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CITY OF JACKSONVILLE
CHARTER REVISION COMMISSION
MEETING

Proceedings held on Thursday, August 13,
2009, commencing at 9:00 a.m., City Hall, Conference
Room A, 4th Floor, Jacksonville, Florida, before
Diane M. Tropia, a Notary Public in and for the State
of Florida at Large.

PRESENT:

- WYMAN DUGGAN, Chair.
- MARY O'BRIEN, Vice Chair.
- ED AUSTIN, Commission Member.
- MARTHA BARRETT, Commission Member.
- WILLIAM CATLIN, Commission Member.
- TERESA EICHNER, Commission Member.
- ROBERT FLOWERS, SR., Commission Member.
- BEVERLY GARVIN, Commission Member.
- ALI KORMAN, Commission Member.
- JEANNE MILLER, Commission Member.
- GARY OLIVERAS, Commission Member.
- CURTIS THOMPSON, Commission Member.
- GEOFF YOUNGBLOOD, Commission Member.

ALSO PRESENT:

- STEVE ROHAN, Office of General Counsel.
- SHANNON ELLER, Office of General Counsel.
- JEFF CLEMENTS, Research Division.

- - -

1 And Commissioner Barrett is here as well.

2 MS. BARRETT: I'm sorry.

3 THE CHAIRMAN: That's all right. We
4 started just a few minutes early. You're fine.

5 MS. KORMAN: Commissioner O'Brien is on her
6 way.

7 THE CHAIRMAN: Okay. I figured.

8 Thank you.

9 As a preliminary, please turn off all your
10 cell phones. If you're planning to leave it on,
11 just put it on vibrate or silent.

12 (Mr. Austin enters the proceedings.)

13 THE CHAIRMAN: Commissioner Austin is
14 joining us.

15 Good morning.

16 MR. AUSTIN: I'm always last.

17 THE CHAIRMAN: And, once again, this is our
18 court reporter, Diane Tropa. We have
19 Jeff Clements from council staff, and
20 Shannon Eller and Steve Rohan from the Office of
21 General Counsel.

22 Let's begin with the Pledge and a moment of
23 silence.

24 (Recitation of the Pledge of Allegiance.)

25 THE CHAIRMAN: Thank you.

1 As a preliminary matter, I don't know if
2 we're going to have any comments from the
3 public.

4 Mr. Clements, will there be a speaker card
5 that they should fill out or anything -- a log
6 that they should sign in?

7 MR. CLEMENTS: We have a sign-in sheet
8 here. We don't need to use speaker cards.

9 THE CHAIRMAN: All right. Thank you very
10 much.

11 Our first order of business today is to
12 hear from one of our constitutional officers,
13 the supervisor of elections, Jerry Holland.

14 Mr. Holland, thank you for coming.

15 MR. HOLLAND: Thank you very much for
16 inviting me.

17 THE CHAIRMAN: My pleasure -- our
18 pleasure.

19 MR. HOLLAND: I probably will not surprise
20 you if I first open up and say, obviously, as a
21 constitutional officer, I believe it's
22 probably -- I can also speak for my other ones,
23 that we'd rather be elected than appointed. So
24 that is probably no surprise, but I would like
25 to give you some perspectives, perspective from

1 my point of view, perspective from both being
2 supervisor of elections as well as being on the
3 City Council, and some reflections of some of
4 the things that you will look at, obviously, on
5 this commission and some of the things you'll
6 consider.

7 In doing so, obviously, there are different
8 opinions, and there's times when -- when, as you
9 have noticed, in history when cities and
10 municipalities have taken different courses of
11 action due to wherever they are, whether it's
12 moving away from being elected or moving from
13 appointed to elected. There is usually some
14 tipping point that does that. You could say
15 that maybe in Duval County in 1968, it might
16 have been the fact that our schools had lost
17 accreditation that we went to an appointed
18 superintendent. Is that a standard or a norm?
19 In the state of Florida, no. Obviously, 25 of
20 the 67 counties are appointed and others are
21 elected.

22 You might say, well, of the appointed,
23 maybe it's because of their size. No, if that's
24 the case, Okeechobee County would not be the
25 benchmark. They've got about 19,000 voters, and

1 they're appointed.

2 You could say, well, appointed may make an
3 argument for bringing better talent. Well, not
4 necessarily because some of our best
5 superintendents have been superintendents that
6 are home grown, and I think we've got an
7 outstanding superintendent now.

8 You may say, we'll, there's other
9 efficiencies. And we'll also discuss, probably
10 from the standpoint -- appointed typically will
11 cost the taxpayers something. Of the 25
12 appointed superintendents, one makes less than
13 the State-approved salary, one makes the same,
14 and the other 23 makes more, and sometimes
15 considerably more than the State-approved salary
16 for an elected superintendent.

17 Obviously, even in Duval County, if the
18 superintendent was elected, that superintendent
19 would make \$147,000, and our superintendent
20 makes \$274,999. There's a cost, obviously, of
21 being appointed versus elected. Very seldom
22 does an appointed position hold an office making
23 less than an elected position.

24 Some of the things I also wanted to talk
25 about in that situation is, are there times when

1 appointed may be better? Are there times when
2 it may be better to be elected?

3 There is no doubt -- there is not an
4 argument that if elected is better, everything
5 should be elected. Obviously, you wouldn't do
6 that. I mean, obviously -- I could not imagine
7 that my deputy supervisor of elections would be
8 elected as well as myself. That would be a
9 difficult office to run, if, for example, that
10 person wanted someone else, you know, to have
11 been supervisor or that person had an agenda.
12 So you want consistency within your office, you
13 know.

14 And I can see the same thing in
15 administration. Department heads should not be
16 elected. In the same situation also -- and
17 obviously our country saw that. You know, the
18 original vice presidents were actually the
19 runner-ups to the president, but for reasons
20 that obviously -- as probably Adams and
21 Jefferson could contest, it didn't make for a
22 very smooth office, and that's why our
23 lieutenant governor obviously runs and our vice
24 president runs as a team and not separate. You
25 know, so there is cohesiveness in appointed

1 positions.

2 But there's also independence in elected
3 positions, and that's very important also. But
4 other examples that -- I did get an opportunity
5 to sit through most of your commission meeting
6 last time, and there was some interesting
7 questions that the chairperson presented and
8 others presented to the sheriff, and the sheriff
9 gave some examples of -- you know, of things
10 that he felt why there should be autonomy and
11 why his position -- in some cases, he thought
12 created a safer environment. And I think the
13 question was even brought up, well, then, if
14 [sic] that case, would fire and rescue be safer
15 if it was elected?

16 I can tell you from a perspective of
17 City Council, that many times on the
18 City Council the chief would say -- whichever
19 chief it was -- I can't ask for this in the
20 budget, but could you put this through? And
21 I'll give you a prime example --

22 And, you know, administrations, no matter
23 which ones, present company included -- is that
24 there are different priorities in
25 administrations and sometimes fire and rescue

1 can be a higher priority or a lower priority,
2 and sometimes it can even be based on who they
3 supported in the election, and that history kind
4 of wears that -- plays that out.

5 (Ms. O'Brien enters the proceedings.)

6 MR. HOLLAND: But one of the examples I had
7 was I -- when I was on the council, there was a
8 really [sic] move -- and all the small counties
9 had this, was the thermal cameras that the fire
10 department needed. And the thermal camera
11 allows a firefighter, when they go into a
12 building, to obviously find their victim, you
13 know, or find the person they need to rescue or
14 find the exit to the building that they're in
15 when it's covered with smoke or fire.

16 We had two firefighters -- this is before
17 we had the cameras -- and both of them had run
18 out of air looking for a child in a building
19 that they would have found sooner if they would
20 have had the cameras. One of them is on
21 permanent disability because he ran out of air
22 and had to remove his mask. That was the --
23 more or less the tipping point that the council
24 said, yes, we'll appropriate that money.

25 I would assure you -- and the chief would

1 have said the same thing, I needed those cameras
2 beforehand, but I couldn't get them in my
3 budget.

4 Other things that come up -- and in some --
5 and this current administration has probably
6 done more as far as building stations and
7 physical properties than probably any -- you
8 know, any recent history, but from a standpoint
9 also, there's still issues out there on safety
10 issues, issues of whether, you know, it's safe
11 to have what's called two in/one out, which is
12 the -- the State would like you to have. And
13 the standard is, if there's two firefighters in
14 the building, there should be two outside the
15 building. That way, in case something happens,
16 you know, you have two people on the outside
17 accountable. We're moving toward, obviously,
18 two in/one out, you know.

19 Now, the way you kind of circumvent that
20 is, obviously, you say, well, don't go in if
21 there's that situation until the second unit
22 to -- arrives. But, of course, that allows the
23 person on the inside to be in jeopardy if you
24 need help sooner.

25 Those are some examples where I think --

1 when that position would be elected, you would
2 argue differently if you were a department
3 head. You know, as I've seen on the council
4 when people would say, come and fight for us
5 because we can't.

6 Another thing that came up during the same
7 situation was, should the General Counsel be
8 elected? My first and immediate response is
9 no. You know, because that is one that I think
10 in many ways shouldn't necessarily be giving
11 their opinion based on how they ran -- how they
12 ran for the office.

13 But should the selection of the General
14 Counsel be different? And by that I mean,
15 should it just be the mayor that selects the
16 General Counsel? I, and I know some of the
17 other constitutional officers feel differently.
18 We think it should be a process of a vote where
19 the mayor gets two votes, constitutionals get
20 one, school board gets one, the independent
21 agencies get one, so that at least we have a
22 voice.

23 Now, you will hear, well, you have a
24 voice. You can go to the council when they're
25 selecting the process and you can say, I don't

1 want this person. I will tell you, it's too far
2 along to change it at that point. But it also
3 gives us a voice in that selection process, and
4 I think that's very important.

5 Again, on cost -- and I think you have to
6 look at that. And, again, I agree that position
7 should be appointed, but does it cost more being
8 appointed? Obviously, you can look at the cost
9 of the General Counsel's salary of close to
10 200,000 versus the Attorney General for the
11 state of Florida, which is close to 130-. You
12 can see that appointed does cost you more than
13 elected. And, you know, again, many times
14 appointed people will say, yes, but compare us
15 to the outside sector. And in reality, if you
16 compared them to an outside law firm or a
17 sector, they are equally paid. But on the
18 inside, on the private -- on the public sector,
19 there's benefits and pensions and those things.

20 But I think we ought to look at all those
21 elected versus appointed and really see the
22 costs that we're paying, and in some cases we
23 may be paying too much relative to if they were
24 elected.

25 Those are some of the impressions that I

1 had, obviously, on the council. And I'll say
2 this also on independence and why I think my
3 position should be independent. Probably one of
4 the best examples was -- since being elected in
5 April of 2005, was the issue on the Cecil Field
6 referendum. On that referendum, as you know --
7 in fact, the council and the mayor took a
8 position first on Cecil Field to bring the Navy
9 back, and then changed that position that the
10 Navy shouldn't come back.

11 We don't take a position at our office,
12 whether it should or shouldn't happen, on any
13 referendum, and some of them are very
14 controversial. But on that particular one, the
15 General Counsel felt very adamant that -- as the
16 election supervisor, that I should not put that
17 on the ballot. He felt there were legal reasons
18 it should not be on the ballot. And, obviously,
19 that -- that is attested to by the fact that the
20 City sued later on when I did -- when I said it
21 was going to be on the ballot, sued to have it
22 removed from the ballot.

23 But the point being is that -- and I also
24 challenged the General Counsel at that time. I
25 said, if it shouldn't be on the ballot, give me

1 a legal, binding opinion not to put it on the
2 ballot, which I must follow as a constitutional
3 officer.

4 The General Counsel did not do that, you
5 know, and I followed suit because my
6 interpretation is -- and I'm not an attorney,
7 but my interpretation is just this: I have a
8 ministerial role as supervisor of elections.
9 When a candidate comes to me and says, "I live
10 in this district," I do not investigate, I do
11 not take someone else's word, I must accept
12 what's on the application.

13 When a referendum is submitted, I do not
14 look at the legality of the referendum from the
15 standpoint -- I look at, does it meet the
16 criteria, did they get the number of signatures,
17 did they follow the format, did they do what's
18 required, but I don't look at, do I support it,
19 don't support it, should it be on there, is it
20 an issue that the council cannot -- in other
21 words, is it ordering the council to do
22 something that they can't do or shouldn't do.
23 Those kind of things I don't look at. But
24 whatever the issue is, if they meet the criteria
25 and have the signatures, I put them on the

1 ballot.

2 Obviously, we had some heated discussions
3 that I should not have put them on the ballot,
4 and many discussions in many other places that I
5 should not have. The City, obviously, then went
6 and sued not to have it on the ballot, won in
7 the circuit court, lost in the appellate court.
8 It went on the ballot.

9 The bottom line to that issue was, it was
10 better for Jacksonville and Duval County to have
11 that issue vetted by the citizens and voted on,
12 and now it will really never come up. Had it
13 not been on the ballot and somehow -- or
14 prevented from being on the ballot, I would
15 assure you that every time that the issue would
16 come up again, it would be vetted again and
17 again, would be -- say, well, with the economy,
18 we should do this or that.

19 There is a process in place allowing my
20 independence and allowing my autonomy, that I
21 could say, no, I'm going to follow the rules and
22 I'm going to do it this way. And if I'm not
23 following the rules, it also allows the General
24 Counsel to say, no, here's a legal, binding
25 decision and you must not do what you're doing

1 because it's not that way.

2 So that autonomy definitely, I think, is
3 advantageous for the voters and one reason why
4 my position should stay as it is.

5 Other things also just to consider --
6 because sometimes this is the hybrid that will
7 come out of elected or appointed. That hybrid
8 is make the elected positions what's referred to
9 as charter positions.

10 Orange County, where the city of Orlando
11 is, in the early 1990s had an issue, and it was
12 brought about by a citizen oversight committee
13 of the sheriff's office, was brought about,
14 about those positions should be changed from
15 independent constitutional officers to charter
16 officers. Charter officers are ones that act as
17 department heads. It's a hybrid that may sound
18 better, but in a sense what it does is basically
19 goes from a standpoint of, here's elected;
20 however, they will be treated as department
21 heads.

22 Volusia County still has that. Orange
23 County went to it, after that citizen oversight
24 committee did not agree with how things were
25 going in the sheriff's office, but then after

1 they brought it to a charter, then they also
2 changed it back in the '90s also.

3 Be careful as you look at that because
4 it's -- it may seem like the perfect world to
5 do -- well, I still have elected, but now it
6 puts them under the authority of the mayor or
7 under the authority of whoever is at -- over
8 that department head, but it really has its
9 problems also.

10 The bottom line to everything that I'm
11 saying is this, is that -- obviously, is that as
12 we look at our process, it may need tweaking,
13 but it's not a major overhaul. It is not in the
14 system where you have any failure or any tipping
15 point where elected needs to be appointed.

16 From the standpoint -- and, quite
17 honestly -- and this is a personal opinion -- I
18 cannot imagine a county where one person, be it
19 the mayor, appointed both the law enforcement
20 person, as well as the person that is over
21 counting the votes and those who are qualified
22 in referendums, as well as how property is
23 appraised, as well as how taxes are collected,
24 as well as the school board.

25 If you look at all that perspective, that

1 is too much power in one individual. And that's
2 one reason why I think our system, the way it is
3 right now, may need tweaking, but in the same
4 sense does not need a major overhaul.

5 Those are my personal opinions. I
6 appreciate, you know, your opportunity -- my
7 opportunity to give those, and would welcome any
8 questions.

9 THE CHAIRMAN: Thank you, Supervisor
10 Holland. We appreciate those comments.

11 As you know, we don't have the queue
12 buttons, so just raise your hands and I'll call
13 on you.

14 Commissioner Miller.

15 MS. MILLER: Through the Chairman, thank
16 you, Supervisor Holland. I appreciate your
17 comments and your perspective certainly in your
18 current role and in your past role at the
19 City Council as a member and City Council
20 president.

21 I had a question for you going back to your
22 example regarding the Cecil Field referendum and
23 the dispute. I think that was a good example
24 that highlighted maybe some of the issues that
25 could come up in a referendum.

1 THE CHAIRMAN: Commissioner Miller, would
2 you mind speaking up just a little bit --

3 MS. BARRETT: If you can, because we can't
4 hear you.

5 MS. MILLER: Okay. Apologize.

6 I asked Supervisor Holland if I could go
7 back and ask a question related to his example
8 on the Cecil Field referendum because that
9 apparently -- and that is probably a good
10 example of potential disputes or tensions that
11 could arise, and I had a few questions regarding
12 that particular example.

13 Did you ever receive a binding legal
14 opinion?

15 MR. HOLLAND: No.

16 MS. MILLER: No?

17 MR. HOLLAND: No.

18 MS. MILLER: But you formally asked for a
19 binding legal opinion?

20 MR. HOLLAND: No. I asked as a challenge,
21 if I'm not doing something right, give me one.
22 But I did not also ask for one, which is
23 something I could request also.

24 (Mr. Mullaney enters the proceedings.)

25 MS. MILLER: What was the nature of the --

1 maybe you could explain so we could better
2 understand the nature of that dispute because
3 I'm not sure I completely understood.

4 Based on your description, were you
5 ordered, told, how did that -- what was the
6 nature of the dispute?

7 I understand that you felt that you had
8 some requirements before you, you could add
9 something to the ballot. And so what was the
10 other -- what was the nature of the dispute?

11 MR. HOLLAND: Whether or not from my
12 office -- and I'm glad Mr. Mullaney is here. I
13 don't think I've ever got a response this
14 quickly, but I'm glad you're down here.

15 MR. MULLANEY: Is there a question? I
16 don't know. I was just next up.

17 MR. HOLLAND: Okay. But anyway, I guess to
18 go back to your question, the dispute -- and,
19 Mr. Mullaney, maybe you can help also -- is
20 we -- you were -- we had some heated
21 conversations on the referendum to Cecil Field.
22 Okay?

23 MR. MULLANEY: (Nods head.)

24 MR. HOLLAND: You know, I don't know if
25 that's an acknowledgment or not, but from the

1 standpoint -- you felt like it should not have
2 been on the ballot. In fact, your staff worked
3 diligently in the lawsuit to have it not on the
4 ballot.

5 MR. MULLANEY: There was an order entered
6 by Judge Nachman requiring it not be on the
7 ballot. That's an accurate statement.

8 MR. HOLLAND: Correct.

9 MR. MULLANEY: After a three-day trial, the
10 City of Jacksonville -- Judge Nachman entered an
11 order saying it's not on the ballot.

12 MR. HOLLAND: And then it went on to --

13 MR. MULLANEY: And we upheld the court
14 order.

15 MR. HOLLAND: Right. And then it went on
16 to the appellate court --

17 MR. MULLANEY: In which they sought a
18 stay. Judge Nachman turned down the stay.

19 MR. HOLLAND: Correct.

20 But our argument back and forth is -- you
21 also advised me that it shouldn't be on the
22 ballot --

23 MR. MULLANEY: Based on the judge's order.

24 MR. HOLLAND: And we had conversations
25 actually prior to the judge's order.

1 MR. MULLANEY: No, I -- well, we had one
2 prior to the order coming out, but the judge
3 told us he would be entering his order and that
4 the City's position had prevailed in the trial.

5 MR. HOLLAND: Right, but I think we had
6 conversations prior to the order.

7 MR. MULLANEY: I don't know.

8 MR. HOLLAND: Okay.

9 MR. MULLANEY: I haven't reviewed the
10 situ- -- all I know is that we had a three-day
11 trial in front of Judge Nachman. Judge Nachman
12 entered an order. He entered an order regarding
13 the referendum. We were following the Court's
14 order. We advised you according to what the
15 judge had advised.

