents.
Q And who made the decision that in the event of a recap, the same formula applies?
A I don't recall specifically.
Q Would Mr. Zahn be the ultimate word?
A Of course. He's the CEO.
Q Do you recall if he was presented with this issue?
A I don't recall.
BY MR. POWELL:
Q However, it is -- you would agree that prior to the July 23 board meeting, the impact of a recap on the PUP plan proceeds and distribution was not de-linked from the PUP?
A The impact of the PUP plan? I'm sorry --
Q The impact of a recap. So in other words, a

recap during the performance period would result in the sale and applying the formula, as you've talked about it, and we went through a scenario where we had this large price per unit.
So that -- so prior to the July board meeting, there was not a decoupling, there was not a carving out of the recap impact on the PUP?
A Correct, there was not a carving out prior to the July board meeting.
Q And that potential was known to Mr. Zahn when that was presented to the board on July 23 of '19 -- of 2019, was it not?
A Yes, we all knew that any value above the challenge target that, you know, when the formula was calculated, would be, you know -- the pool would be 10 percent of -- of any amount above that amount.
Q All right. A minute ago you were emphasizing the people who worked on the strategic plan in answering Ms. Teodorescu's question about value and contribution of employees to the end result.
I think you said that, well, a lot of people worked really hard on the strategic plan.
Do you recall saying that?
A Yeah, a lot of people did work really hard on the --

Q Did you mean to suggest by that that those who conceived and worked really hard on the strategic plan should receive an extra reward through the PUP in the event of a recapitalization event?
A No.
Q Was there ever any discussion with Mr. Zahn about the allocation of PUP -- of performance units somehow in relation to the effort of people on the strategic plan or those who conceived and brought it into fruition?
A No.
Q Before we get too far into our record, I just want to do a little housekeeping matter.
In response to some questions earlier, you were shown a three-page document that was presented to the board in June of 2019. I'm just going to make the point that that's going to appear as Number 3. It's a three-page document.
And then you were presented a page, a one-sheeter that was presented to the board in July 23 of 2019. I'm just going to mark that as 3A, just so our record is clear.
Adina?
(Exhibit Numbers 3 and 3A were marked for identification.)

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

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

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

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

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

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

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

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

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

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

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

to design something that worked as a public agency.
Q Okay.
A But I don't know what -- again, I didn't have -- I don't recall any like specific we got this problem or that problem or we got to deal with this law or that law or -- I don't -- I don't recall any kind of conversations like that.
Q Have you ever heard anyone describe the PUP as a unicorn? Have you ever heard anyone use that term to describe it?
A I don't recall anybody calling it a unicorn. I think I understand what you mean, as it's unique.
Q Right. But I mean specifically, have you heard anyone at JEA or any of the attorneys involved specifically use the term "unicorn"?
A I don't recall that.
Q What about have you had or heard any conversations between Mr. Zahn or other JEA employees or any of the lawyers involved that discuss how unique the PUP was?
A I think the lawyers understood that the design of the program was unique under Florida law. I think that -- from my perspective -- I mean, we have lawyers looking at this thing all over the place, from OGC to specialty counsel to, you know, everybody. And I know

Herschel is not our attorney, but he is an attorney.

And so, you know, I think there was an observation that we needed to do a lot of legal work here, and I think that's part -- at least from my perception, that was part of the reason why there was discussions around going to the State Attorney General for an opinion and going to the State ethics board.

And from my perspective, attorneys were looking at this thing all -- I was relying, you know, heavily on their assessment of how to do this. And it was drafted, you know, trying to -- every activity that I saw or observed was related to making sure that we checked the boxes around, you know, doing it right.

Q Okay. Was it ever -- did you ever hear any discussions -- were you part of any discussions about whether any other municipality or public agency had a similar PUP?

A I don't recall if I was -- I don't recall any specific conversations. I'm generally aware that some research was done around whether or not there was something similar.

I think there was some kind of a plan at one of the universities that was called a performance unit plan of some kind. I don't know -- I didn't really dig into the details on that plan and what it -- if it was

similar or different, I don't really know.

But to my knowledge, I don't think there was any -- I'm not aware that there was a list of similar plans, necessarily.

Q Okay. Who did that research?

A The lawyers, but I don't recall which lawyer or legal -- or --

Q Okay.

A -- law firm.

Q So as we sit here today, are you aware of any municipality or government entity that has a PUP similar to the one that the JEA board approved in July?

A So not the same. I am aware that there were some other municipal utilities that had long-term incentives. They were structured differently, but --

Q Do you know --

A -- not the same.

Q Do you know how they were structured differently?

A So generally they were -- they were structured more as, you know, retention programs, cash-type awards.

BY MR. POWELL:

Q For management?

A For management, yes.

MR. POWELL: We have covered this, actually.

MR. GRANAT: Okay.

THE WITNESS: Yeah.

MR. GRANAT: All right. Let me move on, then.

BY MR. GRANAT:

Q So before that July 2019 board meeting where the PUP was presented and passed through the board, did Aaron Zahn ever ask you to run financial models and have hard data that showed what the PUP possibilities were?

A No, I don't recall him asking for that.

Q Before the PUP was presented to the board in July, did Mr. Zahn ever sit down and ask you what are the projections here; what might this PUP do?

A So, I mean, again, we all knew that it would be 10 percent of anything above 3.3 or -- you know, again, back to my hypothetical prior example. It would have been -- that would have been the pool --

Q I heard that.

A Yeah.

Q But I'm asking, did Mr. Zahn ever sit down with you as the CFO and say, Ryan, you're the CFO, what's this PUP going to do, what are you projecting this looks like?

A No, he never asked me for those projections.

Q So you said we all knew that it was 10 percent of anything above 3.3 billion.

Did Mr. Zahn know that?

A Yeah.

Q How do you know that he knew that?

MR. MURPHY: Just so we're clear, that 3.3 billion was a hypothetical that she came up with. It's 10 percent above 110 percent, whatever the figure --

THE WITNESS: Right.

MR. MURPHY: Just so we're clear, that 3.3 was a made-up number today.

MR. POWELL: No, it wasn't. It wasn't made up today. It was actually presented by Mr. Wannemacher quite some time ago.

MR. MURPHY: But it was a hypothetical --

MR. POWELL: That's true.

(Simultaneous crosstalk.)

MR. GRANAT: Let me reask the question. Thank you. Okay. Let me reask the question.

BY MR. GRANAT:

Q You said that you were all aware of a simple calculation that could be done to project the likely ballpark figure of what this PUP was going to produce.

A Uh-huh.

Q And I'm asking you, did Mr. Zahn know that simple calculation?

