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After declining to speak to council committee under oath, Sam Mousa responds via email

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City chief administrative officer says RFP seeking strategic financial advisory services "had nothing to do with the potential sale of the JEA."

by: [David Cawton](#) | Associate Editor

Hours after he declined to answer questions under oath from a City Council committee exploring the circumstances of a potential sale of JEA, city Chief Administrative Officer Sam Mousa instead emailed his answers to the committee chair.

In the Thursday night email to council member John Crescimbeni, Mousa said that a Request for Proposals “had nothing to do with the potential sale of the JEA” and that the “administration was not charged by the JEA board to pursue any activity related to the potential sale of the JEA, but rather the charge by the JEA board was directed to JEA staff.”

Mousa answered two questions about the RFP issued by the city in December seeking strategic financial advisory services.

Because the administration advertised the RFP without consulting the legislative branch, some council members including President Anna Brosche requested Mousa answer questions about it and any possible connection to JEA.

The committee wanted Mousa and other speakers under oath. Mousa refused.

Mousa said in the email that he was sorry the committee was unable to hear his answers.

“Notwithstanding, I desire to respond herein to the questions as I understood them previously from you,” he wrote.

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When asked for comment, Mousa referred to his email exchange with Crescimbeni.

Crescimbeni’s first question asked about the status of the Dec. 20 RPF, a process Mousa said the administration already completed.

“No contract exists, and no contract encumbrance or contract expenditures have occurred,” he said.

Mousa gave a longer answer to the chair’s second question, if the administration would “consider holding in abeyance any further action on the subject RFP,” pending the conclusion of special committee’s work.

Mousa said no connection exists between the RFP and a potential JEA sale, and that the administration does not take direction from the utility’s board.

Some council members, including Brosche and committee member Garrett Dennis, have questioned the timing of the RFP.

The administration advertised the Request for Proposals nearly a month after the JEA board began its own exploration of JEA's value on the open market.

Council Auditor Kyle Billy discovered the RFP's existence in late February.

He made his findings public through a Feb. 21 email to Mousa and city CFO Mike Weinstein.

In his email, Billy said the RFP appeared to "request financial advisory services that would be needed to solicit bids to purchase JEA, evaluate those bids, assist city staff in negotiations and assist in bringing the transaction to a financial and commercial close."

Mousa responded, saying he was "disappointed" Billy would make that link.

The RFP does not mention JEA, although the seven companies that responded sent their submissions to Public Financial Management Inc., the Orlando-based firm retained by JEA as its financial adviser since 2002.

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The firm is responsible for a report evaluating JEA's position in the utility field, its potential market value, and the steps the city could take if it wanted to pursue a sale. Michael Mace, the managing director of Public Financial Management, presented the report to council Feb. 14.

In his email to Crescimbeni, Mousa states the administration did not develop the RFP to assist a potential sale of JEA, nor would it be used for those purposes.

"The RFP was developed for a variety of other city infrastructure reviews, analysis and evaluation by qualified consultants in the event the administration desired to pursue same on any proposal which may have been received by parties interested in privatization, public/private partnerships or other facility management proposals for city infrastructure," he wrote.

In response to a public records request seeking documentation concerning private equity providers and affiliated operating companies approaching the city with such offers, Assistant General Counsel Craig Feiser said such records didn't exist.

Through a Feb. 23 email, Feiser said that interested parties do not present proposals until formal requests for the same are issued.

"Confidentially and sometimes proprietary exemptions are typically implemented by private parties until formal advertising and the RFP processes are completed," he said.

Feiser said the discussions referenced in the email exchange between Billy and Mousa occurred with former Indianapolis mayor and current public-private partnership consultant Stephen Goldsmith.

In his Friday email to Crescimbeni, Mousa said the executive branch "has the authority, duty and responsibility to evaluate any [and] all such proposals it deems appropriate and to solicit the need for consultants utilizing lawfully appropriated funds."

At Thursday's special committee meeting, city General Counsel Jason Gabriel said the administration had the authority to issue an RFP without council's knowledge.



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Mousa concludes his email saying that because the issue does not concern JEA, "the RFP may be utilized in the future for any other city infrastructure evaluation as the Executive Branch sees fit to possibly do so."

Crescimbeni responded to the email Friday morning that he finds Mousa's answers "to be satisfactory."

"I'm glad he provided his answers via some format," Crescimbeni said Friday afternoon. "At least we have answers to some of the questions from our last JEA meeting, we can scratch those off the list."

Crescimbeni said Mousa could have said the same thing Thursday night.

"I understand his reasoning for not doing that," he said.

Thursday afternoon, the committee agreed that anyone speaking to them should do so under oath, including Mousa.

“No ma’am, I refuse to take that oath,” Mousa told the committee.

Mousa said he had never lied to the council or a council committee in his 31 years of employment with the city.

JEA CEO Paul McElroy also declined to answer questions under oath, saying he was “disappointed” and “deeply saddened” the committee would make that a requirement.

The committee also agreed it had the power to subpoena anyone unwilling to speak under oath although General Counsel Jason Gabriel insisted the committee only do so after thoughtful consideration. Gabriel argued that using subpoena power could result in a “chilling effect.”

The committee still directed the Office of General Counsel to subpoena McElroy, requesting he speak under oath at the committee’s March 29 meeting to answer questions about the utility’s finances and the Feb. 14 report by PFM.

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Dennis introduced but withdrew a similar motion to subpoena Mousa.

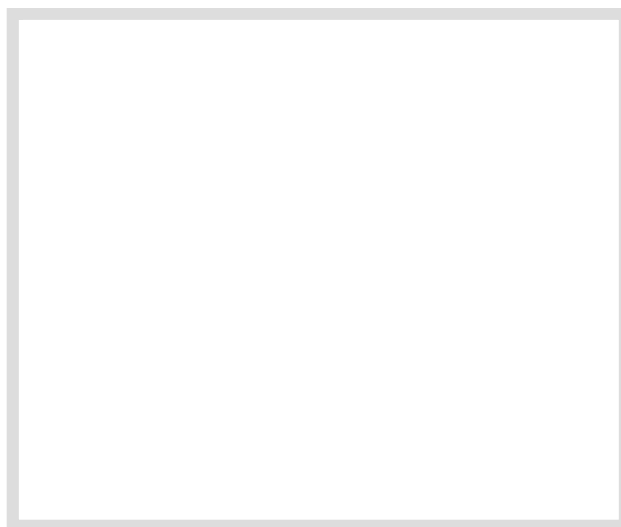
Public Affairs Director Marsha Oliver said Thursday that she did not know if Mousa would speak to the committee again, and that he followed the advice of Gabriel in not doing so without an attorney present.

The committee — comprising Crescimbeni, Brosche, Dennis, Danny Becton and Joyce Morgan — will reconvene at 3:30 p.m. March 22 in City Hall at 117 W. Duval St.

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