16 MR. HOLLAND: Okay. Back to the segment we
17 were talking about earlier, is prior to the
18 order, there were also conversations that the
19 supervisor of -- had the ability also to decline
20 putting that on the ballot. You know, that was
21 the situation.

22 An example that actually Mr. Mullaney gave
23 at that time was an issue that Stafford had
24 taken, that they advised him to. I had asked
25 also whether it can be recalled or not, is that,

1 if you don't want me to put it on the ballot --
2 and this was before the order -- then give me a
3 legal, binding opinion to do so, but that did
4 not come forth, so --

5 MS. MILLER: So in the -- so this was prior
6 to any lawsuit. Did you solicit advice as to
7 whether or not you had discretion to add
8 something to the ballot or not or was that
9 proffered to you?

10 MR. HOLLAND: We always sent over any
11 referendum to the General Counsel to make sure
12 that it meets the criteria that we have, which
13 is whether it's the length, whether it
14 answers -- asks a yes or no question, those kind
15 of things. We send that over, on all those, to
16 the General Counsel.

17 MS. MILLER: To determine whether or not it
18 meets the legal standard?

19 MR. HOLLAND: Yes, of what my office
20 reviews.

21 MS. MILLER: Right.

22 And the response was that it met the legal
23 standard?

24 MR. HOLLAND: Well, the question was -- I
25 think the issue was -- at that time, was whether

1 or not a referendum could direct the council to
2 do something, and I think the argument that was
3 placed in the circuit court was whether or not
4 the argument of -- can a referendum direct the
5 council to take a position on this.

6 MR. MULLANEY: Could I comment? Because
7 some of this is --

8 THE CHAIRMAN: Sure.

9 MR. MULLANEY: I came in late. And I
10 apologize, I don't know the context. I'm not
11 even -- I'm not sure what the background is, but
12 let me give you some background.

13 Legally, a few years earlier, we had had a
14 different referendum that was going to cost
15 about \$50 million for the City of Jacksonville
16 in a referendum that -- to give pension health
17 care benefits to all correction officers. That
18 referendum really should not have been on the
19 ballot. And after it went on the ballot and
20 passed 60/40, we filed a dec action, had a
21 lawsuit. Judge Moran entered an order saying
22 that it was unlawful, and in his order gave
23 specific reasons as to why it infringed upon the
24 authority of City Council, why it was lawful --
25 unlawful, why it was straw, why it should not

1 have been on the ballot.

2 Based on Judge Moran's order in the police
3 case, which I personally tried and argued before
4 Judge Moran and got it set aside, we wrote a
5 legal opinion that this was in the same
6 category. In fact, Judge Nachman, in his
7 20-page order, agreed with the City that it was
8 unlawful. And then the question became whether
9 or not it was going to go on the ballot.

10 We were fully prepared and would have given
11 a binding legal opinion based on what Judge
12 Moran had ordered before and based on our view
13 of the charter that it was unlawful, if, in
14 fact, the Court had not entered an order in
15 time. Our preference, however, was for the
16 Court to enter its order because a lawsuit had
17 been filed.

18 So we went to trial. We had an expedited
19 hearing. We very mutually worked it out with
20 opposing counsel, had it -- within a 30-day
21 period we filed a complaint, did discovery, had
22 a three-day trial.

23 Judge Nachman entered an order and agreed,
24 quite frankly, with every position that we had
25 advocated and had agreed with Judge Moran

1 regarding the unlawfulness of it. The only
2 issue then became whether it was going to be a
3 straw ballot or not or whether it should be on
4 at all. And this was -- Judge Nachman's
5 position was it should not be on at all.

6 So I've come in kind of the middle. I
7 don't know how -- and this has been a few
8 years. This was back in 2006, I guess, but
9 I'm -- I don't know -- but that's some of the
10 background context.

11 We had two referendums that were unlawful
12 according to two rulings of two courts. We were
13 trying to follow both those court opinions.

14 MS. MILLER: So, Supervisor Holland, just
15 getting back to the commission and the mission
16 of this commission and this body, you used that
17 example as a way to highlight the potential and
18 the need for independence within your office and
19 the need for the position of supervisor of
20 elections to be an elected -- to retain and made
21 to be -- maintain its stature as an elected
22 position, and you used that as an example.

23 Maybe you could help -- I'm just trying to
24 understand better the nature of that dispute and
25 why -- and if you could just maybe reexplain

1 that because I'm not sure I understood it, and I
2 think it's important for this body to understand
3 both the nature of that dispute and why it bears
4 on the importance of independence in your
5 office.

6 MR. HOLLAND: Sure.

7 Again, as any phone call or any
8 conversation, there's two perceptions of how it
9 was -- how it was done, and I don't dispute
10 anything the General Counsel is saying, but I'm
11 giving you my perception.

12 We had conversations prior to the order.
13 We had conversations on the office's process of
14 going through that referendum. We actually
15 looked at it from two different perspectives on
16 how we could -- how we go through a referendum.
17 One is, you can -- if time permits, you go
18 through every signature. If time doesn't
19 permit, you actually have a statistical --
20 random, statistical way of doing that.

21 We examined both ways of doing that. We
22 went through the process again and looked at the
23 petition as, you know, did they submit on time,
24 did they do the things ministerially that we
25 looked at.

1 We had conversations prior to the order,
2 that -- in the same opinion that the council
3 took -- General Counsel took and the City took
4 after the order. That opinion was also there
5 prior to the order. And as much as the other
6 referendum that went on the ballot was not
7 legal, it was neither the right, nor my right to
8 not have it on the ballot. I don't -- I'm not
9 the gatekeeper to prevent that.

10 MS. MILLER: Thank you.

11 THE CHAIRMAN: Commissioner Miller, are you
12 finished with your --

13 MS. MILLER: Yes.

14 THE CHAIRMAN: Commissioner Korman was next
15 and then Commissioner O'Brien --

16 MS. KORMAN: Quick question.

17 MR. HOLLAND: Sure.

18 MS. KORMAN: I'm trying to follow the
19 mind-set, and I have no opinion.

20 When you were talking about appointed
21 versus elected and appointed would cost more,
22 I'm struggling with that because a lot of times
23 the elected official -- I mean, I'm
24 struggling -- I want to try to follow your
25 thought process on that because, you know, you

1 can go -- two schools of thought sometimes.
2 Some people feel you get better quality if you
3 pay more. And it's really up to the elected
4 official to pick the appointed person and then
5 figure out their salary, so it's kind of
6 controlled. You know, it kind of is almost
7 hypocritical in a way. I'm just trying to --

8 MR. HOLLAND: I understand what you're
9 saying.

10 From the standpoint of just -- and I used
11 the example of the superintendent as one.

12 Historically, appointed, as far as related
13 to its public sector elected, is higher. I use
14 the example of the superintendent being one
15 where 25 counties appoint and 23 are higher.
16 The total salaries are -- about \$1.3 million
17 more are paid in the appointed salaries in the
18 state of Florida than -- than would they be if
19 they were elected at the elected salaries.

20 I made the point basically that if you look
21 across the board at appointed, even of some of
22 our independent, as well as our General Counsel,
23 and you looked at public sector employees in the
24 same one -- and I used the example of General
25 Counsel and the Attorney General, is that --

1 many times in the appointed, as we relate to
2 getting talent, we relate to what would that --
3 what would his position pay if he had the same
4 attorney base in a private sector firm? You
5 know, and we compare those salaries and say that
6 justifies that. But if you looked on the
7 elected side, it's a lot less relative to the
8 size that they -- and responsibilities.

9 I'm just -- my comparison was such that if
10 you go the route of appointed, it's not
11 generally cheaper, it does cost more. The
12 argument can be made, yes, but you're allowed to
13 go after whatever talent base you want.

14 Obviously, in some cases that talent base will
15 be national, in other cases the talent base will
16 be someone within our own backyard.

17 MS. KORMAN: Mr. Chair, I think my concern
18 is with that -- and I understand that the
19 elected person -- and in General Counsel's case,
20 the mayor is the one who decides what General
21 Counsel's salary is. So they -- you know,
22 they're so commingled in a way that, you know,
23 even though it's appointed versus elected,
24 elected is still making decisions -- who has an
25 elected salary by the State is going to make the

1 decision of the appointed person.

2 So there's responsibility that needs -- if
3 that's the way it goes, there's responsibility
4 that needs to be taken upon the elected official
5 of naming the correct salary, I guess.

6 MR. HOLLAND: And no disagreement there
7 because, obviously, the appointed person doesn't
8 set their own salary. So an elected -- as in
9 the school board, the school board sets the
10 salary for the appointed superintendent, which
11 is their only employee.

12 MS. KORMAN: Okay. Thank you.

13 THE CHAIRMAN: Vice Chair O'Brien.

14 MS. O'BRIEN: Thank you.

15 Hi. Real quick question. You had
16 mentioned Orange County and the idea of a
17 charter officer. That's a new idea to me. You
18 had mentioned that they had gone to that. It
19 sounds like the best of both worlds, but they
20 did away with it.

21 Can you talk -- can you just list, inform
22 us what the pros are that -- why they might have
23 implemented it at the time -- and I realize
24 you're from up here in Jacksonville looking
25 down -- and what were some of the negatives that

1 you heard about the idea of a charter officer,
2 pros and cons?

3 MR. HOLLAND: And it's definitely what
4 would be considered a hybrid in that they're
5 still elected. And they didn't do all their
6 constitutionals. In the 1990s, Orange County
7 did the sheriff, the property appraiser, and the
8 tax collector, and they went to a charter
9 officer where they were department heads.

10 From the standpoint -- you've got to look
11 at -- I present my budget to the
12 administration. A department head, although
13 they may give input, it would be going the
14 opposite direction. As a department head, I
15 would get the budget that -- who I report to
16 decides how it would be done. I may have input,
17 but it would be their budget. It would be a
18 difference there also.

19 Volusia County still has that charter
20 constitutional. Their supervisor of elections
21 is a department head to their county. In
22 speaking with her -- and again, I've never
23 worked in one, only have heard secondhand
24 information.

25 But there's really -- they lack some of

1 that independence because they -- they're
2 both -- and we're -- I won't say -- we're not a
3 complete independent constitutional, and I'm not
4 advocating for that because of all the pluses
5 that there are to a consolidated county. I
6 think we gain many of those pluses. But from
7 the same standpoint, they are a lot more under
8 the control of whoever they're reporting to as a
9 department head.

10 Again, I'd probably want to really get the
11 details. It's something I threw out there that
12 you investigate from the standpoint -- because
13 the point may come up, and those are your two
14 examples of one county that went to it and went
15 away from it and one county that still is, of
16 the 67 counties.

17 MS. O'BRIEN: Thank you.

18 THE CHAIRMAN: Commissioner Oliveras.

19 MR. OLIVERAS: Thank you, Mr. Chairman.

20 Thank you for being here, Supervisor
21 Holland.

22 Going back to what Commissioner Miller was
23 talking about with the General Counsel's Office,
24 in a little bit broader sense, in your
25 experience as supervisor of elections and

1 City Council, have you -- when it comes to
2 conflict situations with the General Counsel's
3 Office, with various City entities, the
4 authorities, constitutional officers, how often
5 have you seen that occur and how often do you
6 feel that those conflicts have been adequately
7 resolved?

8 MR. HOLLAND: Well, I'll say -- and I
9 chuckled with somewhat saying it because I
10 thought Mr. Rohan did a wonderful job.

11 If you criticize and then say something
12 great, then your further investigation shows
13 that everything is okay. But to use that
14 example is -- like in anything, whether
15 appointed or elected or any department or
16 anything, there are times that you would
17 disagree. There are times that you will feel
18 one staff member is better than another.

19 I have been fortunate in this General
20 Counsel that sometimes when I'm given one
21 advice, someone else from the General Counsel on
22 their own will call and tell me that you're on
23 the right track, you know, and so that -- there
24 are people within the General Counsel that will
25 give me different opinions sometimes, which

1 gives me advice.

2 Are we at odds sometimes? Sometimes yes.
3 And even on the council, there was times -- and
4 other council members can attest. I know Doyle
5 Carter used this example a lot, is that there
6 were times when we're working on legislation --
7 and, of course, that's an attorney-client
8 privilege at that time, and then members of the
9 mayor's staff -- and this is a previous
10 administration -- would actually come to us
11 before the bill was written and say, why do you
12 want to do that? And do you really -- you know,
13 can we work something out?

14 And so there was times that you felt like
15 there wasn't exactly that private -- you know,
16 private attorney-client relationship.

17 There is no doubt, when I talk to other
18 supervisors and they had their own attorneys,
19 you feel somewhat separate, but the economies of
20 scale of using the same attorneys and the way
21 our consolidated [sic] far outweighs, you know,
22 that.

23 I've never advocated for my own attorney.
24 There are sometimes that I will -- if I don't
25 agree, I'll go to the next one and ask someone

1 else for an opinion. And maybe they will work
2 with each other and work it out, you know, if I
3 still think, you know -- but there are -- but
4 overall -- and I'll go back to Mr. Rohan. You
5 know, if cross-examine proves that everything is
6 okay, then it's okay, but there are obviously
7 times that you'll -- you know, where sometimes
8 you disagree.

9 MR. OLIVERAS: Thank you.

10 THE CHAIRMAN: Commissioner Barrett.

11 MS. BARRETT: Thank you, Mr. Chair.

12 Mr. Holland, just kind of piggybacking what
13 Commissioner O'Brien said, I'm trying to think
14 this in my head because having worked in the
15 mayor's office for eight years --

16 In other words, with this charter
17 government in Orange County -- we have, of
18 course, in our consolidated government, the
19 mayor. And the mayor, of course, appoints all
20 of his or her -- "his" in this case. We've only
21 had males -- his department heads.

22 So you're saying down there, they tried a
23 situation where the department heads were
24 elected, but they then worked for the mayor?

25 MR. HOLLAND: Yeah.

1 MS. BARRETT: Or worked for whoever. I --

2 MR. HOLLAND: Or for the County Commission
3 or for the county manager or --

4 MS. BARRETT: Because when people elect
5 people, it seems to me that's why they elect
6 them, to be autonomous.

7 MR. HOLLAND: I would agree. I'm just
8 saying --

9 MS. BARRETT: And so there's a huge -- I
10 can imagine why they did away with it because
11 the mayor -- whoever is in charge who's come to
12 you, you're saying, you know, I was elected
13 too. I represent the people. You represent the
14 people, yet he or she -- whoever is in charge
15 down there -- was saying, no, I'm the head
16 guy -- or woman, whoever.

17 I can see why they did away with it. It
18 would be chaos. And the egos that would get
19 involved because, you know, when you're elected,
20 it's a certain amount of more ego type thing to
21 some people than being appointed, and it would
22 be -- no wonder why they -- it would be chaos.
23 No wonder why they did away with it.

24 MR. HOLLAND: And why Volusia still has it
25 is a question I --

1 MS. BARRETT: I'd love to hear about that.
2 I'd love to hear about that and how that's doing
3 and investigate that.

4 Thank you.

5 THE CHAIRMAN: Commissioner Austin.

6 MR. AUSTIN: Mr. Holland, my understanding
7 is when we consolidated, the way we had --
8 proliferation of elected officials. We had City
9 Councilmen, City Commissioners, budget
10 commissions, property appraisers, tax
11 collectors, supervisor of elections. It's
12 all -- all over the place, elected officials.

13 And I'm -- don't want to be presumptive. I
14 think that the reason and the main thrust of
15 consolidation was to bring the -- a focus, bring
16 it together so that there was accountability and
17 the public would have a grasp of how the system
18 was being run with accountability somewhere,
19 such as in the federal system with the
20 president, the state system with the governor,
21 and with a strong mayor.

22 What we had prior to consolidation, with
23 all that proliferation of public officials, we
24 had a proliferation of lawyers that represented
25 all of those different people, which cost

1 millions of dollars in lawsuits. It cost -- I
2 mean, all of these people, in my -- I think
3 represent the same body politic, the same group
4 of people. They all represent the same group of
5 people, but they were spending millions of
6 dollars on legal fees suing each other. And the
7 purpose of consolidation was to eliminate all
8 that and get rid -- and really it's the same --
9 getting rid of just -- it was worse than
10 corrupt. It was -- it was rotten. And I
11 prosecuted -- and (inaudible) prosecuted a bunch
12 of those people, and it was really bad.

13 In some sense -- and don't get this wrong.
14 I don't really mean that you want to go back to
15 that, but you are talking in terms of
16 decentralizing and diffusing a strong mayor kind
17 of government where you get to help appoint the
18 lawyer instead of having a lawyer that everybody
19 knows and that -- you are talking about these
20 public officials that have all these things that
21 an appoint- -- don't -- doesn't that tug away at
22 the -- the reason we brought this city so far is
23 because we consolidated. When somebody comes to
24 town, they know who to talk to. The reason we
25 were a mess before was because nobody knew who

1 to talk to.

2 Are you -- you mentioned that you couldn't
3 see how you can invest all that power in the
4 sheriff.

5 MR. HOLLAND: Well, I never --

6 MR. AUSTIN: I mean, all -- in the mayor.

7 All but seven cities, big cities, major
8 cities in the United States appoint their
9 sheriff. I mean, the -- the rule is in our
10 society and corporate management that as law
11 enforcement -- you say you want to have a strong
12 mayor, but you don't vest him with law
13 enforcement and education, which is the two
14 major local government functions, you take it
15 away from them.

16 It sounds to me -- I'm making a speech, but
17 it sounds to me that you are wanting to pull
18 away at that consolidated government instead of
19 reinforcing it and pulling it together. And if
20 we aren't here to reexamine why we have it and
21 why this city has moved so far and how it could
22 move further if it was properly structured, we
23 ought not be here. I mean, we should be looking
24 at the charter and how it affects all of the
25 people and moving them forward to the next

1 level.

2 Are you really talking about strengthening
3 the consolidated form of government?

4 I'll stop rambling, but if you start -- if
5 you peck away at the General Counsel, you have
6 pecked away at the heart of consolidated
7 government because the idea was that if you had
8 a dispute, you'd go to the central lawyer, just
9 like they do in the State with the Attorney
10 General, and he would render an opinion, and
11 that would handle it for everybody. I mean,
12 that -- and that -- if you peck away at that,
13 you've taken -- you just cut the heart out of
14 it.

15 MR. HOLLAND: Well, let -- if I may respond
16 to your speech.

17 In reference -- no, I'm not trying to
18 change consolidation. No, I do not believe that
19 our former -- and as I said before, we are much
20 further along. And I also said before, is there
21 are tipping points in any government. As much
22 as, you know, you look at how many counties are
23 unable to consolidate, many are in a form that
24 we were in before and running successful.

25 What was the tipping point is the

1 corruption that we had at that period of time.
2 Had there been no corruption, you know, then
3 probably there would not have been a voters'
4 movement to change that.

5 Is there corruption in every county because
6 they had that form of government we had before?
7 Absolutely not, but there was a tipping point --

8 MR. AUSTIN: I think we would have
9 consolidated without the charter -- without the
10 corruption.

11 MR. HOLLAND: I think it made -- I think it
12 made the catalyst for doing that.

13 MR. AUSTIN: It might have helped, but I
14 think -- I really do think that we -- it would
15 have passed. It passed overwhelmingly, but it
16 was a mess. Of course, we had the core city
17 inside of the county, which made it even worse,
18 but I -- I won't interrupt you. Go ahead. I'm
19 sorry.