A Yes.
Q And how do you know that he knew that simple calculation?
A Because we talked about the formula, that it was going to be 10 percent of anything above, you know, a certain -- whatever the challenge target is.
Q You had that conversation with Mr. Zahn?
A Yes.
Q And during that conversation, were any figures ever discussed about what that might result in?
A No. I mean, out of 10 percent of -- you can plug in whatever number you want, I guess. Like, I mean, any -- I mean, what's the number? I guess I don't --
Q Well --
A I don't really know how to respond to the question.
Q So we knew that -- if I'm correct, the recapitalization -- if a recapitalization event occurred, it would a minimum 3.3 billion; is that right?
A Yeah, based on the formula that was -- the minimum requirements that were outlined by the board --
Q Right.
A -- it would have been, yeah, somewhere in that ballpark, 3.3, 3.4 million.

Q Okay. So going into the July meeting, it's safe to say that the simple calculation would have been known, right, that if the recapitalization occurred, anything above 3.3 billion that was the sale price, about 10 percent of that would fund the PUP; is that right?
A Yeah, to be clear, the 3.3 billion was not the sale price. That was the amount that would have been net to the City, right?
Q Correct.
A So -- but yeah, I mean, you would have put it into the formula and --
Q And so I guess my question is, if this recapitalization occurs -- because the recapitalization contemplated a specific amount net to the City. And so you could easily figure out if the sale price was more than that amount net to the City, then 10 percent of that is going to fund the PUP; right?
A Correct.
Q And did you have that conversation with Mr. Zahn before this PUP was presented to the board in July of 2019?
A Yeah.
Q Okay. And while you had that conversation, did you ever discuss or say, so, for example, if the

sale price is $5.3 billion, than it would be 10 percent of $2 billion that would fund the PUP?
A I don't recall specific examples around, you know, 10 percent of a billion is $100 million. I didn't have that --
Q Because it was pretty easy math?
A Yeah, I -- I don't recall ever having specific conversations around -- again, I think we all knew the math to be 10 percent of anything above 3.3.
Q And when you said "we all," who else was in this group of discussing the 10 percent of anything above that target value?
A So when I say "we all," it would have been primarily Aaron's direct reports. It would have been Herschel, Melissa, myself. Lynne Rhode would have been aware of it. OGC would have been aware of it as -- you know, reviewing the documents. The attorneys would have been aware of it.
Q Did you ever have discussions with any of -- specifically about this 10 percent over the target value being what would fund the PUP with any of the Pillsbury or Foley attorneys?
A Uh-huh.
Q Which ones?
A The ones -- Jessica Lutrin at Pillsbury and

Kevin Hyde at Foley would have been involved in those conversations around the 10 percent and how that was calculated.
MR. MURPHY: Mr. Granat, can I just ask you, so you on behalf of JEA are waiving the privilege, then, between attorneys and the CFO to that plan? You're asking about attorney -- conversations he had as a CFO with attorneys that were retained by JEA.
I just want to know, because this is about -- this could hit the public record, and you are here acting on behalf of JEA as their attorney. And I just want to make sure you are well aware that you're waiving the privilege.
MR. GRANAT: Let me -- thank you for bringing that up. Let me think about that and move to a different question in the meantime. Okay. Let me just digest that. I don't know that I agree with you, but --
MR. MURPHY: I'm just raising -- I'm concerned that you guys are asking questions about the CFO's conversations with attorneys for the JEA, and once that gets out, if this is public record, then you've waived it.
He's not waiving it. You are the attorneys

for JEA, and you're asking him those questions. He no longer works for JEA.

MR. GRANAT: All right. And in the public world, the attorney-client privilege is much different, but --

MR. MURPHY: I understand that. But you're putting it on the transcript that could be transmitted to the City Council.

MR. GRANAT: Now we're eating up time, because we don't have much time left.

MR. MURPHY: Okay.

BY MR. GRANAT:

Q Okay. There was some material in the packet that was presented to the board in July of 2019, and there was a slide show that -- a slide presentation that included information that the cost of the PUP would be $3.4 million per year.

Are you familiar with that?

A I've seen a slide today --

MR. GRANAT: Did you cover this?

MR. POWELL: We covered it.

MR. GRANAT: Okay. And the 150 percent cap?

MR. POWELL: Yes.

MR. GRANAT: Okay.

MS. HARRELL: Did we --

MR. POWELL: We covered that.

MS. HARRELL: Did we cover 150? Okay.

MR. GRANAT: Okay. That's what I have for now. If somebody else has -- I would just, to my team, like to take a break at some point before we end with enough time for us to have more questions.

BY MR. POWELL:

Q Right. I just want to do kind of a recap on -- I'm going to pick up a little bit on what Sean was asking you about, and then I want to try to put this into some sort of final context as it pertains to the use of the word "performance" in this plan. All right?

A Okay.

Q So based upon your answers to Sean about discussions with Mr. Zahn or Mr. Vinyard, Ms. Dykes, Mr. Eads about the -- calculating what the PUP -- how the PUP would perform or what the PUP would do into the -- into the -- in the event of a recapitalization event, you said that it's just simple, it's 10 percent and away you go.

But that discussion was in terms of getting to what the pool of money would be in the -- for distribution; correct?

A Uh-huh.

Q Likewise, I would gather that there was no

discussion breaking it down, then, to what the per-unit value would be of the PUP in the event of a recapitalization event?

A No, there was no discussion around the per-unit value. It was really not focused on.

Q But as we've discussed, you were aware and Mr. Zahn was aware that there was no cap -- as presented to the board, there was no cap on the pool of PUP money in the event of a recapitalization event?

A Correct. Anyone who read the documents realized there was no cap, according to the documents.

Q All right. Now, also, by the time you got to the July board meeting, it was understood that these units were going to cost $10 per; correct?

A Correct.

Q And so when you've been talking about this performance unit plan being an incentive plan, it really would only be an incentive plan for those who actually purchased units; is that not correct?

A That is correct. It was a -- it was structured as deferred compensation.

Q And doesn't that really turn this into an investment plan?

By the time it was presented to the board, wasn't it really now an investment plan and no longer a

performance incentive plan?

MR. MURPHY: I think he's been asked this question multiple times. You guys --

MR. POWELL: No, I don't think I've asked it quite this way.

THE WITNESS: Again, it was --

MR. POWELL: And really, that is completely unnecessary at this stage of the game. We're an hour out from being done and --

MR. MURPHY: Yet you've spent six hours on this at least, and you're asking the same questions --

MR. POWELL: Okay.

MR. MURPHY: -- over and over again. You guys have to people --

MR. POWELL: Are you done --

MR. MURPHY: -- going in and out --

(Simultaneous crosstalk.)

MR. POWELL: We need to be done on this topic.

BY MR. POWELL:

Q Question, can you answer it?

Do you agree with me that when you're now requiring employees to purchase into the plan that it is no longer an incentive plan; it has now become an investment plan?