20 MR. HOLLAND: But what helped also was we
21 only had four other municipalities, unlike some
22 counties who have 30-plus municipalities. There
23 was many instruments within that and many -- you
24 know, certain perspectives of where our county
25 was at that point in time that did a lot of

1 things. It was not one thing.

2 But back to your point, no, I'm not looking
3 at changing consolidation. As I said, it may be
4 tweaked, but it does not need to be rewritten,
5 and I do not advocate that.

6 From the standpoint -- my statement was
7 just this: I do not see one person who is over
8 both law enforcement, who gets elected and what
9 referendums get on, how your property tax is
10 appraised, how your taxes are elected, and your
11 school board. My statement is one person over
12 all that.

13 Now, in reference to what you said -- the
14 example of, yes, many, many, many, many mayors
15 have their police chief. Now, county sheriffs
16 are different in those situations, and there's
17 still that balance within that county of a
18 county law enforcement and a local city law
19 enforcement. But once you combine that, then
20 you must look at the perspective of the county
21 law enforcement and the sheriff, and that's
22 where I think that differs on how our sheriff
23 should be independent.

24 But from the standpoint -- all I said in
25 reference to the General Counsel is --

1 definitely, no, that person should not be
2 elected. I concur a hundred percent on that. I
3 just said that from the standpoint of our only
4 voice being after the selection is made and it
5 goes to council to express an up or down is too
6 far along in the process.

7 What I believe is the mayor should have the
8 strongest vote in that selection and should even
9 bring that to a committee of two votes for the
10 mayor, one for the school board, and one for the
11 constitutional officers, and one for the
12 independent. It does give us three votes to the
13 mayor's two, but the mayor brings that
14 selection.

15 But at least from that standpoint and the
16 autonomy, is that General Counsel, whoever that
17 may be -- and Mr. Mullaney won't always be that,
18 you know, but whoever that may be in the future
19 would at least bring that person to the table
20 knowing that there are more here that must be,
21 in a sense, listened to at all times than just
22 the mayor's office.

23 MR. AUSTIN: What about the director of
24 public works and the school board and JEA and
25 all -- do they all get a place at the table to

1 pick and choose?

2 MR. HOLLAND: Yes, they do, but as -- not
3 as -- in other words, all independents can be
4 one vote, all constitutionals -- we all don't
5 each get one vote. The school board gets one
6 vote, and then the mayor gets two votes. That
7 would be my recommendation. And then the
8 council --

9 MR. AUSTIN: The founders of consolidation
10 are dead here. They're (inaudible) in their
11 graves with that one.

12 MR. HOLLAND: I understand that, and I --

13 MR. AUSTIN: That takes away the
14 accountability of a strong mayor and a strong
15 counsel form of government -- General Counsel.

16 MR. HOLLAND: The question is when and are
17 there at times that it's not in balance, and
18 that's the question.

19 It's not the difference between elected or
20 in saying that the mayor doesn't have a stronger
21 seat at the able, but it's just in saying --
22 from the standpoint of going, is this a tweak
23 that would actually make it better? That's a
24 personal opinion.

25 MR. AUSTIN: Does the mayor have -- does

1 the mayor and the council review your budget?
2 Do they have power over your budget?

3 MR. HOLLAND: They both review my budget.

4 First I present it to the mayor's budget
5 review committee, they tweak, we go back and
6 forth, and then I go, as I'm going today, to the
7 City Council, and we will also go over the
8 budget.

9 But at least my hands are not tied, and
10 whatever I think is important to put in that
11 budget -- which is why the autonomy is very
12 important, because I can bring -- as I gave the
13 example in fire and rescue, I can -- where they
14 couldn't, I can bring what I think is
15 important. And I have to defend it, but there's
16 no one holding my hands to say, don't bring it
17 to the table.

18 MR. AUSTIN: I appreciate what you're
19 saying. I just have a problem of -- of what
20 we're all about.

21 THE CHAIRMAN: Any other commissioners for
22 the first time?

23 MR. YOUNGBLOOD: Yes.

24 Jerry, thanks for your time. I appreciate
25 it.

1 MR. HOLLAND: You're welcome.

2 MR. YOUNGBLOOD: Through the Chair, if I
3 could speak to Jerry, accountability -- I've
4 heard a lot from -- accountability to the mayor,
5 accountability to the council, accountability to
6 each of the departments and department heads.
7 What about accountability back to the people?

8 It sounds like an appointment is another
9 layer of bureaucracy versus an elected which
10 comes right back to the people where they make
11 the decision. And if it's a matter of trust,
12 then maybe we should revisit the Article 15 in
13 the charter, which would delineate how to remove
14 an elected official in the event that they're
15 not held accountable to the people.

16 MR. HOLLAND: There's no doubt -- and you
17 have two aspects there, appointed and elected.
18 You cannot in any way -- and from the standpoint
19 of responsibility to the voters, but you cannot
20 put in any administration -- as I used the
21 example in mine or the mayor's administration --
22 separate too much of that power where people
23 within those offices -- it needs to be
24 department heads or department heads, and you
25 can't necessarily elect the Parks and Recreation

1 director and elect the one that's over this and
2 elect the one over this and elect the General
3 Counsel, then you really have diluted it to a
4 point that there's many, many agendas.

5 But there are core responsibilities that
6 each constitutional has that is separate from --
7 my core responsibility is separate than the
8 functions that the mayor's has, you know. Mine
9 is looking at conducting the elections, the
10 process, the registration process, the elected
11 officials and qualifying and those things. It's
12 different than that.

13 But in the same sense, as far as appointed,
14 as I mentioned, I wouldn't want my staff to be
15 elected underneath me because it would diffuse
16 what our goal is and also our direction as one
17 person, but back to -- I think the other part of
18 your question was, not just on accountability,
19 but I think if your -- what was the last part of
20 your question?

21 MR. YOUNGBLOOD: The removal of the elected
22 official for accountability back to the people.

23 MR. HOLLAND: Part of that falls under the
24 state guidelines for removal.

25 As I tell people often -- because many

1 times people will get upset with the mayor or
2 any elected official and they call and they want
3 the person recalled or anything, and I remind
4 them, the legislation that was written for
5 recall of elected officials was written by
6 elected officials and, therefore, it is not easy
7 to remove an elected official.

8 And such being that -- you know, from the
9 standpoint, should that be necessarily an easier
10 process? It is so difficult now, it's almost
11 impossible. It should be looked at --

12 MR. YOUNGBLOOD: When was the last time we
13 actually removed an elected official through
14 that process?

15 MR. HOLLAND: I cannot remember.

16 Most of the time where it happens is at the
17 polls at the next election. But actually during
18 the process, other than if you had an indictment
19 or -- I don't know of one that's been removed.
20 I'm sure in history one has, but I -- not in
21 my --

22 MR. YOUNGBLOOD: You might look to see if
23 there's a solution versus we constantly state
24 the problem on both sides, elected versus
25 appointed. As Mr. Mayor just said previously,

1 is the accountability back to the people through
2 the consolidated government is given that, we're
3 afforded that, and so to appoint is almost
4 tearing away from it, but to elect but not have
5 the ability to remove almost tears away at it.

6 So I look for a solution, and if we revisit
7 that particular article, would it be a
8 solution? Do you see it as a solution? To make
9 it just a little easier, in the event that
10 someone missteps, to hold them -- greater
11 accountability to the people.

12 MR. HOLLAND: Definitely from the local
13 level, we probably -- I do believe there's
14 things in this charter -- one, there are things
15 that need to be revised. Obviously, statutes
16 have changed, opinions have changed. Term
17 limits is one of those examples. It's still
18 written in the charter one way, but now is
19 reflected in a different way.

20 For example, the removal of elected
21 officials, I think it should be looked at from
22 the standpoint -- I think it is written too
23 difficult for citizens to have input. Should it
24 be so easy as I don't agree with the vote last
25 Tuesday night, so therefore you're gone? No.

1 No, but I cautiously say, as anyone who comes in
2 front of this commission, though something wants
3 to be tweaked, it is not changing the pendulum
4 from one side to the other side. It's -- minor
5 adjustments need to be made to the charter, but
6 nothing major. Okay? And I think that's
7 important.

8 THE CHAIRMAN: Mr. Rohan.

9 MR. ROHAN: Thank you.

10 Mr. Holland, I -- we've been doing some
11 opinions recently. I think the State preempted
12 recall, didn't they? Did they not recently?

13 MR. HOLLAND: They do have a statute on
14 municipal recall. Whether we can do anything
15 more, I don't know. I didn't think we could,
16 but, again, you could also -- you make a
17 recommendation to the council. I don't see any
18 reason you couldn't also make a recommendation
19 to the Duval Delegation. Again, it's a state
20 statute. It is something, if you have a
21 concern, I'm sure that would be taken up by the
22 Duval Delegation.

23 MR. YOUNGBLOOD: So the recommendation
24 would be made through -- from us to council,
25 council --

1 THE CHAIRMAN: And the Duval Delegation.

2 MR. YOUNGBLOOD: Okay. And they --

3 THE CHAIRMAN: -- legislative delegation.

4 (Simultaneous speaking.)

5 MR. YOUNGBLOOD: -- and then they just

6 (inaudible) it to the State?

7 THE CHAIRMAN: Yes.

8 To follow up on that -- Commissioner

9 Korman, if you'll indulge me for a second

10 because I know you have a question.

11 MS. KORMAN: Sure.

12 THE CHAIRMAN: Commissioner Youngblood, I

13 know that's one of your issues, strengthening

14 Article 15.

15 Given the information you just related,

16 Mr. Rohan, would you mind sharing -- not right

17 now, but in writing with Commissioner Youngblood

18 the basis for the State -- for the opinion that

19 the State has preempted the charter, on that

20 score?

21 MR. ROHAN: Yes.

22 THE CHAIRMAN: Because I know that's an

23 issue of particular --

24 MS. MILLER: Could you share that analysis

25 with the entire group?

1 MR. ROHAN: Sure.

2 MS. MILLER: Thank you.

3 THE CHAIRMAN: Thank you, Steve.

4 MR. YOUNGBLOOD: Well, if that's the case,
5 then, if we could, I was going to ask Beth in
6 his office if she could actually give me
7 formally what is the removal process and does it
8 really need to be tweaked, to look at it
9 thoroughly. I know Jerry and I have spoken
10 about it many years ago, and I'm not sure how
11 involved it is or how easy or -- it is or it
12 isn't.

13 MR. HOLLAND: And we would be glad to --
14 obviously, Mr. Rohan, when we -- when you ask
15 for those, sometimes we also go to General
16 Counsel to reaffirm what we're doing.

17 He can give you the same thing that we were
18 giving. I think that's what he's going to give
19 him.

20 MR. ROHAN: Through the Chair, yes,
21 confirming with Mr. Holland, it's a very, very
22 complicated and difficult process.

23 MR. YOUNGBLOOD: I assume it would be.

24 THE CHAIRMAN: Commission Korman for the
25 second time.

1 MS. KORMAN: Two questions. First one is,
2 do we know of any other counties that does the
3 process of General Counsel, whatever, like you
4 suggested?

5 And the second question, completely
6 different than what you talked about. We heard
7 from a lot of the public about wanting to change
8 elections, about wanting to change and moving it
9 all in one time period.

10 MR. HOLLAND: Correct.

11 MS. KORMAN: Can you address that from your
12 opinion, on the pros and cons, cost and
13 everything else --

14 MR. HOLLAND: Sure.

15 MS. KORMAN: -- to kind of guide us?

16 MR. HOLLAND: Thank you, because I probably
17 should have addressed that in my opening
18 remarks.

19 First, on your first comment, no, I do not
20 have any historical data on how other County
21 Commissions and Councils appoint their -- but
22 that -- that would be easy to obtain. I'm sure
23 General Counsel could present that to you.

24 In reference to the elections -- and it is
25 an issue that comes up many times and has come

1 up not just in our county, but in other
2 counties. That issue is, should municipal
3 elections be separate from federal and state
4 elections?

5 We, as you are aware, hold ours after the
6 gubernatorial cycle, which is the odd year
7 following the gubernatorial cycle in the
8 spring. In doing so now, that cost is
9 approximately now, to hold a city election,
10 approximately \$3 million. It's 2.983, I think,
11 but it varies depending on how many precincts,
12 but you can honestly say that it's 3 million,
13 and it will continue -- the cost will go up. It
14 won't go down.

15 That has been one aspect of saying, in
16 tight budget times, can we afford to have
17 elections separate? The immediate argument to
18 not moving them is, is local needs to be by
19 itself so we can focus on local by itself. My
20 immediate response is, we're not doing that
21 now.

22 In your federal and state elections, you
23 also hold about -- I think it's over 30
24 positions are actually elected that are local,
25 meaning that -- from as low as what you may

1 consider soil, water and conservation to school
2 board to the clerk of the courts to all your
3 county judges are held during the federal and
4 state elections. Those are local county
5 positions, county only.

6 Truly, if you were going to do local only
7 and meant local only, you'd move everybody into
8 local only, school board as well as the rest of
9 them.

10 The argument that many counties have faced
11 on moving theirs is -- one is turnout relative
12 to types of elections is normally in this
13 progression: Federal has the highest turnout,
14 the presidential election, which in Duval County
15 may be anywhere from -- in the 70 percent range
16 to low 80 percent range throughout the county,
17 to state elections which will normally be in the
18 45 to 55 percent for the gubernatorial cycle, so
19 local elections being anywhere from about
20 12 percent to about 40 percent, depending on how
21 contested the mayoral race is, you know, so that
22 varies. So typically there is a lower turnout.

23 The proponents of putting them together
24 says, by putting them together, you have a
25 higher participation in the voters. The

1 opponents to that say, yes, but are they
2 informed? Do you want people going to the polls
3 who may not be informed?

4 My argument is -- in the elections office
5 is, the democracy -- our process works best, the
6 more people that are engaged in it, rather than
7 fewer people engaged. That's why constantly we
8 try to get voter turnout to go up, not go down,
9 meaning that we want it to go down so that fewer
10 people, you know, who are informed votes.

11 It's not our decision on who is informed
12 and who shouldn't be, you know, voting because
13 they're not informed. So from that perspective,
14 that is something the council is looking at
15 again. There is two pieces of legislation, one
16 that has been introduced and one that will be
17 introduced at the next council meeting. One is
18 to move the spring elections to the
19 gubernatorial cycle, which would take the
20 current elected officials, let them continue
21 their four-year term. They would exit in --
22 July 1 of 2011, but their -- their
23 counterpart -- the newly-elected ones would get
24 elected in the gubernatorial cycle and sit out
25 for that six months, so that they would serve

1 their next one at three and a half.

2 Another move for moving the elections is
3 also to put them in office prior to voting on a
4 budget. Our current spring elections, what it
5 does for us is it puts a new mayor and a new
6 council taking office on July 1 with a budget
7 that is really presented by an old council and
8 maybe, in some cases, a former mayor. So from
9 that standpoint, that's a tough budget -- you're
10 basically coming in unknowing of everything in
11 that situation. So that's one reason.

12 That's why there's another proposal out
13 there by another council member that says, yes,
14 we want to keep them separate, but we want them
15 to be in the fall; therefore, put them in the
16 off-season fall. So, therefore, that you do
17 capture that -- council and a mayor coming in
18 January 1 with six months to work on their
19 budget before the next budget cycle.

20 Those are two proposals out there.

21 I will tell you as -- from a historical
22 perspective, when it's been put on the ballot in
23 other counties -- an example is in Leon County,
24 Tallahassee, they moved their elections. It
25 saved them about 200,000. They put it on the

1 ballot. It passed by referendum. Eighty-nine
2 percent of the voters approved moving their city
3 elections for the city of Tallahassee to the
4 fall cycle with the presidential election.

5 There have been other cities. There's some
6 recently down in Miami-Dade. They moved theirs
7 for as little as a savings of \$6,800. But,
8 again, the -- and really -- the decision right
9 now, more than anything else, has not been the
10 voter turnout, but has been saving the money.

11 I will say, I have done public meetings
12 where I have tried to present it, where I did
13 not present my stand but they may have known,
14 but -- again, overwhelmingly I've had the public
15 say they would -- why come back five months
16 later when signs are still out. You know, and
17 other people will say -- the opponents will say,
18 yes, but it's -- for candidates, it's hard to
19 raise money.

20 But the reality is we've already got three
21 people filing for mayor, and that's before the
22 gubernatorial cycle. We'll have people filed
23 and running and collecting money during the
24 gubernatorial cycle. You will see campaign
25 signs out for the spring election during the

1 gubernatorial cycle. So in many ways -- to say
2 they need to be separate in some ways really is
3 a personal opinion, just because you feel like,
4 you know, it's important to vote on those issues
5 by themselves.

6 MS. KORMAN: Mr. Chair, could I follow up?

7 THE CHAIRMAN: Yes.

8 MS. KORMAN: And hopefully you'll answer
9 this. In your personal recommendation to us, as
10 the elected, you know, expert, what would you
11 recommend for this?

12 MR. HOLLAND: And I've been on the record
13 saying this, so it's not new. I recommend
14 moving the spring elections to the gubernatorial
15 fall cycle. The reason -- for a couple of
16 reasons. Not just the cost savings, but also
17 for a higher participation.

18 Also, if you look at -- typically, our
19 participation in the gubernatorial cycle is
20 usually a little -- is lower in the primaries,
21 so you're not necessarily always competing with
22 the media and all those things.

23 But from the standpoint -- most of our
24 heavily contested is in our first election,
25 which is the gubernatorial primary. So in a

1 sense you've got more attention given to the
2 local in that primary.

3 Many times in our second general, because
4 it's unitary, is -- many races have already been
5 filled and there's very few on the ballot in the
6 second one, and that's really when the
7 referendums are out there from the State and
8 when -- the governor's race and stuff like
9 that.

10 So, in summary, my recommendation is to
11 move it to the gubernatorial cycle and not the
12 presidential cycle and also get the savings and
13 the budget considerations, but don't put it just
14 in its own separate year.

15 MS. KORMAN: Thank you.

16 THE CHAIRMAN: Any other questions?

17 COMMISSION MEMBERS: (No response.)

18 THE CHAIRMAN: Okay. Thank you very
19 much --

20 MR. HOLLAND: Thank you, Chairman.

21 THE CHAIRMAN: -- Supervisor Holland.
22 We appreciate it.

23 MR. HOLLAND: Thank you, Commissioners. I
24 appreciate it.

25 THE CHAIRMAN: Okay. Our next speaker will

1 be Mr. Mullaney, the General Counsel.

2 MR. MULLANEY: Thank you very much.

3 I'm getting the sense that maybe I should
4 be attending some of these meetings and maybe
5 coming a little earlier than I've been coming,
6 and I've gotten that sense as I've walked in the
7 last two times.

8 Let me try to put straight on the table
9 what I want to talk about, what I've been asked
10 to talk about today.

11 I've been asked to talk about the role of
12 legal services under our charter and the role of
13 legal services in consolidated government. I
14 can tell you as General Counsel and formerly
15 with the Delaney administration, I have tried to
16 be a bit of a student of the charter and a bit
17 of a student of the consolidated government, and
18 I hope I can be helpful to you and I hope I can
19 give you some insights, quite frankly, that I
20 think very few people have into how this really
21 works.

22 I think I'm going to tell you some things
23 over the next 20 minutes that you may have never
24 heard before. It will give you an insight as to
25 how it works, how difficult it is to work, how

1 difficult it is, but also why it's the best
2 system in the state of Florida.

3 The starting point is, I'm going to go back
4 to Judge Durden, who was the first
5 General Counsel, who we honored in May when he
6 made a comment about the pre1968 model. Prior
7 to 1968, when it came to legal services -- and I
8 think this commission has gotten to know this
9 pretty well.

10 Prior to 1968, constitutional officers,
11 like Mr. Holland, independent authorities,
12 agencies, individuals, all had their own
13 lawyer. And as Judge Durden said at the lunch
14 in May, he once counted up 68. They all had
15 their own legal counsel.

16 And as the judge said and as Mr. Rinaman
17 said and was stated a few moments ago, prior to
18 1968 the result was extraordinary cost,
19 extraordinary delay, lawsuits against each
20 other, and a paralysis of government.

21 So one of the things historically -- and I
22 think the -- and, by the way, this isn't a great
23 insight that I don't think you already have, but
24 I want to cover this as a foundation for some
25 things that I don't think are quite as obvious.

1 One of the most fundamental reforms in
2 1968, on October 1st of 1968, was the creation
3 of centralized legal services and a provision in
4 Article 7 of our charter that said that a public
5 law office was to provide legal services to all
6 entities of consolidated government.

7 And in my presentation to you two weeks
8 ago -- of course we know that this consolidated
9 government is vast and it includes eight
10 independent authorities, five constitutional
11 officers, over 40 boards and commissions, an
12 executive branch with eight departments, a
13 legislative branch with 19 members, over a
14 \$4.5 billion operating budget, but this simple
15 provision in Article 7 of the charter was
16 revolutionary because now we were going to have
17 centralized legal services consistent with the
18 notion of what we were trying to create in terms
19 of accountability and speaking with one voice as
20 an enterprise.

21 It was also recognized in trying to speak
22 with one voice as an enterprise that that would
23 not be enough, and the charter had another
24 provision consistent with this one voice that
25 the General Counsel is to be the chief legal

1 officer for the consolidated government, right
2 out of the charter. In fact, the entire
3 consolidated government. And a recognition that
4 we would revert to the pre-'68 model if we did
5 not provide a mechanism for resolving the legal
6 conflicts which felt -- which they felt would
7 inevitably arise within the system, and
8 therefore another provision was put in the
9 charter to say that the General Counsel's Office
10 would have the authority -- would act as a -- in
11 effect, as a Supreme Court for the consolidated
12 government, to borrow the words of John Delaney,
13 and could issue legal opinions that were binding
14 upon all parts of this consolidated government.

15 So three pretty basic provisions in
16 Article 7: provide legal services to all parts
17 of the consolidated government; chief legal
18 officer for the consolidated government;
19 Supreme Court acting quasi-judicially, not as an
20 advocate for a legal position, but like an
21 umpire in a baseball game or like a court.

22 Now, that sounds straightforward, that
23 sounds pretty simple, and it -- and it's
24 revolutionary, but in its practice -- and has
25 worked beautifully, but not without difficulty,

1 and I'll explain what I mean by that.

2 Today, we are a 40-lawyer public law office
3 with six departments and about 11 specialty
4 areas of practice, and I -- it's in the
5 handout. I'll give it to you later.

6 Those areas include lawyers who specialize
7 in labor, those lawyers who specialize in
8 eminent domain, you have them across the board
9 in Workers' Comp, personal injury,
10 environmental, land use. And if, for example,
11 there's a wrongful death case, unfortunately,
12 with JEA or the school district or the sheriff's
13 office, our tort department defends. If you
14 want to fire an employee in civil service, our
15 labor group defends. If there's a redevelopment
16 agreement that -- our transactional group does
17 this as a law firm, comprehensively as a law
18 firm -- and I'll talk about this in a moment --
19 not as a system of in-house legal counsels for
20 the various parts of this consolidated
21 government, which would be more decentralized.

22 And so I think this notion of who we are is
23 important, and I will tell you -- permit this
24 one slight tangent -- is that we have been
25 extraordinarily fortunate with the talent that

1 come to this office.

2 Buddy Schulz, recently, and some other
3 lawyers have said that he believes this -- our
4 office has become one of the community's finest
5 law firms. And if you saw earlier in the week,
6 the Times-Union mentioned that Florida Trend
7 magazine did this thing where they mentioned the
8 top 73 government lawyers in the entire state of
9 Florida, and five of them are from the General
10 Counsel's Office. Just an indication consistent
11 with the notion that I would tell you that the
12 lawyers have extraordinary talent. I consider
13 it to be the most talented and best public law
14 office in the state, which may lead to this
15 question, well, Rick, if that's the case, then
16 how come the sheriff last week said he wants his
17 own lawyer? And that's exactly what I want to
18 talk to you about because at the same time he
19 told you -- and, by the way, I understand that
20 and I want to talk about that.

21 At the same time, he told you that the
22 lawyer he has, Howard Maltz, is the best he's
23 ever had, and the reason he says that is because
24 Howard Maltz is one of the best lawyers in the
25 City of Jacksonville.

1 I'll bet you that Ms. Barrett will tell you
2 that Karen Chastain has been an outstanding
3 lawyer for the school district, and I'll bet you
4 Rick Ferrin would tell you that Deborah Walters
5 has been phenomenal for him. And yet you're
6 going to hear, and you have heard -- and if you
7 haven't heard it here, you're going to hear it
8 whispered to you, "yeah, but" -- there's a
9 "yeah, but" going on, "We want our own lawyer,"
10 and I want to explain to you why that is and
11 what is unique about how this has worked, and
12 you can see the tension as to what this takes
13 and what's revolutionary.

14 I want to make four points and then I'll be
15 glad to answer any questions that you want.

16 The first is that under the charter -- and
17 this is significant over the last 40 years, and
18 I think it's significant for the next 40 years.
19 Under the charter, the General Counsel has a
20 unique responsibility and role to play in
21 upholding the charter, making sure consolidated
22 government works, and upholding the rule of
23 law. A unique role to play in upholding the
24 charter and the rule of law.

25 And let me say this: In fulfilling that

1 responsibility over time, the General Counsel
2 is -- are going to issue legal opinions and
3 conduct his business in a way that makes the
4 General Counsel extraordinarily unpopular with
5 his clients, and I'm not the first.

6 Over time, if the General Counsel is doing
7 his job under the charter, the General Counsel
8 is going to become extraordinarily unpopular
9 with his clients. Now, if they avoid that, I
10 would suggest they're really not doing their
11 job, and I'll explain to you why in a second.

12 In addition over time, if the General
13 Counsel is doing their job, you're going to see
14 that they give legal opinions and conduct their
15 business in such a manner that they become
16 extraordinarily unpopular with many constituents
17 publicly -- publicly -- and I'll give you some
18 examples.

19 In 19- -- this is the first and then it
20 gets worse.

21 In 1999, my second year as General Counsel,
22 I had a council member come to me and say,
23 Mr. Mullaney, for the last ten years the
24 City Council has been passing legislation in
25 which we pass a law that solves a problem for

1 one individual, but does not apply to the
2 community at large. We've done this for ten
3 years. You'll be at church, somebody comes --
4 I've got a problem, Mr. Councilmember. Can you
5 introduce legislation solving my problem? And
6 they would pass it, did it for ten years, over a
7 hundred bills just like this. Is that lawful?
8 I then considered to give a legal opinion to
9 determine whether it was.

10 In the meantime, several council members
11 asked me to see them and say, I want you to
12 understand, this is very helpful to me. I want
13 you to understand, I like having this
14 authority. I want you to understand, this would
15 mean a lot to me to have this authority. And I
16 said, I understand, and I'm going to give you
17 the first draft of our opinion.

18 I went back and drafted an opinion in 1999
19 in which I said -- this is called special relief
20 legislation, in which I said, special relief
21 legislation was unlawful, it was
22 unconstitutional, it violated equal protection.
23 If you were going to have a law that helps
24 somebody, it had to help the community at
25 large. I'm giving you a simplistic

1 description.

2 This result, as you might expect, with
3 widespread criticism from many council members
4 of me personally and on the front page of the
5 newspaper, profanely from one council member
6 describing what I had done. This was modest,
7 however, compared to what would happen the next
8 year.

9 The next year -- and Ms. Barrett can
10 remember this -- the Duval County School Board
11 came to me and said, we want a legal opinion as
12 to whether the last 50 years in which we've been
13 giving school bus contracts to an assortment of
14 people over a variety of circumstances for
15 50 years, whether that's lawful, or whether
16 under state law this has to be competitively
17 bid.

18 I gave a legal opinion in 2000 that said it
19 had to be competitively bid. The following
20 year, in 2001, I gave subsequent legal opinions
21 saying that the first one had to be followed,
22 that there had to be competitive bidding. And,
23 in fact, eventually ended up overturning a vote
24 of the school board because of their failure to
25 follow the binding legal opinion and because

1 contracts had been entered and because of the
2 bidding process.

3 This resulted in me getting sued by one of
4 the members of the school board. Subsequently
5 later, the lawsuit was dismissed.

6 This was relatively minor compared to the
7 constitutional officer who, two years later,
8 would ask for my removal from office based on
9 these circumstances: The council auditor said
10 in 2003, I want to conduct an audit of the
11 property appraiser. The property appraiser
12 said, you don't have that authority. I'm a
13 constitutional officer. I act independently.
14 You can't audit me. The council auditor said,
15 yes, I can. The property appraiser said, no,
16 you can't. This wasn't a high level,
17 intellectual debate, but that's how it was
18 going.

19 It then came to me and I gave a legal
20 opinion that said, under our charter, all parts
21 of this consolidated government, the General
22 Counsel included, the property appraiser
23 included, are subject to audit and you're going
24 to be audited by the council auditor.

25 The council auditor conducted that audit

1 and the property appraiser wrote a letter to the
2 mayor asking for my removal.

3 So whether it was a constitutional officer
4 asking for my removal, whether it was the school
5 district suing me, or whether it was the
6 City Council on the front page of the paper
7 criticizing me, none of it would compare to the
8 150 to 200 police officers in uniform before
9 City Council when I gave a different binding
10 legal opinion in 2005 in front of City Council
11 under these circumstances:

12 In 2005, I went to the podium with two
13 legal opinions. The City Council, at that time,
14 wanted to unilaterally provide pension benefits
15 to correctional officers prior to the conclusion
16 of collective bargaining, and collective
17 bargaining was ongoing. They had introduced the
18 legislation, it was up for a vote that night,
19 and the FOP brought 200 people in uniform -- I
20 don't know if they had guns -- to sit in the
21 audience --

22 MR. OLIVERAS: Yes.

23 MR. MULLANEY: Were you there? Were you
24 one of them?

25 MR. OLIVERAS: They always have guns.

1 MR. MULLANEY: They always have guns.

2 Okay.

3 They were here. You may not have noticed
4 this, but -- listen, I'm a former prosecutor, I
5 love the FOP, I love police officers. They are
6 politically powerful. This was designed to send
7 a message to the elected officials, the 19, when
8 the General Counsel stood up, which was moi,
9 gave a legal opinion and said, under Florida's
10 Constitution and under the statutes, you have no
11 legal authority to unilaterally provide benefits
12 to these fine men during the pendency of
13 collective bargaining. However, at the
14 conclusion of collective bargaining, if there's
15 an impasse and there's not an agreement, this
16 will come back to you at that time.

17 This was on television and resulted in a
18 blistering attack upon the General Counsel at
19 the time and a move by some general -- by some
20 members of the council not to follow the
21 opinion.

22 Fortunately, the majority of the
23 City Council members decided to follow the
24 opinion and did not, in fact, provide those
25 unilateral benefits at that time.

1 That same day I provided a legal opinion
2 that said that the Peyton administration did not
3 have the legal authority to transfer millions of
4 dollars from one department to another without
5 City Council approval. Something that upset
6 them greatly and something that resulted in them
7 going to the Duval Delegation to try to get a
8 legislative change to fix it -- which, by the
9 way, they modified with City Council in a
10 legislative proposal subsequently at some
11 time -- in a legal opinion in which I placed a
12 limitation upon the transfer authority, under
13 our charter, of the mayor, and during the
14 Delaney years gave two legal opinions that put
15 significant limitations on his authority.

16 Now, the good news in all of these, if you
17 looked at it from where we are today, is that in
18 about two weeks we're going to go to the
19 collective bargaining table and there's going to
20 be comprehensive pension reform introduced, and
21 you don't see legislation interfering with it.
22 The process is working. And today you're seeing
23 millions of dollars saved by competitive bidding
24 and today you're seeing auditing of all parts of
25 the consolidated government and today there is

1 no special relief legislation passed.

2 I am not here to complain about,
3 whatsoever, the extreme unpopularity that the
4 General Counsel will have in doing their job,
5 whether that is criticism in the newspaper,
6 criticism on television, being sued or being
7 asked for your removal. What I am suggesting is
8 that in doing your job, that is part of making
9 this work. And, by the way, I'm not the first.

10 When Harry Shorstein gave a binding legal
11 opinion in the 1970s regarding offshore power
12 and nuclear power plants, he became
13 extraordinarily unpopular.

14 When John Delaney gave the legal opinion in
15 saying that the referendum on 3 percent --
16 placing a 3 percent cap on ad valorem revenue
17 was merely advisory and not binding, he became
18 very unpopular.

19 I'd suggest what you have to have -- and
20 that's why I -- this floating notion of an
21 elected General Counsel is interesting
22 because -- I'll talk about that in a second --
23 trying to subject this sort of opinion to an
24 elected process is one I wouldn't recommend to
25 you.

1 But in this process, you can see under this
2 first point, about the special role in upholding
3 the charter -- in upholding the charter, that if
4 the General Counsel does their job -- and there
5 are other examples -- they will become
6 unpopular.

7 But what you will get from most
8 constitutional officers is two statements: I
9 love consolidated government and I want my own
10 lawyer. Two statements that are completely at
11 odds with each other because those legal
12 services, centrally given, is fundamental to
13 making it work because -- let me tell you what
14 happened in 2007.

15 In 2007, one of the constitutional
16 officers, the tax collector, went to a
17 Tallahassee law firm, without telling the
18 General Counsel's Office, and got a legal
19 opinion that the tax collector's office was not
20 a part of consolidated government, that our
21 charter was unconstitutional with regard to
22 requiring that the budget go to City Council,
23 and that the tax collector, based upon this
24 legal opinion -- I'm sure in good faith with a
25 Tallahassee law firm -- then submitted their

1 budget to the Department of Revenue instead of
2 City Council.

3 The head of the Department of Revenue
4 called me and said, one, did you know this? My
5 answer was no. Two, is this correct? I said,
6 no. The answer is no. And I gave a 15-page
7 legal opinion to the Department of Revenue
8 explaining why, in fact, they were a part of
9 consolidated government and why, in fact, the
10 budget had to come back here because, in
11 Judge Durden's words, two fundamentals to make
12 this work, centralized legal services and
13 centralized financial authority.

14 And that constitutional officer -- by the
15 way, I believe he's acting in good faith. I
16 believe he cared very much about his agency. I
17 believe all of them are acting in good faith.
18 They all want their own lawyer -- and I'll talk
19 about this in a second -- but that is a good
20 example. In that case, they wanted a lawyer who
21 was going to advocate a legal position that
22 would help their agency, which is often the
23 case. Just as you heard from the sheriff last
24 week, Howard Maltz is a great lawyer, but I want
25 my own, I want my own.

1 Now, nothing wrong with a lawyer, for
2 example, like Larry Pritchard on search and
3 seizure. We did this for a lot of years coming
4 over as a prosecutor in criminal areas, but it's
5 not limited just to criminal areas because we
6 get into many others.

7 So in this notion, under number one, is
8 this special role, the special responsibility in
9 upholding the charter -- and if you -- your
10 legal opinions are going to make you unpopular
11 with clients and the public. I was unpopular
12 very much so with bus contractors after the
13 school bus legal opinion, I was very unpopular
14 with correction officers, I was very unpopular
15 with clients, but let me tell you what I think I
16 gained during the time -- amazingly enough, I
17 had a lot of council members say to me -- and
18 I was very gratified by it, despite the
19 criticism -- that I had gained their respect in
20 the process, and I think that's why four times
21 City Council members, including Mr. Holland, had
22 been part of unanimously confirming me as
23 General Counsel because structurally if the
24 City Council does not have confidence, they have
25 the authority not to confirm. And I've been

1 very fortunate that despite unpopular legal
2 opinions, I have been confirmed by Mr. Holland
3 and by City Council unanimously four times.

4 The second point I'd like to make is
5 equally important but not as obvious. We are a
6 40-lawyer law firm that provides legal
7 services. Oftentimes we act like a private law
8 firm. Often we have a public hat, but we are a
9 law firm. And as a law firm with 40 lawyers, we
10 provide diverse services in a centralized way
11 with great areas of specialty, and I've
12 described that, from personal injury to
13 Workers' Comp to environmental to land use.

14 But let me tell you what not we're. We are
15 not a 15 General Counsel system in which we
16 place eight lawyers at the independent
17 authorities, five at the constitutional
18 officers, one with the legislative branch, one
19 with the executive branch, as in-house counsel.
20 That decentralization, quite frankly, is very
21 contrary to the notion of consolidated
22 government, and I will tell you -- and I
23 suspect, and I understand this, that if you
24 haven't heard it here openly, I suspect if you
25 meet privately with individuals from the

1 independent authorities or from the
2 constitutional officers, they will tell you that
3 one of their frustrations -- and they'll be
4 critical -- is that they want their own lawyer
5 and they want somebody in-house because -- let
6 me tell you what I've done consistently for over
7 a decade.

8 There has virtually been no -- nearly every
9 constitutional officer, independent authority,
10 and many agencies have said to me, Rick, I want
11 to set up an office on site, I want a lawyer to
12 come here full-time, and I want a lawyer to do
13 exclusively my work. And I have said,
14 respectfully -- you saw one of them last week.
15 I've had this conversation with the sheriff. I
16 think he'd acknowledge it. I've had it with
17 virtually every part of consolidated government,
18 and I'll say the same thing to you that I said
19 to him. I understand. I -- and I appreciate
20 where you're coming from and I appreciate the
21 motives, but it's contrary to the notion of
22 consolidated government, it would undermine
23 consolidated government. And, in my experience,
24 that is de facto decentralization that takes you
25 back to the pre'68 model, and eventually what

1 happens -- and lawyers don't even know that it
2 happens -- they become an advocate for a legal
3 position to advance their agency without regard
4 to the consolidated government, just like the
5 Tallahassee law firm said the charter was
6 unconstitutional, you don't have to do this.

7 The lawyer who works exclusively for one
8 client and trying to solve their problem says,
9 we have an argument that this is
10 unconstitutional, we need to advance this
11 because it will advance the cause of the
12 agency. And that will conflict with the
13 advocacy in the system of somebody else within
14 consolidated government, taking you back to the
15 litigation, the conflict, and the paralysis of
16 government.

17 I think I have become somewhat unpopular
18 with many clients of the consolidated government
19 because of my consistency in not allowing a
20 system of in-house counsel to develop within the
21 consolidated government and to have de facto
22 decentralization.

23 What we have, instead, is a full-service
24 law firm with many counsels to various
25 authorities. For example, Karen Chastain is

1 lead counsel to the school district. However,
2 if there's a personal injury matter, she refers
3 it to tort. If there's a labor matter, it goes
4 to the labor department. If there's an
5 environmental matter, it goes to the
6 environmental lawyers. And Karen, by the way,
7 doesn't do all their work. She does real estate
8 closings and many things else, but she's become
9 very knowledgeable in the school district.

10 We have other lawyers that have become lead
11 counsel to the JEA, have become very familiar
12 with the utility industry because I do think
13 this: Over time I've certainly recognized it's
14 important to have a lead counsel to spend an
15 extraordinary amount of time to get familiar
16 with the business operations of the client,
17 whether that's international trade at the
18 seaport, whether that's aviation at the airport,
19 whether that's utilities with the JEA, and that
20 lead counsel becomes very familiar with their
21 business and can give better judgments.
22 However, they don't have an office full-time and
23 become solely that -- that client's or that
24 entity's lawyer because of the decentralization
25 problem that I talked about before.