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

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

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

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

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

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

and I'm just going to ask you if there's anything in here that you disagree with, that you think they got wrong. And -- is this another copy?
MS. TEODORESCU: Yes.
MR. GRANAT: Okay.
And before I do that, would you like a copy for yourself?
MR. MURPHY: Yes. And how long is it? I mean, I would want him to read the whole thing --
MR. GRANAT: Sure.
MR. MURPHY: -- because you're asking him to render an opinion. It looks like a long document.
MR. GRANAT: It's a four pages.
MR. MURPHY: Single-space typed.
MR. GRANAT: Well, I'm going to ask him to read it.
MR. MURPHY: Okay.
MR. GRANAT: If he's already read it --
MR. MURPHY: Make sure you read every word.
THE WITNESS: Yeah.
MR. GRANAT: And then -- okay.
MR. MURPHY: And you're going to have specific questions in there about the document?
BY MR. GRANAT:
Q Well, I'm going to ask you to read it, and

then I'm going to ask you if there's anything in here that you disagree with or that you think the council auditor got wrong.
A Yeah. I will tell you I think --
MR. MURPHY: Wait until you read it.
THE WITNESS: Okay.
MR. MURPHY: He's going to bring you a copy.
THE WITNESS: Yeah.
MR. GRANAT: And if you're in agreement, I think -- while he's reading, we can go off the record so the court reporter can stand down and --
MR. MURPHY: Sure. Of course.
MR. GRANAT: Just to note, this report is --
MR. MURPHY: Are we back on the record now?
MR. GRANAT: Yeah. I'm sorry. I didn't mean to go off.
MR. MURPHY: I thought that's what you were saying.
MR. GRANAT: No, I thought we were going -- so while he's reading it. I didn't mean --
MR. MURPHY: Okay.
MR. GRANAT: -- yet, but so this is JEA Bates stamp 444 --
(Discussion off the record.)
MR. GRANAT: Okay. So let's just say it's the

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

that includes legal conclusions, lots of different things. And I stand by my objections.
MR. GRANAT: I heard you. Noted.
MR. MURPHY: Okay. Well, you were making a comment, I think, sarcastically, and I was justifying my response.
MR. POWELL: There you go.
MR. GRANAT: So your objection's noted.
BY MR. GRANAT:
Q You've read the document. Can you tell me what in the document you disagree with?
A Do you have specific questions about the document you'd like me to answer?
Q Yes. Now that you've read it, did you read anything that when you read it, you said, that's wrong, he got that wrong, that's not right?
A So --
MR. MURPHY: Same objection.
THE WITNESS: I think that's a pretty broad question.
BY MR. GRANAT:
Q It is.
A So I don't -- if you have something specific you'd like me to look at, I can answer it.
Q Well, when you read the document, was there

anything that registered in your mind, that's not right?
MR. MURPHY: Same objection.
BY MR. GRANAT:
Q I mean, Mr. Wannemacher, you agreed that you would come in and cooperate with us. You're not on trial. This isn't a deposition. So I'm just asking you. You just read the document. Was there anything that you read in there that you think he got wrong?
MR. MURPHY: Same objection.
If you're going to release the transcript to the public, it could be used in litigation against the City. It could be used in litigation against Mr. Wannemacher. I totally disagree with your --
MR. GRANAT: So let --
MR. MURPHY: -- representation that he's not on trial here.
MR. GRANAT: Let's not have speaking objections. If we're going -- if we're going to be formal about it, please object.
MR. MURPHY: As I did.
MR. GRANAT: As you did, but let's cut the speaking objections, because I'm limited --
MR. MURPHY: I didn't make a speaking objection.
MR. GRANAT: You actually did.

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

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

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

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

Q But if -- assume that the $101,350,000 was correct and that you were going to apply the PUP calculation to that figure, is the arithmetic correct?
A So this -- so, again, I can't verify the arithmetic because I don't have the financial statements in front of me to verify the formula.
The other thing I would point out is that this number was based on 100,000 -- the entire 100,000 units being allocated for that performance period, which, again, that -- for that performance period, they didn't exist.
But there was never any discussion that I'm aware of that there was any concept of allocating 100,000 performance units.
Q Okay. Sir, are you saying that because you don't have the financials in front of you, you can't tell me if the arithmetic is correct in the paragraph that we're discussing?
A So I can tell you that the arithmetic -- assuming that the financial statements that they pulled the information -- you know, that they correctly pulled the information from the financial statements, that number should be 30 percent of that number as contemplated by the conversations that I was aware of.
Q Okay. I understand.

And is it also correct that if 100,000 -- hypothetically, if 100,000 performance units were issued and the financials were correct, their arithmetic is correct in that paragraph, hypothetically?
A Hypothetically --
Q Okay.
A -- yes.
Q And then I want to ask you the same question for the next paragraph, "cost based on JEA projections". Hypothetically, if the financials -- if the projections turned out to be correct, is the arithmetic correct, assuming again that 100,000 performance units were issued?
A Yes, assuming there were 100,000 performance units issued and the redemption price was 167 million, then yes, that number is correct.
Q And then so --
A $167. Excuse me.
Q As it was contemplated by you that 30,000 shares would be allocated, then this -- the total number, $15,778,000, should be divided by 30 percent?
A It would be 30 percent of that.
Q 30 percent of that?
A Yeah. Correct.
Q Okay.

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

issued?
A I don't recall, yeah.
Q Did you ever hear anything about additional shares over the initial 30,000 ever being issued?
A In future periods. So it was contemplated that the 100,000 units would be, you know, a multiyear plan that would be, you know, allocated over multiple years.
BY MR. POWELL:
Q A multiyear plan or a multi-performance unit plan?
A Multi-performance period plan. Sorry.
So it was intended to exist after the first performance period for future allocations. There wasn't really any discussion around what the allocations would look like in future performance periods that I can recall. It was really focused on the first performance period.
BY MR. GRANAT:
Q Are you aware of anything that would have prevented the issuance of more than 30,000 shares on this first go-round?
A I don't have the documents in front of me. I don't know what the authorization, you know, mechanism was under the documents. To be honest, I don't know.

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

you'll be offered an opportunity to add anything that you might want to add to anything. But my last question to you is, are you aware -- strike that.

Is there any information you would like to share with the board of directors with respect to Mr. Zahn's performance as CEO at JEA that you believe would amount to grounds for the termination of his contract for cause?

A No.

MR. POWELL: Okay. You can read him out.

MR. LINSNER: Okay. Mr. Wannemacher, do you have anything additional to offer or add?

THE WITNESS: No.

MR. LINSNER: Okay.

As this is an ongoing Office of General Counsel investigation, you are being advised not to discuss the case with others.

And the interview has now concluded. It's 4:55 p.m.

(Sworn statement concluded at 4:55 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF DUVAL

I, HEATHER M. THOMAS, Court Reporter and Notary Public, State of Florida, was authorized to and did stenographically report the foregoing proceedings; and that the transcript, pages 4 through 230, is a true and accurate record of my stenographic notes.

I further certify that I am not a relative, or employee, or attorney, or counsel of any of the parties' attorney or counsel connected with the action, nor am I financially interested in this action.

DATED this 5th day of January, 2020.

HEATHER M. THOMAS
COURT REPORTER

N

U

From: Wathen, David (Atlanta)
To: Maillis, Patricia L. - Director, Employee Services
Subject: RE: Follow-up from Meeting - FY19 Metrics
Date: Wednesday, March 27, 2019 3:25:34 PM

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Pat:

Thanks for the update. I think model Ryan provided today is good for now. We will review that and let you know if we have any questions.

Best regards,

David

From: Maillis, Patricia L. - Director, Employee Services [mailto:mailpl@jea.com]
Sent: Wednesday, March 27, 2019 8:59 AM
To: Wathen, David (Atlanta) <david.wathen@willistowerswatson.com>
Subject: Re: Follow-up from Meeting - FY19 Metrics

This is not the first time he has put it out there. No comments at this meeting. Believe he uses each opportunity to be transparent and so the topic won't be a surprise. He got board approval to change the philosophy several weeks ago.

Ryan and Aaron's goal is to reach provide market on all levels and include components that make the company on par with IOUs of similar revenues, output and customers.

I did some research on past practices and this is not the first time that JEA would have a market based compensation plan. Back in the 90's and early 2000's, the company had a plan that paid out as high as 35% of Pay for appointed (all apptd). While I do not agree with this methodology and not sure they actually did the market analysis to show this is appropriate, they definitely were seeking to be the more competitively compensated companies in the national public sector space.

Now, the kicker is, the optics. Several years later, constituents pushed back and the plan suspended. Aaron is willing and wants to take the risk on this. He knows to go for the ideal state and if we get push back, we'll deal with it.

Can you give me the specifics on what you need for the financial data for the PU plan and I will get Ryan on it right away?

Pat
Sent from my iPhone

EXHIBIT
PENGAD 800-631-6989
Wannemacher 1
1/30/20

On Mar 26, 2019, at 9:39 PM, Wathen, David (Atlanta) <david.wathen@willistowerswatson.com> wrote:

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Thanks Pat for sharing. How was the proposed compensation framework Aaron presented received by the Board? Anything we should be sensitive to when putting forth our recommendations on the pay adjustments and LTI plan design?

Also, do you think you will be able to provide the financial data we requested to help in determining the best approach for valuing a performance share unit?

Thanks.

David

From: Maillis, Patricia L. - Director, Employee Services [mailto:mailpl@jea.com]
Sent: Tuesday, March 26, 2019 3:21 PM
To: Wathen, David (Atlanta) <david.wathen@willistowerswatson.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>
Cc: Strackbine, Scott I. <strasi@jea.com>; Hwang, Paul (Atlanta) <paul.hwang@willistowerswatson.com>; Kelly, Tom (Charlotte) <thomas.kelly@willistowerswatson.com>; Meng, Patrick (Atlanta) <Patrick.Meng@willistowerswatson.com>
Subject: RE: Follow-up from Meeting - FY19 Metrics

David,

Attached are the slides from today's JEA Board of Director meeting. Suggest taking a look at slides 22 – 24. Aaron is laying the groundwork on LTI.

From: Maillis, Patricia L. - Director, Employee Services
Sent: Tuesday, March 26, 2019 11:27 AM
To: 'Wathen, David (Atlanta)' <david.wathen@willistowerswatson.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>; Hiers, Angelia R. - VP & Chief Human Resources Officer <hierar@jea.com>
Cc: Strackbine, Scott I. <strasi@jea.com>; Hwang, Paul (Atlanta) <paul.hwang@willistowerswatson.com>; Kelly, Tom (Charlotte) <thomas.kelly@willistowerswatson.com>; Meng, Patrick (Atlanta) <Patrick.Meng@willistowerswatson.com>
Subject: RE: Follow-up from Meeting - FY19 Metrics

Will send you today's pieces from the Board meeting re Compensation. Aaron referenced the methodology today.

Below looks good.

LTI – agree with the below.   Strong emphasis on LTI and proposed plan design

Some of my notes from our meeting on LTI:
3 Financial Factors (can be measured over 5 years):
Rates
Net Book Value
Contribution to the City of Jacksonville

Dashboard is centered around the corporate measures of value:
Customer Value
Financial Value
Environmental Value
Community Impact Value

From: Wathen, David (Atlanta) <david.wathen@willistowerswatson.com>
Sent: Monday, March 25, 2019 2:40 PM
To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>; Hiers, Angelia R. - VP & Chief Human Resources Officer <hierar@jea.com>
Cc: Strackbine, Scott I. <strasi@jea.com>; Hwang, Paul (Atlanta) <paul.hwang@willistowerswatson.com>; Kelly, Tom (Charlotte) <thomas.kelly@willistowerswatson.com>; Meng, Patrick (Atlanta) <Patrick.Meng@willistowerswatson.com>
Subject: RE: Follow-up from Meeting - FY19 Metrics

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Pat:

Yes, based on the input from last week's meeting, we are pulling together materials for the April committee meeting that will address the following:

- Review current compensation philosophy
- Evolution as to how compensation programs got to their current state
- Current gaps to market in compensation levels – specifically calling out gaps in base salary, short and long-term incentives by organizational level and actions to take to close those gaps to market. These proposed pay adjustments will detail by

grade what base salary, short-term and long-term incentive opportunities should be

- Short-term incentive plan design – based on the meeting last week, our takeaway is the short-term incentive plan design you proposed was not changing materially other than the introduction of a Net Income measure. Is there anything you need from us as it relates to short-term incentive plan design?

- Long-term incentive plan design – we will provide a more detailed LTI design given Aaron's feedback around the draft strawman design we shared. It will include target incentive opportunities by level, where applicable, as well as performance measure weightings and a proposed formula for determining a Performance Share Unit (PSU) value. As it relates to the LTI plan performance measures (rates customers pay, change in net book value and contribution to the city), we would look to Ryan to provide guidance on what performance hurdles should be at Threshold, Target and Maximum, as he has insights into historical performance, future projections, business strategy, etc., but we can certainly provide guidance as to what probability payout distributions look a well-designed incentive plan

- Overview of best practices to consider for modernizing total rewards

As it relates to determining an applicable formula for valuing a PSU in the long-term incentive plan, we need some additional information. Would you please check with Ryan to see if he could provide us information on key drivers of long-term performance, such as:

1) Historical financials, most importantly on book value as of year-end and anything impacting that other than income/surplus generated in a year less any cash contributions/outlays made

2) Better understanding (and history) of cash contributions made to City and the basis by which the contribution level in a given year is determined and/or could be evaluated. Percentage of income/surplus or something else. Also understanding of timing on those contributions and how they impact book value – for example, contribution made in 2018 based on surplus generated in 2017 and so are reflected in year-end book value for 2018 but not 2017.