1 Now, I adapt this when you have
2 extraordinary needs. You may have noticed with
3 Rick Ferrin, the seaport has had extraordinary
4 needs and we've temporarily given him some
5 resources, but I maintain -- this is my view and
6 I expect that future General Counsels will try
7 to -- will -- seeking more popularity with parts
8 of this government will begin that de facto
9 decentralization process which, I think, truly
10 does undermine consolidated government.

11 What happens after these first two is one
12 that people talk about a lot, and I'd like to
13 address it head on.

14 Once you establish -- and, number one, this
15 critical role under the charter in giving legal
16 opinions are unpopular. Once you establish that
17 you are a law firm and not in-house counsel to
18 the various parts of this government, then you
19 get to a third area which people like to call
20 conflicts. And sometimes this is conflicts used
21 in sort of a common sense way without regard to
22 the legal meaning, so let me try to address that
23 head on for what I think people are talking
24 about.

25 Sometimes you would have what's called a

1 legal conflict, one in which the City Council
2 wants to give pension benefits to correctional
3 officers and they think they legally can when
4 collective bargaining is pending, and the
5 executive branch says, no, you can't legally.

6 Sometimes the City Council auditor thinks
7 they can audit somebody and the other person
8 says you can't. That legal conflict.

9 When you have cases in which there is a
10 legal conflict with this consolidated
11 government, the charter provides that the
12 General Counsel is to give one legal opinion for
13 this enterprise.

14 And I respectfully disagree with what
15 Mr. Holland said earlier, that he tries to shop
16 his legal opinions in the General Counsel's
17 Office and gets different legal opinions. That
18 is not correct, that is not how the consolidated
19 government works, that's not how the General
20 Counsel's Office works. We have to have -- even
21 if it's mistaken -- one legal opinion for this
22 enterprise because if you go back to the
23 conversation we had two weeks ago, part of
24 making this work is the accountability and the
25 consensus that can develop, whether -- I gave

1 you the example of whether it's General Electric
2 or whether it's Microsoft. You don't have the
3 operating division of Microsoft and the browser
4 division suing each other with different legal
5 opinions. There's one legal opinion on Wall
6 Street. They may internally have a debate, but
7 when they go to Wall Street, they've got one
8 position. And this enterprise has to operate in
9 that manner.

10 So to the extent people say there is a
11 conflict in the consolidated government, it is
12 irreconcilable, you have different -- a clash of
13 legal opinions, our charter deals with that.

14 The second piece is I think the one that
15 people are talking about and actually doesn't
16 involve the General Counsel's Office, and that
17 is conflicts on policy matters.

18 Right now you've got a policy debate in the
19 executive and legislative branches where some
20 City Council members who -- don't want to raise
21 the millage rate, for example, and an executive
22 branch that does.

23 A little while back we all witnessed as a
24 community an executive branch that wanted to
25 extend a contract at Trail Ridge and a

1 legislative branch that said, no, we want to
2 wait for that to expire, we're going to bid it.

3 We saw the year before an executive branch
4 proposing Jacksonville Journey and then we saw a
5 legislative branch, many members, oppose.

6 Those policy debates are for the
7 policymakers, not the lawyers, and they need to
8 be decided by the policymakers. And the
9 agencies and clients of the consolidated
10 government understandably are frustrated that
11 they don't have a lawyer that takes a microphone
12 and makes the policy argument for them or to be
13 the Paul Harden lobbyist on their behalf to go
14 scurrying around and get consensus and support
15 for their position.

16 We don't have a lobbyist form of legal
17 services. We don't have a policy advocacy form
18 of legal services. If we did, it would
19 undermine the critical role we play in providing
20 the services we do to make consolidated
21 government work.

22 This notion of this policy clash that
23 occurs is fundamental and it is for policymakers
24 to resolve. And oftentimes the desire of
25 clients in good faith for advocacy is what leads

1 to this notion of, we have a conflict and the
2 General Counsel's Office is in the middle.
3 When, in fact, they do have a conflict with
4 another part of this government and, in fact,
5 they want their lawyer to be in the mix.

6 Now, there's a big difference between, by
7 the way -- and I don't say this pejoratively --
8 between constitutional officers who perform what
9 generally speaking are ministerial tasks --
10 important but ministerial. You want your tax
11 collector to do a good job of tax collecting,
12 and you want your property appraiser to do a
13 good job of appraising property, and you want
14 your supervisor of elections to do a good job of
15 counting votes, but the policy side is typically
16 the executive and the legislative branches of
17 this government, and that can be very
18 difficult. But this notion of trying to get an
19 advocate for a legal position, like the
20 Tallahassee law firm that conflicts with
21 another, and to try to win the policy debate
22 through legal counsel is something 40 years ago
23 we decided was at odds in terms of how legal
24 services are going to be provided.

25 Let me tell you about the area that most

1 people get confused about and who don't
2 understand the Florida Supreme Court law and
3 Florida case law that governs this.

4 You may look at a civil service proceeding
5 and you will see in civil service -- if you're
6 trying to fire an employee and you have a
7 grievance -- that a lawyer for the General
8 Counsel's Office is actually putting on evidence
9 in part -- as part of -- for the department
10 head. Then you go look at the Civil Service
11 Board, and you'll see another lawyer from the
12 General Counsel's Office advising the board.
13 You go, wow, what's that?

14 Or if you go to the Planning Commission,
15 you will see a lawyer for the General Counsel's
16 Office representing the Planning Department, a
17 different lawyer representing the Planning
18 Commission, and still a different lawyer
19 representing the City Council when it goes to
20 them.

21 And the U.S. Supreme Court, Florida Supreme
22 Court and Florida case law has all upheld that
23 in the government context, this is -- there is
24 no legal conflict when you do this.

25 Now, what you cannot have is a lawyer who

1 advises the employer, puts on evidence in a
2 civil service proceeding, and then run up to the
3 podium and also advise the board. Case laws
4 address that. But in the government context --
5 this happens at the federal level, state and
6 local. It is recognized that in the government
7 context -- and this is foreign to people who
8 practice privately, I think -- that this is not
9 a legal conflict.

10 So in the last 40 years, have there been
11 conflicting policy positions? Yes. Have there
12 been conflicting legal positions? Yes. Have we
13 had adjudicatory proceedings, such as civil
14 service, such as Planning Commission, such as
15 quasi-judicial proceedings, that to an outsider
16 look like there's conflicts because different
17 lawyers in the same office are representing
18 different entities? Yes.

19 For 40 years it's worked, for 40 years it's
20 never been determined to be illegal. And, in
21 fact, is the opposite. The Florida case law has
22 upheld it.

23 So the fourth and final point I'd like to
24 make beyond this, upholding the charter, the law
25 firm notion as opposed to in-house counsel, the

1 conflict situation, and is -- the fourth in
2 which is who we are.

3 We are -- and I've mentioned this before --
4 fundamentally a law firm, but we are not a
5 policymaker and we don't -- and we are not -- we
6 don't substitute our business judgment for the
7 judgment of elected officials. We're
8 unelected. We are not -- we don't oversee the
9 operations of government and we're not a
10 policeman. We're not an investigative body like
11 the State Attorney's Office or the Inspector
12 General or the State Ethics Commission or the
13 Council Auditor's Office that can do
14 investigations. We're not that.

15 Some people think that if they don't like
16 the deal that the General Counsel's Office
17 has -- has the legal authority to say, that's a
18 bad deal, it can't go forward. The evaluation
19 of whether the deal is -- once it's legal -- if
20 it's legal and once it's been a public policy
21 debate, whether it is good or bad is for
22 policymakers who are elected, not for the
23 General Counsel's Office, and this is a source
24 of much confusion.

25 And I can tell you there was an example in

1 the early 1990s when the General Counsel didn't
2 like the deal to bring the Jaguars here. And,
3 in fact, if the General Counsel had prevailed,
4 they wouldn't be here. That policy decision --
5 he had a responsibility to convey that to his
6 client -- not publicly, which was wrong -- and
7 the client had the responsibility to say, I hear
8 you and I'm making a judgment.

9 And, by the way, this also applies to
10 Trail Ridge, in which there is strong advocacy
11 for an extended contract, strong advocacy for a
12 bidding contract. That business judgment, that
13 is for policymakers. The lawyers have provided
14 legal opinions that said it is legal to extend
15 it and it is legal to go out to bid, let the
16 policy debate begin.

17 Also, on the business judgment issue, if
18 you want to -- as John Delaney did in the
19 Preservation Project, acquire a piece of
20 property for \$1 million, and your lawyers say, I
21 wouldn't pay more than \$750,000 for that, and
22 the mayor says that's a critical piece along
23 this one piece and needed to connect, I
24 appreciate your opinion, but we're buying it,
25 the lawyer doesn't give them a legal opinion

1 saying it's a bad deal, we're not doing it.

2 Just as your lawyer -- if you want to buy a
3 house next to your mother and they're charging
4 you a little bit extra because they know you'll
5 want to be there, and they go, I wouldn't pay
6 that amount. And you go, I want to be next to
7 my mom, I appreciate your advice, I'm buying
8 it.

9 And so the business judg- -- your lawyer is
10 an advisor, not a policymaker, not a business
11 judgment. We don't oversee the operations of
12 government. We don't go and conduct
13 investigations. We advise our clients on the
14 law and a special responsibility to advise them
15 to do this ethically, within the bounds of the
16 law.

17 I will tell you in this 40-year history,
18 what I've just outlined in those four points is
19 not understood by many. The first three points
20 are unique to the General Counsel's Office.
21 This notion of upholding the charter, this idea
22 as to why we're a law firm and not in-house
23 counsel, centralization versus decentralization,
24 this notion on conflicts in the government
25 context and under our charter, unique to us.

1 The fourth one is not unique. That's what law
2 firms do, they advise, and the clients make
3 decisions on policy, on business judgment, on
4 operations.

5 But if you get that insight, you can begin
6 to see this and you go, wow, this is
7 challenging. This is actually -- there's more
8 to this than I may have thought originally
9 because in these 40 years, with 370 binding
10 legal opinions, of which I've issued ten, the
11 majority coming in the first few years under
12 Judge Durden, we have --

13 This is a very challenging system. And I
14 quoted this the last time in the context of
15 government policy when I said Winston Churchill
16 once said that, you know, democracy is the worst
17 form of government ever created in the history
18 of mankind, except for all the rest.

19 I think if you take a look at the delivery
20 of legal services around the state of Florida
21 and you see the cost, the delay, the paralysis,
22 and you compare that to this system in which we
23 can speak with one voice, with an enterprise, in
24 which the General Counsel doing their job will
25 be unpopular with the public and with their

1 clients, and maintaining this system of
2 centralized legal services, you can see that, as
3 Jim Rinaman said, the nerve center for
4 consolidated government comes here, and this is
5 hard, this is hard.

6 I personally have been privileged to have
7 been a part of it, but it's difficult and you
8 have to make judgment calls and sometimes you
9 won't be popular, but an extraordinary piece of
10 Jacksonville's transformation of these 40 years
11 and an extraordinary piece of making
12 consolidated government work has been this model
13 for delivery services -- of delivery of legal
14 services.

15 And I'd suggest this: If you wanted to do
16 any one thing to undermine how consolidated
17 government operates in the future, it would be
18 to change that model and to decentralize legal
19 services. Then you would simply become
20 Miami-Dade or Broward, in which you have silos
21 of authority and silos of competing demands, in
22 which they try to advance the agency without
23 regard to the enterprise. And what we have here
24 is an extraordinary enterprise that speaks with
25 one voice structurally due to the most

1 extraordinary charter in the state of Florida.

2 One last note: I do not, in any way,
3 criticize or have -- I understand why the
4 sheriff would like his own lawyer, I do. I
5 understand why other parts want their own
6 lawyer. I will -- other parts of this
7 government. I will tell you that is
8 inconsistent with the notion of consolidated
9 government and it would vastly undermine what we
10 do.

11 Having said that, I think if you ask him
12 about Howard Maltz and the legal services he's
13 getting, he would tell you that they're
14 extraordinary. I think Ms. Barrett would too,
15 and I think Rick Ferrin would too. And I think
16 that most of the parts of this government would
17 tell you, we love our lawyers, but we want our
18 own. And I think both of those comments
19 actually are hopefully explained by what I just
20 ran through, and I hope this is helpful, so --

21 I do want to mention one other thing. I
22 made a note while Mr. Holland was speaking. He
23 mentioned, I think, the review process for the
24 selection of the General Counsel. What he's
25 saying is not new.

1 I do want to point this out: In terms of
2 legal services we provide, if you combined --
3 and I can get you updated statistics. We don't
4 have this before -- if you combined all of the
5 legal services from all five constitutional
6 officers for the entire year, it's far less than
7 10 percent of the legal services in the City of
8 Jacksonville provided -- provided to the overall
9 consolidated government, less than 10 percent.

10 I think the clerk may get 1 percent, the
11 supervisor may get 2 percent. The executive
12 branch of government gets close to 60 percent
13 because of their policy-making function, because
14 of the extensiveness of what they do. Less than
15 10 percent for five constitutional officers.
16 The independent authorities vary. The JEA, 8,
17 9 percent. The school district, 8, 9 percent.
18 Pretty significant. Those are toward those.
19 But the JEA is a \$1.5 billion a year operation.
20 The school district, \$1.2 billion a year
21 operation.

22 But I'd like for there to be some context
23 in terms of the delivery of services and a
24 strong mayor form of government. Don't be
25 surprised that the vast amount of legal services

1 is provided to the executive branch. The
2 legislative branch gets about another
3 10 percent, but the majority is on the executive
4 side.

5 The proposal to try to make the General
6 Counsel answerable to -- and to give more input
7 to the constitutional officers was proposed by a
8 member of the school district and by the tax
9 collector a few years ago. I will leave to you,
10 based on what I told you earlier, why that may
11 have been, but I do think what you see,
12 understandably -- by the way, this goes back to
13 the '70s in which we had litigation on this --
14 is that historically -- and I'm not pointing at
15 anybody currently -- historically -- and the
16 same feeling exists today -- if the truth be
17 known, most agencies of the consolidated
18 government truly don't want to be a part of it
19 when it comes to them. They love it, they'll
20 tell you it's great as long as they can have
21 their own lawyer and they can deal with their
22 own budget. It's a great system. As long as I
23 can have my own lawyer and deal with my own
24 budget, I really love this system.

25 And you'll hear -- you'll hear every one of

1 them say, what a great form of government, but,
2 nah, don't appoint me. I need my own budget and
3 I need my own lawyer. And so, you know, it
4 works great as long as you have that, so -- and
5 I'm not trying to minimize anything, but I do
6 want to provide it with context. This is
7 difficult, this is hard, we have come across the
8 best system I've seen.

9 If you have any questions that I can
10 answer, I'd be glad to try.

11 THE CHAIRMAN: Commissioner Oliveras.

12 MR. OLIVERAS: Thank you, Mr. Chairman.
13 Thank you for being here, Mr. Mullaney.

14 When you're not out and about making
15 friends with everybody -- I appreciate you
16 making the distinction between policy issues and
17 the legal issues because I think that
18 distinction is lost on a lot of people and
19 that's where a lot of the misunderstandings
20 come.

21 What I'm curious about is the thing that
22 was mentioned earlier, the Cecil Field
23 referendum, not that in particular, but how many
24 instances like that occur where the differences
25 between are irreconcilable and we go to court?

1 Does that happen often?

2 MR. MULLANEY: What do you mean -- now, let
3 me say this: I missed the first part of what
4 Mr. Holland said. During that period, I have to
5 go back and -- I have a different recollection.
6 I don't know what he said.

7 I will tell you this: We had already
8 litigated this issue once before, as I
9 mentioned, in front of Judge Moran. Time was
10 running short, signatures were obtained at the
11 last minute, and I had prepared a binding legal
12 opinion that said it would not go on the ballot
13 based on the prior Court's order. And I got the
14 indication from the supervisor's office that
15 they weren't going to follow that.

16 Now, that was one of the challenges that
17 you have with the supervisor because at that
18 time -- and I also implored him to, quite
19 frankly, not make comments to the public about
20 what the law was, but to leave that to the
21 lawyers. He had a different view.

22 And so some of the contentiousness that I
23 saw here surprised me, but I will tell you in
24 the context of a prior ruling from Judge Moran,
25 who is the chief judge in the circuit, given the

1 legal opinion that we had prepared and we went
2 to court, if Judge Nachman had not ruled -- and
3 when he did, he agreed with us on every point --
4 we would have done a binding legal opinion that
5 really would have -- probably wasn't as good as
6 what the judge entered. His order was even
7 better than our opinion.

8 But what you needed to have, in my opinion,
9 from your constitutional officer is the
10 following of the order of the Court and
11 following of the binding legal opinion. So I
12 don't know how it was characterized before I
13 walked in the door --

14 MR. OLIVERAS: Well, I'm not -- I'm not
15 focusing so much on the Cecil Field referendum
16 here in particular, but when a situation arises
17 where there is that disagreement between either
18 an authority or a constitutional officer and the
19 General Counsel's Office --

20 MR. MULLANEY: On a legal issue?

21 MR. OLIVERAS: -- on a legal issue, not on
22 a policy, but on a legal issue, how often do we
23 get there where it -- we're at loggerheads and
24 we go to court?

25 MR. MULLANEY: Never.

1 This system, for 40 years, has been one in
2 which there have been over 370 of these legal
3 opinions. And although on the collective
4 bargaining there was a threat not to follow it
5 and although in the school district case there
6 was this -- there was an intention not to follow
7 it, it has never, during the 40 years, to my
8 knowledge, ever been litigated.

9 And, in part, I think there's a -- a
10 binding legal opinion from a General Counsel,
11 Fred Franklin, that says that the -- they don't
12 have standing to bring a legal claim to court.
13 The legal opinion, however, can be overturned in
14 three ways. My opinion is not final. It can be
15 overturned, one, by the Attorney General for the
16 state of Florida. Just write him letter. Say,
17 here's the opinion of the General Counsel. We
18 think it's wrong. We want you to write a legal
19 opinion that says it's not wrong. In fact, on
20 the school bus case, they all wrote a letter to
21 the Attorney General. The Attorney General
22 wrote a letter back saying, he's right. Okay?

23 And, in fact, on each of my ten binding
24 legal opinions, they have all been upheld. None
25 of them have been overturned.

1 That's one way it can be overturned, is by
2 the Attorney General for the state of Florida.
3 A second, you can go to the Florida Legislature
4 if you -- all I'm doing is giving you what I
5 think the law is. You can always go to the
6 legislature and get the law changed. You know,
7 the district, for example, could go to the
8 legislature and say, look, you're requiring
9 competitive bidding, change it to direct
10 negotiations. They could have.

11 The mayor didn't like my opinion on
12 transfer authority. He got with the council, he
13 did go to the legislature, and they gave him
14 some limited transfer authority within his
15 department. So he got a legislative
16 (inaudible).

17 The other is, a third party, not a member
18 of the consolidated government -- they can't sue
19 under our -- they can't sue. But a party
20 affected by this can bring a lawsuit, and that's
21 what happened actually in the referendum, is
22 taxpayers brought a lawsuit and they wanted this
23 thing on the ballot and we went ahead and got
24 that thing litigated.

25 But third parties can bring a lawsuit and

1 they can get it overturned. Because in the
2 referendum case, there was this third-party
3 lawsuit -- my preference, by the way, like the
4 U.S. Supreme Court, is not to give opinions.
5 Okay? I don't want to give legal opinions. I
6 want the members of the consolidated government
7 to work this out.