3) How "customer rates" are determined and evaluated, along with historical JEA information as well as historical/current information on relevant comparators or index

4) Any information on forward looking projections/estimates on these same items.

We are working to deliver the next draft of materials by the end of next week, assuming we get the financial data requested above. Please let us know if we need to schedule a call to talk through these additional data needs or if we are missing anything in the materials we are pulling together for the committee meeting.

Best regards,

David

From: Maillis, Patricia L. - Director, Employee Services [mailto:mailpl@jea.com]
Sent: Monday, March 25, 2019 10:08 AM

To: Wathen, David (Atlanta) <david.wathen@willistowerswatson.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>
Cc: Strackbine, Scott I. <strasi@jea.com>; Hwang, Paul (Atlanta) <paul.hwang@willistowerswatson.com>; Patrick, Michael (Atlanta) <michael.patrick@willistowerswatson.com>
Subject: RE: Follow-up from Meeting - FY19 Metrics
Importance: High

David,

Angie received some feedback from Aaron today regarding our meeting last week.

Aaron indicated he had expected to receive an example of a plan (not just a few options). Based on the feedback and input that you received in the meeting last week, will you be providing a draft plan that will detail more of the values by grade or level, the metrics, thresholds, timing of payouts, etc.? If so, what is the timing on receipt of this information?

Pat

From: Maillis, Patricia L. - Director, Employee Services
Sent: Thursday, March 21, 2019 8:58 AM
To: 'Wathen, David (Atlanta)' <david.wathen@willistowerswatson.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>
Cc: Strackbine, Scott I. <strasi@jea.com>; Hwang, Paul (Atlanta) <paul.hwang@willistowerswatson.com>; Patrick, Michael (Atlanta) <michael.patrick@willistowerswatson.com>
Subject: RE: Follow-up from Meeting - FY19 Metrics

As LTI structure takes form, I think we will need to state at some point where gaps in STI may be made up in LTI or reference Total Comp so that we also have flexibility to shift the mix, if the company chooses. It seems the message will or should focus on Total Comp (not just the cash components).

Again, thanks. Talk soon.

Pat

From: Wathen, David (Atlanta) <david.wathen@willistowerswatson.com>
Sent: Wednesday, March 20, 2019 6:41 PM
To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>
Cc: Strackbine, Scott I. <strasi@jea.com>; Hwang, Paul (Atlanta) <paul.hwang@willistowerswatson.com>; Patrick, Michael (Atlanta) <michael.patrick@willistowerswatson.com>
Subject: RE: Follow-up from Meeting - FY19 Metrics

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Pat:

Nice to meet you yesterday. We enjoyed getting to meet the JEA team. Also, hanks for the update on the STI plan. We are working through assessing the gaps to market based on current STI levels, not proposed, but will likely be in touch with you and Scott if we have any follow up questions or data needs.

Best regards,

David

From: Maillis, Patricia L. - Director, Employee Services [mailto:mailpl@jea.com]
Sent: Wednesday, March 20, 2019 9:24 AM
To: Wathen, David (Atlanta) <david.wathen@willistowerswatson.com>; Deeb, Andrea (Atlanta) <andrea.deeb@willistowerswatson.com>
Cc: Strackbine, Scott I. <strasi@jea.com>
Subject: Follow-up from Meeting - FY19 Metrics

David and Andrea,

Thank you for a great meeting yesterday.

As follow-up to our conversation yesterday, wanted to provide some clarification on the current state of the STI plan. There have been no changes to date in total opportunity for employees. There were originally discussions regarding not having a payout for 2019, but this was not communicated to employees and so employees are thinking it is status quo. At the beginning of the performance period, October 1, 2018, there was clear communication regarding the 2019 goals. These were new in many respects so it was not clear (from my perspective as to which of the goals would translate to the STI). Last week, I was asked to incorporate the new goals into the plan. No change in payout values, (except maybe the executives – this discussion has not been finalized).

Providing you the new dashboard so you can see the goals(the first 21 , in four categories that align with our Corporate Measures of Value; Customer Value, Financial Value, Environmental Value and Community Impact Value. To the far right of the attached spreadsheet, is Compensation's calculations re the payout values for each metric based on the achievement of a meets or exceeds. The leadership team has confirmed that we will have these 21 measures. This is Comp's draft for cost modelling.

The one item that is up in the air is a comment made by the team last week re "make the spreads between the meets and exceeds wider".

The plan has progressed over the last 5 years from a set payout based on achievement of 5 operational measures, then $500 - $3000 for all employees, much like a Profit Sharing Plan with little to no differentiation and below the market for all managers and above. In 2014, , we incorporated individual performance factor for the appointed further differentiating the payout between line and management employees. In 2016, we increased the payouts further for the management to director level (and have done minor fine tuning since). We were not able to do this for the SLT due to optics, so we focused on making sure their base pay was at or moving towards 50th percentile. Today, the difference between a meets and exceeds for non-SLT is 160%. I am going to pitch that this is wide enough for now and that we don't want to make changes based on this project. However, I do not think that we will win this battle with the SLT pieces.

As we have discussed, with the addition of a broad based LTI plan, the LTI component can make up that difference in market value for the non-management and lower level managers that don't normally receive LTI in the market place. We probably still need to increase some levels of management STI with the addition of the LTI as well.

Pat Maillis
Director, Employee Services
Direct: (904-665-4132)
Cell : (904-703-3453)

<image002.jpg> <image004.jpg> <image006.jpg> <image010.jpg> <image013.jpg>

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Long-Term Incentive Plan Design

Proposed Design Details: Performance Unit

Performance Unit

Plan Design Element	Plan Design Details
Award Vehicle	• Performance Unit: value of unit tied to JEA Net Book Value; unit valuation formula to be determined
Eligibility	• All employees would be eligible in order to drive collective focus on JEA long-term performance
Target Award Opportunity (as % of base salary)	• Award opportunities vary based on level in the organization (see page 31 for proposed targets); Management and Board's intent is to close competitive gap to market for LTI in first year of grant and ensure JEA compensation is competitive with market 50th percentile
Award Frequency	• Annual
Circuit Breaker	• Defined level of contribution to the City will be established for each award cycle; intent is for contribution level to ensure LTI plan is self funded
Performance Measures	• Net Book Value: used to determine Performance Unit value • Customer Rates: performance measure used to modify the number of Performance Units earned; performance goal to be determined
Performance Period	• 3-year performance cycle with overlapping cycles due to annual grant frequency 
Payout Range	• Threshold: 50% of Target • Maximum: 150% of Target
Estimated Cost	• Estimated cost of annual Performance Unit awards to all employees based on current incumbent base salaries* is $3.4M

*Bargaining Unit costs calculated based on step structure data if incumbent data are not available.

EXHIBIT 2
Wannemacher
1/3/20

PENGAD 800-631-6989

JEA0305

Proposed Compensation Adjustments

Market Positioning Based on Proposed Pay Adjustments

- The following exhibit summarizes the competitive position of JEA pay based on the target bonus % and LTI % adjustments needed to align pay with market median
  - All levels approximate or exceed the market median for target TDC, thereby aligning with the Board's articulated competitive compensation positioning
    - Proposed target bonus % and LTI % for executives bring target TDC to market competitive levels; therefore, material base salary adjustments are not required
    - Bargaining Unit variance exceeds market median target TDC due primarily to variances that are calculated based off of step structure base salaries

Job Weighted:

Level	Average Base Salary/Midpoint Variance (Median)	Average Target Bonus %		Proposed Target TDC Variance (Median)	Average Long-term Incentive %		Proposed Target TDC Variance (Median)
	JEA	JEA Proposed	Market	JEA	JEA Proposed	Market	JEA
Executive	-12%	45%	43%	-6%	40%	40%	-2%
Director	-1%	20%	18%	2%	5%	8%	1%
Manager	-2%	10%	13%	-3%	3%	--	-1%
Individual Contributor	-1%	7%	10%	-1%	3%	--	2%
Bargaining Units	11%	2%	7%	8%	1%	--	9%
Total	3%	8%	12%	2%	3%	19%	3%

Note: Market data provided by JEA.

JEA03

STRATEGIC PLANNING OVERVIEW

Baseline/Scenario 1:
Status Quo

Scenario #2:
Traditional Response

JEA®

DISCLAIMER

The following financial projections are presented solely for JEA Board of Directors planning and action in connection with the development of a strategic plan. They are not a projection of future financial performance and, as such, should not be relied upon by present or prospective JEA bond investors to purchase or sell any security or to make an investment decision. The projections are a mathematical representation of a status quo business case and do not reflect numerous likely future events and future JEA actions that will likely cause actual results to differ materially from this business case. The presentation should be viewed in its entirety with individual slides or sections of the presentation having no greater or reduced significance relative to other slides or sections of the presentation.

STRATEGIC PLANNING PROCESS AND STEPS

Phased approach chosen to increase transparency with community

McKinsey has worked closely with JEA throughout Phase 1, 2 & 3

Internal stakeholder alignment (Board, SLT, appointed employees, Union)

Phase 1 *(April 2018 – Dec 2018)*
Transition
Stabilize JEA, develop strategic framework, guiding principles, dashboard, financial tools, hire CEO

Phase 2 *(January 19 – May 19)*
Status Quo
Establish current state and develop future state scenarios

Phase 3 *(April 19– June 19)*
Traditional Response
Develop strategic portfolio of Initiatives to meet targets for performance and health

We are here
Start Strategic Planning

Phase 4 *(June 19 – September 19)*
Finalize executable plan with no regrets near-term actions and options for long-term path

Launch no-regrets strategic initiatives

Phase 5 *(September 19 – Jan 20)*
Align JEA Stakeholders & Charter with long-term plan to maximize value: 1) Customer; 2) Financial; 3) Environmental; and 4) Community Impact

Details to follow

External stakeholder consultation and feedback (e.g. City of Jacksonville)

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Finalize executable plan with no regrets near-term actions and options for long-term path

Launch no-regrets strategic initiatives

Phase 5 *(September 2019 – Jan 2020)*
Align JEA Stakeholders & Charter with long-term plan to maximize value: 1) Customer; 2) Financial; 3) Environmental; and 4) Community Impact

Details to follow

External stakeholder consultation and feedback (e.g. City of Jacksonville)

EXHIBIT 3A
Wannemacher
1/3/20 P.
PENGAD 800-631-6989

OFFICE OF THE COUNCIL AUDITOR
Suite 200, St. James Building

MEMORANDUM

Date:	November 18, 2019
To:	All Council Members
From:	Kyle S. Billy, Council Auditor
Subject:	JEA Performance Unit Plan

This memorandum is about the JEA "Long-term Performance Unit Plan" (Plan) approved by the JEA Board on July 23, 2019. The Plan concerns me due to its significant potential cost to JEA and the potential reduction of proceeds to the City from a Recapitalization Event.

Members of my staff and I met with JEA officials on October 31, 2019, to discuss the proposed Plan. This discussion was based on the resolution approved by the JEA Board on July 23, 2019, and other documents (drafts of the JEA Long-Term Performance Unit Plan and the Long-Term Performance Unit Agreement) received on August 14, 2019, and on questions submitted by my office on August 9, 2019. During the meeting on October 31, 2019, JEA officials indicated that there had been some changes to the documents based on our initial set of questions. They also indicated that there could be additional changes made in the future based on our discussions at that meeting. Later that day, we sent JEA a summary of outstanding and additional questions. Included in the list were questions asking for a legal opinion on whether the Plan requires City Council approval and whether it is required to be collectively bargained. While waiting for responses to our questions, I prepared to issue a memo notifying City Council of my concerns due to the timing of the rollout of the Plan (JEA planned to distribute the Plan agreements to employees in December and sell the first Performance Units in January of 2020.) However, on November 13, 2019, I received a copy of a letter from JEA's Managing Director and CEO to the City's General Counsel (see Attachment A) stating that implementation of the Plan has been postponed indefinitely. While the postponement alleviates my immediate concerns, the Plan has not been formally rescinded by the JEA Board. That is why I am still issuing this memo. Below is information about the Plan and support for why the Plan should be formally rescinded or amended by the JEA Board.

PURPOSE OF THE PLAN

The stated purpose of the Performance Unit Plan is to "provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville." The purpose further states "JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville."

HOW DOES THE PLAN WORK?

Employees may purchase Performance Units for $10 each through payroll deduction and then, after the three-year Performance Period, JEA will pay each Participant of the plan the Redemption Price per Performance Unit. The JEA Board has authorized a pool of 100,000 Performance Units.

As seen on Schedule A to JEA's Long-Term Performance Unit Plan (See Attachment B), the Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target (10% increase over the Base Year Value for the performance period) and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Base Year Value for the performance period. The scenarios below show JEA's minimum cost, maximum cost, cost based on recent financial performance, cost based on JEA projections, and cost based on various Recapitalization Event scenarios.

Minimum Cost: Zero. The minimum cost is zero because the Redemption Price may be equal to or less than the Purchase Price.

Maximum Cost: Unlimited. The maximum cost is unlimited because there is no cap on the value of a Performance Unit.

Cost Based on Recent Financial Performance: $101,350,000. Based on the Fiscal Year 2018 audited financial statements (Current Year Value) compared to the Fiscal Year 2015 audited financial statements (Base Year Value), the Redemption Price of a Performance Unit would be $1,023.50. If 100,000 Performance Units had been issued for this period, the net cost to JEA would be $101,350,000 ($102,350,000 payout by JEA less $1,000,000 paid in by employees).