8 You don't need a General Counsel activist
9 giving their authority or trying to create
10 public policy to tell people what to do, in my
11 opinion. Those legal disputes are kind of a
12 last resort. You encourage the parties, the
13 entities of the government to work things out.

14 And on Cecil Field, because there was this
15 litigation -- I would prefer a court order,
16 quite frankly, in those cases where there is a
17 court order. In those cases where a court order
18 is not -- in that sense isn't available, such as
19 the property appraiser, that was an
20 interpretation of our charter, was he subject to
21 audit or not. I make a call.

22 Or the mayor's office, does he have the
23 authority to transfer this money? I make a
24 call. He did not.

25 In Delaney's administration, I gave a legal

1 opinion that limited their ability to clear-cut
2 trees for development. They didn't like it.
3 Gave them another opinion, not formal or orally,
4 telling him that he did not have the
5 privatization authority that he thought he had
6 unless he went to City Council. Argued with me
7 vigorously, but finally accepted the notion that
8 he didn't and -- or at least -- he may not have
9 ever thought I was right, but he agreed to
10 follow it anyway, and so --

11 I never claim infallibility, I don't,
12 obviously. I do claim that there has been
13 integrity in the opinions for more than a
14 decade, and that is why it's kind of
15 inconsistent in a way that clearly I have been,
16 understandably, unpopular with many clients who
17 felt that I put limitations on their authority.

18 I've required the tax collector to submit
19 their budget to the City Council. I've required
20 the property appraiser to be audited. I've told
21 the mayor he can't transfer funds. I've told
22 the council they can't give benefits to
23 correctional officers at that time that they
24 wanted to. You do not please people this way,
25 but the government works.

1 But even with that -- and I'm appreciative
2 of this -- I think in the process the office has
3 their respect. And I think that's why, despite
4 this -- I call it the healthy tension of the
5 consolidated government. It may not be as
6 healthy for me. That's why I think in the end,
7 I've been very fortunate that this City Council
8 has unanimously confirmed me as General Counsel
9 each time. And, like I said, it's been a
10 privilege to do it.

11 But in answer to your question, there have
12 been no lawsuits and none of them have been
13 overturned in those 370 binding legal opinions.

14 MR. OLIVERAS: Thank you.

15 THE CHAIRMAN: Commission Austin.

16 MR. AUSTIN: Mr. Mullaney, in a -- in your
17 testimony here about the difficulties with
18 the -- with officials wanting to get out -- I
19 made an observation about 40 years ago when we
20 started it, consolidation, that we had most of
21 the court and some other people that said, over
22 my dead body I'll use that (inaudible). You
23 know, and so I think it's a testimonial to
24 the -- to the soundness of the General Counsel's
25 Office, that this has been a constant 40-year

1 run and people trying to get out from under
2 the -- get their own lawyers and break up the
3 consolidated concept of -- of, again, what I
4 consider -- I use the phrase -- 19- -- long time
5 ago. I use the phrase that the General Counsel
6 is the glue that holds the city -- this
7 consolidated government together, and they have
8 been pecking and working again- -- but they
9 always -- they've always prevailed with the --
10 with the General Counsel standing aground and
11 working to the reasonableness of the concept.

12 It's a big old municipal government that
13 represents a constituency, a body politic with
14 an aim to making it efficient and make it work
15 without wasting a lot of money and a lot of time
16 and make it more efficient, and that the General
17 Counsel -- and getting those people to do that
18 together instead of off over here in little
19 fiefdoms and empires. It's just critically
20 important to this government.

21 I shouldn't be making these speeches. I --

22 MR. MULLANEY: Can I make a comment on what
23 you just said? Which I appreciate and obviously
24 I agree with you.

25 One of the things that's happened over the

1 40 years -- it's been consistent, and it's
2 happened to me -- is there is a complaint or a
3 perception that -- and I think it's less now
4 than it's been, but it always exists, that in a
5 strong mayor form of government, there is a bias
6 of the General Counsel towards the mayor. I
7 mean, you've heard this 40 years. You're going
8 to get that in a strong mayor form of
9 government. And I'll say this: For the future
10 and for the past, in this form of government, it
11 is critical that there be trust and respect
12 between whoever the mayor is and whoever that
13 General Counsel is.

14 If you take a look at the history of legal
15 opinions, those opinions do not reflect
16 whatsoever the bias that people are talking
17 about. In fact, Fred Franklin gave the legal
18 opinion saying that John Delaney did not have
19 the authority to veto quasi-judicial
20 proceedings. I gave a number of legal opinions
21 that the Delaney administration didn't like,
22 that the Peyton administration didn't like, and
23 those are just the formal ones.

24 Informally, confidentially we advise all
25 the time on what the law is and what the law is

1 governing. If you take a look at those
2 opinions, if you'll take a look at the practice,
3 it doesn't bear out.

4 The bias that does exist -- and I think I
5 will admit to this bias on my part. I do not
6 have a pro mayor bias, but I do have a pro
7 consolidated government bias. And I mentioned
8 to you at the first meeting two weeks ago -- and
9 I don't mean this to sound too academic, but one
10 of the challenges of consolidated government
11 that the clients and entities of consolidated
12 government don't like is that they have to give
13 up some of their sovereignty, they really do.

14 And trul- -- and it's understandable, by
15 the way, that they don't like it because they
16 care about their mission, they want to do a
17 great job, they believe in what they're doing.
18 This isn't -- this isn't ill-intended.

19 Looking at Michael, he will tell you that
20 this aviation authority is critical to the
21 future of this city, that they have four
22 airports and you should see what they're doing
23 out there, and he's right.

24 And if you take a look at education, they
25 will tell you our whole future -- the school

1 board will tell you the whole future rests on
2 education.

3 And if you talk to the JEA, that's no good
4 if you don't have power, electric, water, and
5 sewer.

6 And so every group firmly and rightfully
7 believes that their mission is critical, and it
8 is. And to the extent you put a limitation on
9 that authority that they believe in good faith
10 inhibits their ability to be successful, they
11 shouldn't like it. I get that. I get that.
12 But if the consolidated government is going to
13 operate as an enterprise, there has to be one
14 voice and that means that conflicts in policy
15 and conflicts in law or personalities have to be
16 resolved so that the enterprise can speak with
17 one voice, and that's hard to accomplish.

18 And we've done -- we've done it better than
19 anybody else in the state of Florida, I will
20 tell you that. And that -- but it doesn't mean
21 you spend all your time going out making
22 friends, but we have done it better than the
23 rest of the state of Florida.

24 THE CHAIRMAN: Commissioner Korman.

25 MS. KORMAN: Mr. Mullaney, I respect

1 that -- you know, your service with the
2 independent agencies, the City Council and
3 everything else, but one of the things that
4 we've heard over and over again from the public
5 is their concern with the General Counsel, in
6 perception. We've talked this whole time about
7 independent agencies, City Council. How do -- I
8 mean, how do we address that issue? Because we
9 serve representing the --

10 MR. MULLANEY: Several -- let me tell you,
11 Cindy Laquidara got a rock through her window
12 once when we were dealing with the ash sites
13 years ago. We had to be escorted to our cars
14 during the -- when I did the legal opinion with
15 the Duval County School Board because there were
16 119 bus contractors that lost their jobs with
17 that legal opinion when it went out to bid.

18 As I mentioned to you earlier, many of the
19 legal opinions were unpopular, not just with the
20 clients but with people who were beneficiaries
21 of the clients' conduct. When those 119
22 contracts went away, that was a lot of
23 families. And we didn't give that legal opinion
24 to be insensitive, but we weren't a policymaker
25 on that. We were just saying what the state

1 statute said, here's what the law is. Go to
2 Tallahassee to change it. In fact, I think
3 somebody tried to change it in Tallahassee, but
4 they didn't change it.

5 And so we have given legal opinions that
6 many constituencies really have been unhappy
7 about. Cindy, when accompanying John Delaney on
8 the ash sites, which eventually ended up in
9 litigation for exposure, was nearly 300 million,
10 which she settled and found some lawsuits over
11 in the old City Hall for -- for 25, and
12 extraordinary work by an extraordinary lawyer,
13 resulted in a rock going through her car at one
14 of the town meetings out there.

15 Now, these issues touch people, and they're
16 important and they're real, and so there should
17 be no surprise that we're not operating in a
18 vacuum. And sometimes too is they -- unlike
19 when I was a prosecutor and I represented the
20 people of the state of Florida, I think there's
21 the sense that the General Counsel's Office
22 should be representing their interests, whatever
23 that -- whether it's their contract or whether
24 it's their -- a zoning matter. And if there's
25 an outcome they don't like, there's the tendency

1 certainly to look to legal counsel.

2 Now, that's a separate issue, but I can
3 tell you over time, there's a very
4 understandable desire -- and sometimes our
5 office has to be there for it, is that when
6 things don't go right, you know, it's -- it's
7 the lawyers, and we get that, but -- and I don't
8 know structurally -- let's talk structurally.

9 Some people have said City Council should
10 have their own lawyer. In the charter -- and
11 they've had it for over 20-something years --
12 they can do that already. Structurally, that's
13 already there. In fact, they tried it in the
14 late '80s. Most people will tell you it was a
15 very, very bad experience in terms of the
16 quality of work, in terms of the slowing down of
17 the process, and so that's been abandoned
18 because it was tried, but it was put in the
19 charter a long time ago.

20 So I don't know every circumstance for the
21 unpopularity, but I think if you're around long
22 enough -- and I've been around longer than
23 most -- there have been, for the last 25 years,
24 about eight General Counsels. I'm the only one
25 who's gone from one administration to the next

1 in that time period. That was kind of
2 extraordinary.

3 But if you're around long enough and you're
4 doing your job, I think there are going to be
5 some times when people are unhappy with
6 outcomes. And they may view you as a
7 policymaker instead of someone who's just trying
8 to give a legal opinion, this is what the law
9 is. I'm not telling you whether I agree or
10 disagree, I'm just an umpire saying this is a
11 strike, you know, throw the ball.

12 So I don't know if -- I don't know who that
13 constituency might be, but --

14 MS. KORMAN: And I don't know who they
15 are. There are people who have spoke -- I have
16 no idea who --

17 MR. MULLANEY: Yes. I --

18 (Simultaneous speaking.)

19 MR. MULLANEY: I understand, and -- I will
20 tell you, by the way, on the -- well, I don't
21 know how really relevant it is, but on sort of
22 compensation notions, my office -- I -- we do
23 not recruit from the Attorney General's office,
24 not from the State Attorney's Office. We
25 recruit from -- and please look at your

1 package. You'll see over half the lawyers --
2 over half our lawyers have come from law firms
3 of -- over 35 lawyers. Lawyers from Rogers
4 Towers, Smith Hulsey & Busey, Foley & Lardner,
5 lawyers who have gone to Harvard, Virginia,
6 Georgetown, Duke, three editors-in-chief of the
7 Law Review, including the Duke Law Journal. We
8 have an extraordinary group with extraordinary
9 talent.

10 I heard reference to compensation,
11 comparing it to the Attorney General. Actually,
12 I'm more of a county attorney, but I'm actually
13 a county and a city attorney. Of all those
14 county attorneys in the state of Florida with
15 populations over 500,000, I'm the third lowest
16 paid. I'm not complaining, but I'm telling you
17 there should be perspective as to who we are.
18 I'm not comparable to the State Attorney. We do
19 different jobs. And I'm not comparable to the
20 Attorney General. I am comparable somewhat to a
21 county attorney in various parts of this state,
22 but I'm actually not even comparable to them
23 because I'm a county attorney and a city
24 attorney.

25 I can tell you when I go to these

1 conferences just for the city attorneys and
2 these conferences just for the county attorneys,
3 they go, "You're all by yourself. Who are you?
4 We don't understand how you do that in
5 Jacksonville," because we're the only ones --
6 it's kind of -- they're kind of awed by it, but
7 I think that we have been very fortunate to
8 attract extraordinary talents.

9 We do have this dichotomy between very
10 talented people, yet I'm sure you're sensing
11 sort of this dissatisfaction or unhappiness
12 at not having your own lawyer, or you may not,
13 but -- it's pretty common to feel that way.

14 MS. KORMAN: Mr. Chair, I don't think it's
15 anybody -- and this is my opinion. I don't hear
16 anybody questioning the qualifications of you or
17 your staff. I think it's the perception. What
18 we're hearing from the public is perception, the
19 separation of powers.

20 MR. MULLANEY: Oh, that the --

21 MS. KORMAN: So that is what I've heard,
22 and maybe other commissioners can -- I've heard
23 it differently in their public hearings, but
24 that's what I've got -- gather.

25 MR. MULLANEY: When you say "separation of

1 powers," would that relate to like a
2 quasi-judicial proceeding in which you've got
3 the Planning Department making a presentation to
4 the Planning Commission? Is that kind of
5 thing --

6 MS. KORMAN: Well, that, or, you know, in
7 the sense that you're -- the General Counsel is
8 supposed to be an unbiased group, and sometimes
9 I think there's a perception that -- you know,
10 or you -- you know, too involved with the
11 mayor's office or you're too involved with an
12 independent agency, those -- separation of
13 powers. Sometimes the public has concerns about
14 perception and everything else. That's what I
15 have heard --

16 MR. MULLANEY: Well, I hear you on that.
17 I will say this -- and I would -- I'm sure
18 Jack Welch did this at GE, at least I've
19 recommended it to him, and I'm no pro or -- or
20 Bill Gates at Microsoft. I think they're well
21 advised to have their lawyer present when they
22 meet. And, historically, the General Counsel
23 has been lead counsel to the mayor's executive
24 staff, has been that many times. That sometimes
25 creates the impression that they're getting

1 involved in the policy side and are becoming a
2 lobbyist as opposed to legal counsel, and you
3 have to be careful with that.

4 I do think, by the way, over the last few
5 years this has improved significantly. Daniel
6 Davis was one of the council members who was
7 part of that Cecil Field referendum, so was
8 Ronnie Fussell. I think when they have -- when
9 we've worked more closely with them -- with Matt
10 Carlucci, when I worked with him on
11 redistricting, and Alberta Hipps, when I worked
12 with her on technology, they really came to
13 appreciate the work we do.

14 And I meet with every City Council
15 president at the beginning of the term and say,
16 I follow your lead as far as how active a role
17 you want me to play. If you want me to meet
18 with you constantly -- and I'll discuss with you
19 whatever you'd like. And that includes policy
20 matters, if they want to bounce it off me.

21 Certainly you would expect that during the
22 Delaney years, because I was his former chief of
23 staff and because we've known each other a long
24 time -- but I certainly discussed policy matters
25 with him. And after the consolidated government

1 as a whole approved the Better Jacksonville Plan
2 proposal, I certainly was an advocate publicly
3 because the enterprise was speaking with one
4 voice.

5 But when your clients disagree, then, for
6 this to work properly, that the -- we need to
7 resolve the legal conflicts, but the policy
8 conflicts need to be resolved by policymakers.

9 THE CHAIRMAN: Commissioner Catlin.

10 MR. CATLIN: Mr. Mullaney, is it true that
11 an independent authority can ask for a different
12 General Counsel's representation? Can the JEA
13 say, I would request this?

14 MR. MULLANEY: Yeah. Yeah, and let me tell
15 you too, typically, we have -- we have close
16 relationships. I always reserve the authority
17 to make a final decision as to who goes where
18 because if I had 15 agencies wanting Cindy
19 Laquidara, she can only be in one place at one
20 time, or if I had 15 agencies all wanting
21 Tom Beverly, he can only be at one place at one
22 time.

23 But if -- I get feedback. I call the
24 clients. I ask them, how do you like the work
25 of the lawyer? If the lawyer is not meeting

1 their needs, I will make an adjustment.

2 Now, it -- Howard Maltz is lead counsel to
3 the sheriff, and that takes up a lot of time.
4 If someone has a specific lawyer for a specific
5 matter, if we can accommodate it, we will. But
6 I will tell you, it hasn't been that common.
7 Most -- but I do make adjustments. If I get a
8 call from the executive director or somebody
9 with the independent authority and -- for a
10 personality conflict or legal services, I do the
11 best I can to accommodate that.

12 (Ms. Eichner enters the proceedings.)

13 MR. MULLANEY: This isn't structural. This
14 is -- this is about providing all the legal
15 services that are responsive. I need to do that
16 for the client. They need to have confidence in
17 their lawyer, and so -- but the thing I've
18 guarded against is that on-site, full-time,
19 in-house concept where they become captive of an
20 individual agency. I think that undermines
21 consolidated government. The lawyer eventually
22 begins to view that as "my client" and "my
23 interest," and I need to help them accomplish
24 some things. Nothing wrong with trying to help
25 them be successful, but, again, it relates to

1 that decentralization issue that I mentioned
2 earlier.

3 But I guess that's a long-winded -- my
4 answer is, I try to accommodate -- whether it's
5 a constitutional officer or an independent
6 authority. To my knowledge, I think -- and they
7 haven't told me -- most of them are really,
8 really pleased with their lead lawyers.
9 Loree French at the tax collector and property
10 appraiser's office gets great reviews. Deborah
11 Walters, Howard Maltz, Karen Chastain. I don't
12 know of the lead counsel -- Steve Rohan and
13 Peggy work with the legislative branch. So I
14 try to accommodate it, but I don't get many
15 requests.

16 MR. CATLIN: To follow up on -- kind of
17 follow up on Commissioner Korman's statement
18 about the public perception -- and maybe this is
19 because independent agencies perhaps might be
20 too independent, that they would want their own
21 in-house lawyers, but the perception that I've
22 heard from some of these agencies is that there
23 might be a breakdown in attorney-client
24 privilege. And maybe that's why they want their
25 own attorney, so -- different agencies don't

1 know what's going on with that.

2 And I know it might be policy, and you
3 brought that up and said some of these issues --

4 MR. MULLANEY: That's a -- that's a --

5 THE CHAIRMAN: Mr. Catlin, are you
6 finished?

7 MR. CATLIN: Yes.

8 MR. MULLANEY: That's a performance issue,
9 not a structural issue. Every lawyer, under the
10 Florida Bar, has a responsibility to maintain
11 attorney-client -- a privilege in terms of
12 communication.

13 If independent authorities believe -- and
14 they certainly haven't come to me with this, and
15 I wish they would -- that a lawyer for an
16 independent authority, whether it's the airport,
17 or whether it's the seaport or whoever, believes
18 that Deborah Walters, or that -- whoever it
19 might be, is violating attorney-client
20 privilege, I certainly need to know that.
21 That's a significant matter wherever you may
22 be.

23 I think sometimes, by the way, in this
24 government there's sort of rumor and innuendo
25 and leaks everywhere. And there's sort of this,

1 if it got out there, where did it come from?
2 And I don't doubt that maybe over the course of
3 the last 40 years somebody may have misspoken,
4 but I can tell you that I haven't -- I haven't
5 heard from anybody in a long, long time -- I did
6 hear a few years back about an instance where
7 somebody was concerned about that perception,
8 but -- I guess somebody's telling you that. I
9 don't know about that, but I would suggest that
10 what most want from their own lawyer is not just
11 that. They want the advocacy that will further
12 that agency's objectives and arguments that
13 would further their objectives, and not -- I
14 don't say that they -- with evil intent. Just
15 like the Tallahassee law firm that gave an
16 opinion that would have furthered the objective
17 of a constitutional officer but was contrary to
18 consolidated government.

19 So I'm not aware of those.

20 MR. CATLIN: Okay. And I'm not -- I'm not
21 trying to throw darts by any means. Like a City
22 Councilman represents his district, we're, as
23 commissioners, asked by people in the public to
24 ask questions, so I'm just trying to clear that
25 up.