Cost Based on JEA Projections: $15,778,000. Based on Fiscal Year 2019 unaudited financial statements and Fiscal Year 2022 forecasted amounts provided by JEA's Chief Financial Officer, the Redemption Price of a Performance Unit would be $167.78. If 100,000 Performance Units are issued for this period, the net cost to JEA would be $15,778,000 ($16,778,000 payout by JEA less $1,000,000 paid in by employees).

Cost Based on Various Recapitalization Event Scenarios: We ran additional calculations to demonstrate the possible costs of the Plan if a Recapitalization Event occurs.

(A)	(B)	(C)	(D)	(E)	(F)
Net Proceeds to City Before Payment of Performance Units	**Purchase Price Per Performance Unit**	**Increase in Value Per Performance Unit**	**Redemption Price (B + C)**	**Total Payout on 100,000 Performance Units (D * 100,000 Units)**	**Net Proceeds to City After Payment of Performance Units (A – E)**
$3 billion	$10	$0	$10	$1.0 million	$3.0 billion
$4 billion	$10	$3,140	$3,150	$315.0 million	$3.7 billion
$5 billion	$10	$6,356	$6,366	$636.6 million	$4.4 billion

OVERALL WEAKNESSES AND CONCERNS

In addition to estimating the potential cost of the Plan, we also reviewed the Plan for weaknesses and concerns and have compiled the following list:

1. The Performance Unit Plan has not been vetted and approved by City Council.
2. There is no cap to the value of a Performance Unit.
3. The Challenge Value Target is too easy to achieve. (Looking at JEA's audited financial statements for the past ten years (2019 is based on unaudited financial statements), we determined that JEA has hit this target in 9 out of the past 10 three-year periods. See Attachment C).
4. The value of a Performance Unit is affected by changes in rates.
5. The value of a Performance Unit is affected by newly adopted Governmental Accounting Standards and changes in accounting policies which are not tied to the actual performance of JEA. Changes like these can cause significant fluctuations. Examples include:
    a. Accounting Standards Change: The Fiscal Year 2014 financial statements were restated for comparison purposes for Fiscal Year 2015 to show the unfunded pension liability. The change resulted in a decrease in the Net Position of $352,105,000 for Fiscal Year 2014.
    b. Accounting Policy Change: The Fiscal Year 2015 financial statements included a change in accounting policy which had a net positive change of $151,490,000 in Net Position for Fiscal Year 2015.
6. The value of a Performance Unit would be affected by the sale of JEA assets such as real estate or JEA's fiber network. (Real estate is recorded in the financial statements at historical cost. Therefore, the sale of the SJRPP site or any other JEA real estate not held for investment purposes would increase the value of the Performance Units.)
7. The value of a Performance Unit would increase due to developer contributions or even contributions from the City. (For example, when developers complete a subdivision, they may deed over the utility infrastructure to JEA. This would increase the value of the Performance Units. If the City donated assets to JEA, it would increase the value of the Performance Units.)
8. The value of a Performance Unit would be affected by in-kind contributions from JEA to the City (e.g. nitrogen credits).
9. The Plan is not limited strictly to JEA employees. The Plan specifically includes "each actively employed eligible attorney from the Office of General Counsel of the City of Jacksonville who is dedicated exclusively to JEA." In addition, the CEO can recommend and the Plan Administrator (Chair of JEA Compensation Committee) can approve participants that are not JEA employees.
10. The Plan Administrator has the ability to delegate any or all responsibilities to any member of JEA's senior executive management. (This could create a conflict of interest and should be reviewed by the City Ethics Officer.)
11. JEA's CFO, who is eligible to participate in the Plan, is responsible for calculating the Redemption Price.
12. If any payments under the plan are subject to any excise tax, interest or penalties under the IRS Code, JEA will have to pay to such employee an amount equal to the full amount of the penalties. (This could further increase the cost of the plan.)

WEAKNESSES AND CONCERNS THAT APPLY TO A RECAPITALIZATION EVENT

1. The value of a Performance Unit can increase significantly due to a Recapitalization Event. (If 100,000 Performance Units were sold as authorized, over $300 million would be distributed to the holders of Performance Units for every billion dollars in proceeds over $3 billion that the City receives.)
2. There is no prohibition in the Plan to offering Performance Units to employees after an ITN award has been made and the value of a Performance Unit is known, should a Recapitalization Event occur.

OVERALL CONCLUSION

The Plan is potentially a very costly use of JEA resources that would be magnified by a Recapitalization Event. Regarding a Recapitalization Event, the City Council should keep in mind that plans have already been approved by the JEA Board to help retain and protect employees, including guaranteeing to the employees three years of substantially comparable compensation and benefits in effect at the Closing Date, providing an additional year's pay spread over two years, and providing a pension for years of service not worked by employees who are not eligible for retirement at the time of a Recapitalization Event. Although JEA leadership has decided to postpone indefinitely the implementation of the Plan, the JEA Board has not taken action to formally rescind the Plan or modify it to correct its weaknesses.

RECOMMENDATION

I recommend that you request that the JEA Board take action to formally rescind the Performance Unit Plan or make the following changes to the Plan.

1. If the Plan is not rescinded, the City Council should request a legal opinion as to whether the Plan requires City Council approval.
2. Put a cap on the maximum redemption value of a Performance Unit and a cap on the overall payout of the Plan.
3. Increase the Challenge Value Target.
4. Exclude the following from impacting the value of a Performance Unit.
    a. Recapitalization Event
    b. Change in rates charged by JEA
    c. Newly adopted accounting standards and changes in accounting policy
    d. Sales of JEA assets
    e. City contributions to JEA
    f. Developer contributions to JEA
    g. In-kind contributions from JEA to the City (e.g. nitrogen credits)
5. Prohibit the delegation of Plan responsibilities to those eligible to participate in the Plan.
6. Limit Plan participation to JEA employees.
7. Require JEA's external auditor to calculate or certify the Redemption Price for Performance Units.
8. Eliminate the provisions whereby if any payments under the Plan are subject to any excise tax, interest or penalties under the IRS Code, JEA will have to pay to such employee an amount equal to the excise tax, interest, or penalties.

Attachments:
Attachment A - Letter from Aaron Zahn to Jason Gabriel
Attachment B - Schedule A to JEA Long-Term Performance Unit Plan
Attachment C - Graph Depicting the Value Change Percentage Compared to the Challenge Value Target Percentage

CC: JEA Board of Directors
Aaron Zahn, Managing Director and Chief Executive Officer, JEA
Ryan Wannemacher, Chief Financial Officer, JEA
Herschel Vinyard, Chief Administrative Officer, JEA
Sherry Hall, Chief Government Affairs Officer, JEA

Attachment A

21 West Church Street

Jacksonville, Florida 32202-3139

November 12, 2019

Mr. Jason Gabriel
City of Jacksonville General Counsel
117 W Duval St, Suite 400
Jacksonville, FL 32202

JEA

ELECTRIC

WATER

SEWER

Re: JEA Long Term Performance Unit Plan (the "Plan")

Mr. Gabriel:

This letter pertains to the Plan approved by the JEA Board of Directors ("Board") by Resolution 2019-10 on July 23, 2019. The stated purpose of the Plan is to provide a means by which employees of JEA may be incentivized to: (i) remain at JEA, (ii) drive value for customers, (iii) drive value for the community of Northeast Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville. The Board developed the Plan out of a desire to develop a long-term incentive program, in line with market standards, that furthered the Board's total compensation policy approved in January 2019. The Board reviewed the Plan framework as recommended by a third party compensation consultant, Willis Towers Watson, in June 2019. Finally, the Board adopted the Plan in July 2019 and instructed JEA executive leadership to work with the Chair of the Compensation Committees ("Plan Administrator") to implement the Plan.