1 MR. MULLANEY: Sure.

2 MR. CATLIN: What is your -- how does the
3 ethics officer work with the General Counsel's
4 Office?

5 And I need to clarify it. How is the
6 ethics officer appointed or --

7 MR. MULLANEY: I helped create that.

8 When I was chief of staff, when John
9 Delaney was elected, he asked me to help -- to
10 draft a comprehensive code of ethics for the
11 City of Jacksonville, and he asked me to come up
12 with an ethics officer system. I put a team
13 together that included John Jolly. It included
14 Judge Durden's son actually, Steve Durden. It
15 included some lawyers at the General Counsel's
16 Office. And Carla Miller, who I had known from
17 law school for many years, I asked her to join
18 our team.

19 It took us about two to three years to
20 draft a code, pretty comprehensive, and an
21 ethics officer system. And for the next decade
22 or so there were co-ethics officers, with John
23 Jolly, who was really the main drafter in terms
24 of the actual writing -- the whole team
25 contributed to the concepts -- and Carla Miller

1 serving as co-ethics officer, and we put on
2 training starting in 1999 when there was a big
3 turnover in City Council.

4 In 2007 or so, the model got changed
5 somewhat. In part, in response to things that
6 were going on in the City, and the ethics
7 officer -- we shifted the office to Ms. Miller,
8 who's been a longtime friend for 30 years.

9 And so the legal part under the charter
10 remains with the General Counsel's Office, and
11 has to under the charter. And so there can be
12 no different opinions as to what the law is on
13 that. However, the ethics officer plays a very
14 important role in training and education and in
15 reviewing some of the parts of the ethics code
16 that we drafted a decade go.

17 In fact, I think the ethics officer should
18 have the authority -- more formal authority,
19 potentially, to refer matters to investigative
20 bodies that statutorily have protections already
21 within them. As you may know, in the state of
22 Florida -- we're unique in this -- the State
23 Attorney's Office has the authority to look at
24 the performance -- of public performance just to
25 say whether you've done a bad job or not. It's

1 called a presentment power. That doesn't exist
2 in most states around the country.

3 When I was a prosecutor, we did it many
4 times. You take a look at local government.
5 While you're doing the investigation,
6 statutorily, you have to keep it secret by law.
7 If you're going to criticize somebody, that
8 person gets to see it first. There's a
9 procedure, that if it's done unlawfully, they
10 can quash it. And if it's not quashed, then it
11 becomes public. A very protective procedure in
12 which you can use your grand jury to take a look
13 at how local government is operating. That's
14 one process.

15 The charter provides for extensive
16 investigative authority by the charter, by the
17 council auditor. In fact, I have often thought
18 sometimes that should be expanded. They do a
19 very good job. And there's statutory
20 protections that keep it confidential while they
21 do their investigation. They also will go to
22 the party that they're auditing in advance of it
23 coming out to protect their interest to see the
24 feedback. Not protection, but to make sure, if
25 you want to say something is wrong, say it in

1 advance -- usually is what they do -- and then
2 they will issue their auditing report, but it's
3 confidential until they do.

4 The State Ethics Commission has to have
5 statutory protections for the filing of
6 complaints. They have an investigative
7 procedure. They have a staff to do this. And
8 the State Ethics Commission can then make their
9 findings, and they -- under the statute, they
10 have certain things that they can also do.

11 We have instituted here locally an
12 Inspector General system that I think has a
13 great deal of promise in which the Inspector
14 General, as an individual, as opposed to a
15 Sunshine Law body, can -- can do investigations
16 with an accounting background -- Pam Markham.
17 Already I think those investigations have saved
18 us a lot of money on the executive side.

19 And so institutionally what you have are
20 four different institutions that, by law,
21 conduct investigations, and I think that the
22 ethics officer -- if things come to the ethics
23 officer's attention, should make formal
24 referrals, as appropriate, given these existing
25 institutions, to the State Attorney's Office or

1 to the Inspector General or to the council
2 auditor or to the State Ethics Commission as may
3 be deemed appropriate. I think that makes a lot
4 of sense, to take advantage of existing
5 institutions for those investigative --

6 But as far as the ethics officer, for over
7 a decade we've worked closely with the ethics
8 officer to provide training. We expanded the
9 code, and I think -- we're pretty unique in
10 that. In the state of Florida, I think there's
11 only one Ethics Commission among the counties.
12 Of the 67 counties, besides us there's one.
13 There's only one city that has one. I think
14 that's in part because the State Attorney in
15 Florida has this unique role in doing
16 investigations on presentments as opposed to
17 just criminal matters.

18 MR. CATLIN: Thank you.

19 MR. MULLANEY: But we've been pretty unique
20 in that.

21 THE CHAIRMAN: Commissioner Miller.

22 MS. MILLER: Mr. Mullaney, thank you for
23 coming today.

24 I have some specific questions about some
25 of the language in the charter on the General

1 Counsel's Office and then I have a specific
2 question -- another question, more general,
3 about -- there was an editorial in the
4 Times-Union recently on the Ethics Commission.

5 Did you --

6 MR. MULLANEY: Yeah.

7 MS. MILLER: -- happen to see that?

8 MR. MULLANEY: I did.

9 MS. MILLER: And I would like to get your
10 perspective on that particular opinion.

11 The editorial concluded that the Ethics
12 Commission should somehow be brought out from
13 under the Office of General Counsel because --
14 the suggestion was that the individual that
15 would be investigating or looking into ethics
16 violations reports to someone, namely you, who
17 also represents clients and defends them in
18 those ethics, you know, suggestions or
19 allegations or in those matters.

20 So the suggestion was that somehow the
21 Ethics Commission individual/representative
22 should be brought out from under the
23 responsibility or purview of the Office of
24 General Counsel and -- but it didn't really say
25 where. I think it said maybe report to the

1 mayor or to the City Council.

2 I'm not sure -- I was just wondering if you
3 had any opinions on that, if you see any issues
4 or concerns from the Ethics Commission's
5 standpoint about -- if they're going to
6 investigate individuals or officers or agencies
7 within the consolidated government and then the
8 Office of General Counsel has the responsibility
9 to defend or represent those individuals,
10 wouldn't the binding legal opinion process apply
11 to those circumstances or -- the editorial made
12 it somehow seem that it would be a separate
13 process or there was a separate concern, and I'm
14 just trying to understand --

15 MR. MULLANEY: Yeah, I -- well, let me say
16 this -- a couple of things. One is, as you can
17 probably tell, I'm a great believer in
18 centralized legal services and not
19 decentralizing.

20 We already represent the council auditor's
21 office for many years, and they've conducted
22 investigations of many parts of this
23 consolidated government. We investigate -- we
24 represent the Inspector General's Office, who
25 also conducts investigations of this

1 consolidated government.

2 If, in fact, there's an investigation that
3 involves potential criminality, such as a
4 Sunshine Law or even public records, the correct
5 forum, to me, is the State Attorney's Office.
6 And if there's a violation, we're not going to
7 defend them. If, in fact, there's an ethics
8 violation, we don't defend them there either.

9 There may be this notion that we represent
10 people individually. We represent the
11 consolidated government as a whole. So if
12 there's an allegation of individual misconduct,
13 I think it's important that we have it in the
14 right forum, and that's why I mentioned we may
15 want to strengthen existing institutions, such
16 as council auditor, inspector general, referral
17 to the State Attorney.

18 But I, for one, am a firm believer in
19 centralized legal services. It is not proven to
20 be a conflict with the representation of the
21 council auditor's office historically, and I
22 think that we may want to strengthen the
23 referral authority by making it crystal clear
24 and utilize the State Attorney's Office and
25 existing institutions, but I don't think -- I

1 don't see the conflict that the Times-Union
2 sees.

3 And we certainly do not represent council
4 members or any other members or executive
5 members that are accused of wrongdoing. In
6 fact, we meet with them and advise them they
7 need to get outside counsel and we will not
8 represent them in that.

9 So it depends on the nature of what you're
10 talking about. And as you may have seen a
11 couple of years ago, we met with a number of
12 members of the consolidated government and told
13 them they needed to get some outside counsel.

14 And so we -- we represent people, we
15 represent the institution. And if individuals
16 have some wrongdoing, then they need their own
17 lawyer. But so, I -- I did see the editorial,
18 though.

19 MS. MILLER: So, in your opinion, there's
20 no conflict? And when I say "conflict of
21 interest," I'm referring to the canons under the
22 Florida Bar. There's no conflict of interest
23 there? Because that is what was suggested in
24 the editorial.

25 MR. MULLANEY: I don't think so.

1 I need to look further at exactly what
2 they're referring to, but I will tell you, it
3 depends -- abstractly, it really depends on what
4 you're investigating.

5 If somebody believes there's a potential
6 violation of the Sunshine Law, for example,
7 we're going to get outside counsel for whatever
8 it is. If someone believes there's a violation
9 of graft, corruption, bribery, it needs to be in
10 the right forum. They need to get outside
11 counsel.

12 If they're investigating -- and there was
13 this one a couple of years ago -- a couple of
14 weeks -- two weeks ago, about emergency
15 legislation and how does emergency legislation
16 happen and is that transparent. Well, that's
17 not -- that's a consolidated government issue.
18 That's not a violation of an ethics rule.

19 And so it might be -- might depend on the
20 investigation, but I don't -- until persuaded
21 otherwise, I maintain the notion that
22 centralized legal services are where we should
23 be.

24 MS. MILLER: And just to close that, so
25 there's no conflict of interest under -- in your

1 opinion, under the regulations that govern
2 lawyers under the Florida Bar in that
3 situation?

4 MR. MULLANEY: I don't -- we're talking too
5 abstractly. It depends on -- we've had
6 investigations here recently. You've seen them,
7 twice, and I don't feel there was a conflict.
8 And, when appropriate, people got their outside
9 counsel. So it would depend on the
10 investigation, I guess, but I -- in an abstract,
11 I don't -- I'd have to know what we're referring
12 to.

13 MS. MILLER: Okay. Just specifically,
14 there are two sections in the -- that -- I was
15 just wondering if they still apply to the
16 General Counsel's Office. One is section
17 7.210. It has to do with the litigation and
18 trust fund that provides for an amount not to
19 exceed \$500 for legal fees or just costs.

20 It seems to me -- I don't know if you still
21 have that fund, but if you do, just -- I would
22 assume, but I don't want to make assumptions, do
23 you need more money than \$500?

24 MR. MULLANEY: Steve, I need to -- let me
25 just state this publicly and to the whole

1 commission --

2 Steve, can you help out? I need you to
3 respond. I don't know.

4 MS. MILLER: I'm just wondering --
5 (Simultaneous speaking.)

6 MR. ROHAN: I'll put on my managing
7 director, my managing deputy role.

8 We have an imprest fund that -- we don't go
9 through the entire procurement process when we
10 need to serve a subpoena. We have a checkbook
11 that allows us to write a \$20 check, serve a
12 subpoena, to file a \$300 filing fee, to pay an
13 instant cost. We are required to account for
14 every dime we spend. And the question
15 often -- frequently comes up, do we need more
16 money? And it would be nice to have more in
17 it. The auditors aren't in favor of it, and we
18 survive very well with \$500.

19 MS. MILLER: Okay.

20 MR. ROHAN: So we -- just like everybody
21 has got to live with us, we have to live with
22 the auditors and the accountants and everybody
23 else.

24 MS. MILLER: Okay. And then the last
25 question, through the Chair, is -- in Part 2,

1 support enforcement activity, and it's
2 established through the Office of General
3 Counsel, does that -- does the office continue
4 that activity or does that -- it has to do
5 with -- it appears more to do with paternity and
6 child support actions.

7 MR. ROHAN: When I first came to the office
8 in 1982, the Office of General Counsel was
9 responsible for the collection of child support
10 from people who couldn't afford their own
11 attorneys and were getting money from the State,
12 and the General Counsel's Office was a part of
13 that.

14 In about 1986, that process was taken over
15 completely by the State, removed from the City
16 and the County, and the Office of General
17 Counsel has not changed anything.

18 There are a number of items in the charter
19 that have been preempted by other laws. One is
20 recall. One is collective bargaining, which has
21 been preempted by Chapter 447. And, of course,
22 that provision too. And we've been slow to
23 eliminate those in Tallahassee from the charter.

24 MS. MILLER: And then -- thank you,
25 Mr. Rohan.

1 Mr. Chairman, I would suggest that maybe
2 the General Counsel's Office can help us in
3 identifying areas or language within the charter
4 that maybe no longer applies or that has been
5 preempted by State law as a matter of trying to
6 clean up the language of the charter and making
7 it applicable to -- obviously, within the power
8 and authority -- because it could cause some
9 confusion --

10 MR. MULLANEY: I think that's a good
11 suggestion. In fact, I think if you looked at
12 the charter, there's a provision in there that
13 talks about the 3 percent cap on revenues. And
14 if you just read the charter, you wouldn't
15 realize that there is a binding legal opinion by
16 Mr. Delaney that said it's only advisory, and so
17 it's probably -- in our office, we could do
18 this, Steve? We could help out?

19 MR. ROHAN: Yes.

20 MR. MULLANEY: If you would like us to --

21 MS. MILLER: I would like to --

22 MR. MULLANEY: -- to clean that up because,
23 you know, you would hope -- and I think you make
24 a good point. You would hope that when you read
25 the charter, you get it. You say, oh, well, you

1 didn't know about this outside opinion that
2 really affects this provision, and so we should
3 go through and provide that for you.

4 MS. MILLER: Thank you.

5 THE CHAIRMAN: Commissioner Eichner.

6 MS. EICHNER: I have just a quick question
7 about -- I'm of the opinion that we can really
8 consolidate sort of the acts or the
9 investigations of the Ethics Commission in that
10 we have so many different layers of people who
11 are able to investigate.

12 I might be in favor -- and I'm just looking
13 for your opinion on really pulling together an
14 independent body, even if it is under the Office
15 of General Counsel, that does have the power to
16 do some of that and maybe consider those people
17 to be from other entities, the State Attorney's
18 Office or the Public Defender's Office, and
19 having a more sort of independent board who's
20 bound not just by the charter but also by the
21 Florida Bar or other legal entities that -- that
22 makes it a little bit more powerful so that we
23 don't have, you know, the auditor's office, the
24 Inspector General, the Ethics Commission. I
25 just think that there's a lot of layers of

1 investigative bodies that could be consolidated
2 in this process.

3 MR. ROHAN: Can I -- point of order,
4 Mr. Chairman.

5 THE CHAIRMAN: Yes, Mr. Rohan.

6 MR. ROHAN: Just for a little bit of
7 clarification, I'm sorry.

8 One misunderstanding is that the Ethics
9 Commission is under the auspices of the General
10 Counsel. It is not. It's completely
11 independent. The ethics officer is in our
12 budget, but they're in the general fund and it's
13 only there for -- as a placeholder, and the
14 Office of General Counsel does not control them.

15 MS. EICHNER: Thank you.

16 MR. MULLANEY: Let me say this: I think
17 it -- some of that requires an understanding of
18 existing institutions and what is it that we're
19 talking about in the investigation. For
20 example, if it's a criminal investigation, then,
21 obviously, that doesn't work. And under Florida
22 law, the appropriate body for that is the State
23 Attorney's Office. For those -- whether that's
24 bribery, graft, corruption, whatever that may
25 be.

1 If, in fact, it involves misfeasance,
2 malfeasance, or poor performance in public
3 office, I actually believe that institutionally
4 the State Attorney's Office, with a 23-member
5 grand jury and the statutory rules that govern
6 that investigation -- we did a number of those
7 investigations -- is a really potent vehicle
8 when done properly. And the man at the end of
9 the hall did many -- at the end of the table did
10 many of those.

11 And so if you're going to investigate the
12 performance -- and we did one of the motor
13 pool. If you're doing waste and inefficiency,
14 you need to have the necessary expertise and
15 knowledge, and it's hard to create that, but
16 institutionally it already exists within the
17 State Attorney's Office, and that's part of the
18 problem.

19 The advantage of the Council Auditor's
20 Office, quite frankly, is that they're
21 accountants and they like those numbers. Now, I
22 don't, but they do. And they're good at this,
23 and I'm not. And I say that with a brother
24 who's an accountant, a sister-in-law who's an
25 accountant, and they're good at the numbers.

1 But what they do in the Council Auditor's
2 Office is they conduct many, many audits, and
3 they're good on the financial end and they can
4 audit this entire consolidated government. And
5 I wouldn't want to lose both the expertise that
6 exists in the Council Auditor's Office, the
7 significant role played by the State Attorney's
8 Office, nor would I want to lose the notion that
9 if what we're talking about is ethics violations
10 under a code, that we begin to more fully take
11 advantage of the Ethics Commission in
12 Tallahassee.

13 When I was a prosecutor, I went to
14 Tallahassee to work with the Ethics Commission
15 on violations. I was given the assignment by
16 the State Attorney at the time, and I -- and
17 they are a good body that we just simply haven't
18 taken advantage of, and there are statutory
19 procedures in place that allow for the rules of
20 evidence, that allow for us to do it.

21 Now, over the last couple of years that I
22 have -- a great potential for the future is the
23 Inspector General. I do like the Inspector
24 General, particularly as a watch dog of the
25 executive side, and -- but this is really

1 relating more to savings.

2 If they were to get -- and it requires
3 expertise on savings. If they come across
4 something criminal in the State Attorney's
5 Office and if it's a question of they didn't
6 file their disclosure form on time, then you
7 have a commission in Tallahassee. And if one of
8 the agencies is operating really inefficiency
9 [sic] and they're not balancing their budget,
10 then we need that council auditor to look at
11 them.

12 I think we haven't fully taken advantage of
13 the existing institutions that do a great job
14 for this consolidated government. And I think
15 the potential in creating another layer sounds
16 really good, but I think, quite frankly, we
17 haven't quite -- we should really fully take
18 advantage of what exists, and so that would be
19 my thought.

20 THE CHAIRMAN: Any other commissioners for
21 the first time?

22 COMMISSION MEMBERS: (No response.)

23 THE CHAIRMAN: Commissioner Austin.

24 MR. AUSTIN: Mr. Mullaney, where are the --
25 40 years down the road, we're a Charter Revision

1 Commission. Do you and Mr. Rohan have any
2 information about -- have we had prior Charter
3 Revision Commissions and have they done
4 anything? I mean, have they --

5 MR. MULLANEY: Steve.

6 MR. ROHAN: Yes, we did have a Charter
7 Revision Commission, and it was ongoing, and it
8 just never seemed to be going anywhere. And
9 they'd conduct meetings and never get anything
10 out. And everybody, I think, felt that it was
11 just not accomplishing anything and --

12 THE CHAIRMAN: Just to clarify, you're
13 saying there was a standing commission?

14 MR. ROHAN: There was a standing
15 commission. Thank you, sir.

16 And what happened was they decided to
17 reform that, clarify it in the ordinance code,
18 meeting on a periodic basis, every ten years
19 now, and -- for the first one it was every seven
20 years, so this was done seven years ago, and now
21 they've got -- you, excuse me. You've got
22 until -- eight months to make recommendations to
23 the City Council. So it's compressed and it
24 focuses everybody and doesn't have just on- --

25 I think the Charter Revision Commission

1 before just lent itself to ongoing complaints
2 and dissatisfaction as opposed to really dealing
3 with the structure of government.

4 MS. BARRETT: Mr. Chair --

5 MR. AUSTIN: Go ahead.

6 MS. BARRETT: -- Mr. Mayor, I just wanted
7 to mention that 20 years ago there was a Charter
8 Revision Commission, and one of their
9 recommendations was to do away with the five
10 at-large City Councilpeople, which was awful, I
11 think.