This letter is to inform you that JEA leadership, in consultation with the Chair of the Board ("Chair"), the Plan Administrator and OGC, has decided to postpone indefinitely the implementation of the Plan.

As you are aware, JEA executive leadership has been diligently working to implement the Plan with the Office of General Counsel ("OGC"), Pillsbury Winthrop Shaw Pittman, LLP, Foley Lardner LLP, and relevant state and local bodies. Given the long-term nature of the Plan and the Plan obligations, JEA leadership wanted to ensure all employment, corporate, ethics, tax, and other related matters associated with the Plan were in accordance with applicable statues and regulations. To that end, JEA greatly appreciates the deliberate, methodical and meticulous work of OGC and all of its advisors.

The decision to not implement the Plan is based in the incongruity of the Plan's long-term nature and the very real potential short-term implications of the JEA's strategic planning process. As such, the Chair, Plan Administrator and JEA leadership believe the Plan would be best implemented, if ever, post decision on the strategic direction of JEA as determined by the Board.

Accordingly, the Board is expected to recommend one of the following five options as a strategic direction for JEA:

1) Scenario #1: Status Quo Plan;
2) Scenario #2: Traditional Utility Response Plan;
3) Scenario #3: Community Ownership Plan;
4) Scenario #4: Initial Public Offering (IPO) Plan; or,
5) Scenario #5: Strategic Alternative from ITN 127-19.

Should the Board choose Scenarios 3, 4, or 5 the Plan would be moot from a long-term incentive basis. Should the Board choose Scenario 1 or 2, the Plan has a more appropriate role in driving employee behavior to increase customer, community, environmental and ultimately financial value of JEA.

Please accept this letter as a final decision on this matter until further notice. As always, JEA, and specifically the Plan Administrator, welcomes OGC input and advice on how to appropriately administer the Plan absent a full implementation with its employees.

Sincerely:

Aaron F. Zahn
Managing Director & Chief Executive Officer

Cc:
JEA Board of Directors

Attachment B

SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period, (ii) the aggregate consideration paid, distributed, credited or otherwise provided to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

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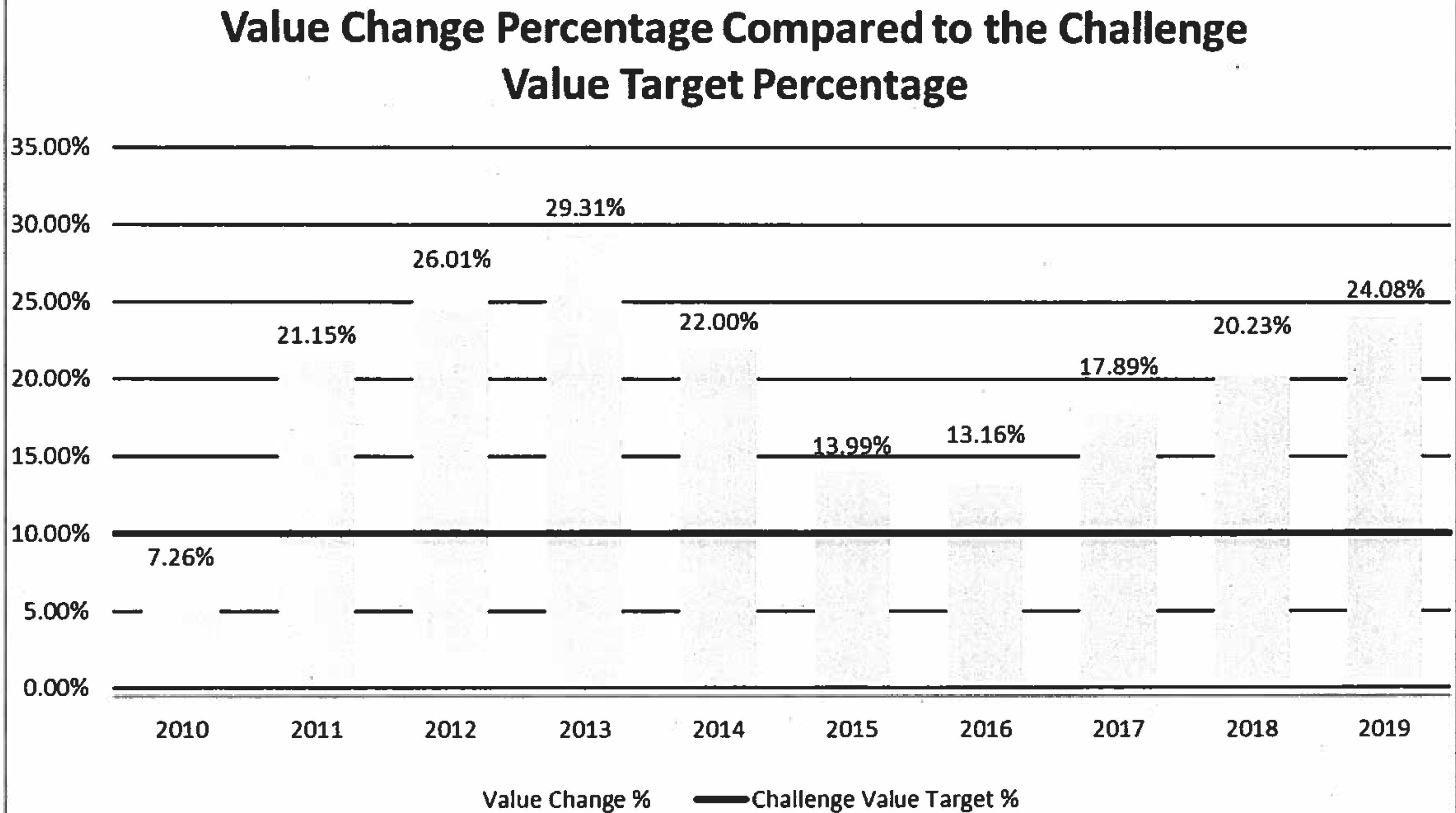
[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

Attachment C



All value change percentages are based on originally issued audited financial statements except for FY 2019, which is based on preliminary financial statements. The formula is Current Year Value ÷ Base Year Value = Value Change Percentage.