12 At any rate, many people came down, such as
13 Mr. Rinaman, and I think yourself, former
14 Mayor Godbold -- anyone who had been involved in
15 this government knew that the five area --
16 at-large councilpeople were really an excellent
17 form to offset the whole idea of just everybody
18 representing their little council district.

19 At any rate, they were successful in
20 obtaining the five, remaining the five.
21 However, the compromise was that, as a -- to
22 run -- they are -- there are districts for the
23 five council at-large. You just can't --
24 everybody run and run anywhere.

25 So that was the compromise, that they kept

1 the five. But that was a huge, huge debate
2 that -- you know, 20 years ago. I remember
3 that.

4 MR. AUSTIN: Was that about the only thing
5 that you can remember that originated from the
6 Charter Revision Commission?

7 THE CHAIRMAN: Well, I know that term
8 limits originated from the '98 Charter Revision
9 Commission, but the council ignored that
10 suggestion. And, as a result, after the report
11 was submitted, the council took no action. And,
12 according to the press reports that I've seen
13 from back then, several of the commissioners --
14 by then the former commissioners because the
15 commission had finished its work -- organized a
16 ballot initiative to put term limits on the
17 ballot, and that -- that's where term limits
18 came from.

19 MR. AUSTIN: And they should put one on
20 getting rid of it.

21 Thank you.

22 I have one more thing. This may -- you may
23 not want to go here. I understand if you don't,
24 but the -- we're looking at the charter and the
25 present status of the consolidated government

1 and what would -- could we do to make it better,
2 if anything, improve the -- the form of the
3 charter or the content of the charter.

4 You're a lawyer, and you advise. I
5 understand, you don't get involved in policy.
6 And I'm asking you to jump over to the policy
7 side just for the purpose of discussion here.

8 What would you consider the two or three
9 major things -- if you don't -- if you want to
10 answer. If it's wrong for the General Counsel
11 to answer don't, but what -- things that could
12 be addressed that would bring about the most
13 important changes in the way the consolidated
14 government works under its charter.

15 I think of -- I keep reading about the
16 pension system being -- I read there's
17 constant -- the school system is in the
18 headlines every other day about something. I
19 mean, I -- the system of -- the appointment
20 of -- I'll just use the sheriff as an example.
21 He's a paramilitary operative, you know, five
22 stars and all that stuff. Normally those people
23 are subject to civilian control. Those kind of
24 things come to mind, and I'm --

25 And every time I ask a question, I make a

1 speech, and I apologize for that, but Rick, if
2 you could give us what you think are the top two
3 or three pressing problems, if any, that the
4 consolidated -- that we could address to improve
5 the charter for the improvement of government
6 for the people of this city.

7 MR. MULLANEY: That's a big question,
8 and -- well, it is.

9 And, first of all, I really would like a
10 chance to give that some more thought, but my
11 inclination would be to emphasize to this
12 commission the fundamental principles that you
13 keep in mind when you consider whatever you do.

14 And the reason I say that is, in part, as I
15 mentioned earlier, there is this legal conflict
16 versus policy conflict, and I -- and I'm a
17 little bit hesitant on potentially a client of
18 the consolidated government feeling that their
19 lawyer isn't supportive on something that
20 doesn't relate to a legal issue but is a policy,
21 the principles. And I know it's kind of
22 repetitious, but I think it's really critically
23 important.

24 I think a centralized financial authority
25 is very fundamental. So if in the commission's

1 work you believe that there is a weakness in
2 this in terms of centralized financial
3 authority -- I'm not suggesting, by the way,
4 that we can't be smart in decentralizing the
5 purchasing of pencils or if we can't be smart in
6 letting an agency buy a desk, effectively. I'm
7 not talking about bureaucracy. I'm talking
8 about the appropriation authority, the check and
9 balance that deals with the amount of money
10 that's actually spent and who has that call.
11 Some people call that a political process. I
12 tend to call it democracy. And I think that one
13 of the fundamental principles is this
14 centralized financial authority.

15 The other principle that I've emphasized,
16 and you could understand why, is how critical I
17 think centralized legal services are, and
18 regardless of context, and by that I mean
19 agency, and despite, I think, very compelling
20 cases from very good people as to why they think
21 it should be decentralized and they should pick
22 their own.

23 A third principle -- and I've got to tell
24 you this. This has really been fundamental over
25 the 40 years, is what does it really mean -- and

1 I would ask the group to think about this -- to
2 have a strong mayor form of government. I would
3 respectfully disagree with some of the
4 characterizations made by the previous speaker
5 with regard to what that means and how that
6 works.

7 But I do think having that strong CEO, who
8 is accountable for things that go well and
9 accountable for things that don't, is really,
10 really important. As I say within my office, I
11 want to know who I can give a raise to if this
12 works and I want to know who to fire if it
13 doesn't, and -- because the -- the famous line
14 is -- worked out true -- is that shared
15 responsibility means no one is responsible.
16 That destroyed consolidation, it destroyed
17 Jacksonville government pre'68. And to the
18 extent we get into that shared responsibility,
19 that's not my thought, there's no
20 accountability, and silos of autonomy and power
21 within consolidated government, we foster that
22 shared responsibility, means no one's
23 responsible. It's not my fault this budget is a
24 wreck, says a group. That's the City, that's
25 the constitutional officer, that's -- it's not

1 my -- you know, there's a problem, but I didn't
2 cause it. Well, you may not have, but who is
3 responsible for it?

4 And so coming back to that strong mayor
5 form of government, we should -- I would
6 encourage that principle, but I'd also keep in
7 mind the federal principle -- and I mentioned it
8 in the first meeting -- of checks and balances
9 and separation of powers.

10 And, by the way, the General Counsel's
11 Office -- if you want to put this in a political
12 science/civics context -- is a big piece of
13 that. What I described earlier was classic
14 checks and balances, separation of powers
15 discussion if you're a political science person,
16 and that is, various entities in good faith
17 seeking certain objectives and a quasi-judicial
18 entity created by the charter that provides a
19 check and provides a balance with separate
20 autonomy and power.

21 And so those principles, as well as this
22 whole notion that we are an enterprise and that
23 to the extent we create independence, silos of
24 authority, and decentralization, that creates a
25 challenge for the enterprise to speak with that

1 one voice to Wall Street or to the NFL or to a
2 company who wanted to relocate here, but at the
3 same time, that's why checks and balances and
4 separation of powers is so important. We need
5 to have a vigorous debate and we need to
6 disagree, and we should feel free to disagree
7 loudly.

8 So I guess that's kind of rambling, but I
9 would keep these principles in mind as the
10 backdrop on any particular change you make in
11 the city.

12 MR. AUSTIN: On the financial piece,
13 Mr. Mullaney, you're talking about audit
14 control? You're talking about --

15 MR. MULLANEY: I'm talking about who has
16 the final say over the budget.

17 I will tell you --

18 MR. AUSTIN: Well, that would -- who would
19 be in there, all of the independent agencies?

20 MR. MULLANEY: I think that the City
21 Council, as the legislative body for the
22 consolidated government, needs to have the
23 fundamental financial -- and under our charter,
24 they do, but I will tell you, we get into issues
25 from time to time on the extent of that

1 authority in terms of the final budget authority
2 of the City Council.

3 Now, some people say it's like watching
4 sausage being made and some people don't like
5 the debate. I sometimes call that democracy.
6 And what's going on right now is classic
7 democracy. It's intense, it's spirited, there's
8 disagreement, it will be okay, and so --

9 But if you're asking structurally how do I
10 think it works, I think it needs to work with
11 that body, myself, on the budget authority
12 because I can tell you that what agencies
13 want -- and I'm using agencies broad, the
14 infinite authorities, constitutional officers,
15 commissions. They want a silo of money that's
16 independent, not subject to review, not subject
17 to check, and not subject to somebody taking it
18 away. And, by the way, for good reason. They
19 believe in their mission; they believe it needs
20 to be funded; they believe if you don't do this,
21 they're going to go away, and that shouldn't
22 happen because it would be bad.

23 And so I still think Judge Durden's words
24 were -- it's amazing after doing it for so -- I
25 learn -- every day I learn something new about

1 this consolidated government, I see it in a
2 different light. His words -- and it just
3 struck me when he simplified it so much when he
4 talked about centralized financial authority and
5 centralized legal services as being so critical
6 to making this work.

7 So I know that's not a specific
8 recommendation, but I hope it's helpful.

9 THE CHAIRMAN: Commissioner O'Brien.

10 MS. O'BRIEN: Just a quick question.

11 Can we obtain a copy of any formal
12 recommendation that has been made by any past
13 Charter Review Commission to the council or to
14 the legislative body in Tallahassee just so we
15 can see what they had recommended in the past?

16 And if we have a record of whether an
17 action was taken or not, that would certainly be
18 helpful to us so we know if we're rehashing old
19 issues or certain things need to be readdressed
20 or if we're addressing unchartered territory.

21 MR. ROHAN: Sure. We'll be looking at
22 that, and probably -- you're looking at one of
23 the experts in consolidated government right
24 there, Jeff Clements, who will also help us.
25 He's unbelievable in helping us find this old

1 stuff.

2 MS. O'BRIEN: Okay. Thank you.

3 MR. ROHAN: We'll look at it.

4 THE CHAIRMAN: I have a couple of questions
5 for you, Mr. Mullaney.

6 Do you attend the mayor's regular staff or
7 policy meetings?

8 MR. MULLANEY: Those are two separate
9 things. There's a staff meeting and there's
10 policy meetings.

11 I have been legal counsel for more than a
12 decade to the executive staff and I have advised
13 them legally. That was true when John Delaney
14 was the mayor and he appointed me as General
15 Counsel, and that's been true for John Peyton.
16 I've been legal counsel to that executive group
17 for over a decade. And I believe that in the
18 future, future mayors would be well advised to
19 have the General Counsel present for his
20 executive sessions.

21 Now, they have separate strategy sessions
22 for getting votes for City Council. I'm not a
23 part of that. They have other sessions -- and,
24 by the way, if I was, it would be okay. I mean,
25 I could listen to it and keep it confidential,

1 but I'm not going to be a lobbyist and I'm not
2 going to work with clients that have policy
3 differences in that regard, but sometimes, quite
4 honestly, being practical in truths -- your
5 practice too -- and I'm not saying this about
6 me, but 40 lawyers -- a lot of times the clients
7 just want a smart person in the room, who can
8 give some good judgment and a perspective in
9 trying to solve a problem and they want to run
10 it past you. And I think our lawyers throughout
11 the consolidated government help that way, that
12 they are a hard-working, hopefully, smart person
13 in the room that helps.

14 But in answer to your question, yes, I, for
15 more than a decade, have been legal counsel to
16 the executive staff.

17 THE CHAIRMAN: And do you know if your
18 predecessors performed that same role? Did they
19 attend the meetings?

20 MR. MULLANEY: Oh, I believe they -- I
21 believe -- John Delaney was General Counsel for
22 Mayor Austin --

23 THE CHAIRMAN: I'm just asking if you
24 know.

25 MR. MULLANEY: I'm not sure offhand. I

1 believe they did, but I don't know. It's been a
2 lot of years. I can't remember.

3 MR. AUSTIN: I don't think -- can I
4 answer?

5 THE CHAIRMAN: I just want to --

6 MR. MULLANEY: I have for more than a
7 decade. I don't know -- I don't remember
8 offhand.

9 THE CHAIRMAN: Okay. And I want to address
10 your tenure as General Counsel.

11 MR. MULLANEY: Yes.

12 THE CHAIRMAN: It's unique --

13 MR. MULLANEY: It is unique.

14 (Simultaneous speaking.)

15 THE CHAIRMAN: -- (inaudible) the
16 position. Why do you think that is?

17 MR. MULLANEY: Well, it's interesting. I
18 guess it's because I didn't really -- and I
19 don't mean this to -- I don't want to try to
20 congratulate myself in this -- it sounds like
21 this in a sense, but -- I didn't really know
22 John Peyton that well, either personally or
23 professionally, when he was running for mayor.
24 He came to me in advance of the outcome, asked,
25 quite frankly -- nearly all the candidates did.

1 And said, "I'm not asking for your support,"
2 because as the General Counsel I couldn't do
3 it. But they basically expressed that they had
4 a great deal of respect for the job I had done
5 and my institutional knowledge of this
6 government and said, if they won, they hoped I
7 would consider being their General Counsel, and
8 I had virtually every candidate say that to me.

9 And John, who I didn't know that well at
10 the time, I told him I appreciated that and I'd
11 give it some thought. After he won, he had a
12 lot of people advise him that he should really,
13 you know, consider a lot of different
14 possibilities.

15 I think what was important to him was my
16 institutional knowledge of consolidated
17 government, of the charter and how this works.
18 I think John Delaney -- that he believed I had
19 done a good job and respected my role. And he
20 had talked to me many times about this
21 government and issues and how it works. I think
22 he believed that I would be positive for
23 consolidated government.

24 So the answer really is limited to kind of
25 Mayor John Peyton because what is different

1 about my tenure is that we had a new mayor
2 approach the General Counsel and suggest that
3 they stay, which really is a rarity in -- it
4 hadn't happened in 25 years, and I think the --
5 Mayor Peyton, like I said, we weren't longtime
6 friends. We weren't -- he got to know me in
7 terms of the work I was doing. I think he
8 thought that I would be positive for
9 consolidated government, his administration, so
10 he asked me.

11 THE CHAIRMAN: I know of your deep
12 familiarity with and reverence for the
13 consolidated structure. The pattern for
14 General Counsels has been to serve roughly two
15 to four years.

16 MR. MULLANEY: Yes.

17 THE CHAIRMAN: And I have spoken with
18 several former General Counsels who feel -- who
19 have expressed to me their opinion that that
20 structure works well, that it's designed to --
21 as originally conceived and as it was conducted
22 in practice, prior to your tenure, that it was
23 viewed as a position where somebody would come
24 from either the private sector or elsewhere in
25 public service to come and perform a public

1 service in the role as General Counsel, serve
2 two to three or four years and then leave that
3 position. Tell me why you have deviated from
4 that practice given your admiration for the
5 consolidated structure.

6 MR. MULLANEY: Yeah, I think Jim Rinaman
7 would tell you the same thing that I'm going to
8 tell you, that in the early years of
9 consolidated government that made a lot of sense
10 for a whole lot of reasons, and that Judge
11 Durden and Jim Rinaman and Ed Austin -- our
12 first three General Counsels -- were designed to
13 bring both prestige to the office and have the
14 integrity to make some opinions to get this
15 consolidated government working.

16 Over time, the nature of this job is
17 diverse, extraordinary, legal services in a
18 variety of -- in a variety of practices, and
19 Jim Rinaman will tell you that he thinks the
20 long view -- for this government to be served
21 properly, you really need -- and this is his
22 words; I won't use it for me -- a career
23 General Counsel in terms of the nature of the
24 legal services that we provide.

25 I will tell you that it takes somebody a

1 couple of years to even find their way around
2 this government and that any future General
3 Counsel, I hope -- I hope will have not simply
4 come fresh from -- be it Law Review, from
5 Harvard, worked at a large firm, but not get
6 this charter and not get this consolidated
7 government and not have a 40-year history when
8 they come to the table, that what we need in the
9 future is that institutional knowledge and,
10 quite frankly, the continuity and stability
11 that comes from having that General Counsel and
12 the -- related to this is the critical notion of
13 how to make this -- how the office works, and
14 one of those critical notions is the ability to
15 attract talent to the public sector law firm,
16 and that ability to attract talent is
17 fundamentally effective by both the tenure and
18 quality of the General Counsel that you have.

19 When you constantly have turnover, it
20 makes -- it's very, very difficult to recruit
21 that kind of talent. I can tell you that when I
22 sat down with lawyers from Georgetown and I sat
23 down with lawyers from big firms, one of the
24 first questions is, are you going to be there?
25 Because I trust where you're taking this and I

1 trust what you're doing.

2 And I -- I don't mean to say this lightly
3 or in a way that -- to be self-congratulatory in
4 the sense -- but it is an extraordinarily
5 talented group of people, and I take great pride
6 in the fact that we have been able to attract
7 this kind of talent. And the advantage I've had
8 in attracting the talent, I think, in large
9 measure has been continuity and a sense of
10 direction for this office and love for both the
11 city and what this office does.

12 In the future, I think it would be a big
13 mistake to have a General Counsel serving two
14 years or four years. But, by the way, under the
15 structure, they could very well just serve four
16 years because you're appointed by the mayor, and
17 it's been rare -- the mayor is out in four
18 years. Your term is the same as the mayor's.
19 It's just a four-year promise at most, and then
20 you have to be appointed, and then you go to the
21 confirmation hearings. And in the confirmation
22 hearings, constitutional officers can speak and
23 independent authorities can speak. If the
24 council doesn't have confidence in you, they
25 don't have to confirm you.

1 My hope for the future is that we will get
2 continuity in this position. You get the county
3 attorney in Miami-Dade, I think he's been
4 there -- previously, almost 25, 30 years.
5 Around the state of Florida, you see tremendous
6 continuity there.

7 Here, I think it's becoming more critical
8 because of the complexity and sophistication of
9 this government. So I don't think we would be
10 well served, prospectively, to go back to what
11 we had in early consolidation, which is the
12 two-year rotation or the four-year rotation.
13 Most General Counsels will barely find the
14 bathroom in two years. I mean, this is -- this
15 is a significant government, larger than six
16 states financially with our operating budget, so
17 that would not be my recommendation, unrelated
18 to me. I'm just saying for the future.

19 MS. KORMAN: Mr. Chair, a follow-up to your
20 question.

21 With that being said and -- and continuity,
22 would you consider staying for the next mayor?
23 I'm just asking if --

24 MR. MULLANEY: I have given that --

25 (Simultaneous speaking.)

1 MS. KORMAN: -- (inaudible) served your
2 time or --

3 MR. MULLANEY: I have given that no thought
4 whatsoever. I have no plans whatsoever, so I
5 don't -- I have given that no thought.

6 THE CHAIRMAN: Commissioner Barrett.

7 MS. BARRETT: Mr. Mullaney, you know,
8 Mr. Holland was over and he has an idea about
9 the General Counsel being -- having various
10 authorities in the school board having a vote or
11 something for --

12 MR. MULLANEY: I'm sorry?

13 MS. BARRETT: When they appoint -- when the
14 mayor appoints the counsel -- a General Counsel.

15 MR. MULLANEY: Yes.

16 MS. BARRETT: But it seems to me -- isn't
17 there -- and something that wasn't said. And if
18 my memory serves me correctly with consolidated
19 government, there are people who do have votes.

20 Don't the former General Counsels have a
21 say-so when the mayor appoints or wants to
22 appoint the General Counsel? So it's not just
23 the mayor's decision; isn't that correct?

24 MR. MULLANEY: Oh, no. No, the way it's
25 set up -- and Steve knows the details better

1 than me. A committee is set up, and the
2 structure of the committee requires that you
3 have two former General Counsels on the
4 committee, and then you have to have three more
5 members.

6 Isn't that right, Steve?

7 MR. ROHAN: Yes, that's correct.

8 MR. MULLANEY: And then the committee
9 receives applications, and then the committee
10 will forward the top three names to the mayor
11 for a recommendation, then it goes to council
12 for confirmation.

13 You know, I don't know the best process,
14 but I do know that future mayors need to have a
15 significant, if not -- significant role in that
16 selection --

17 MS. BARRETT: Well --

18 MR. MULLANEY: -- future mayors do.

19 MS. BARRETT: Well, I'm just saying that
20 it's a very -- I think it's a good process,
21 and -- but to point out that there is a
22 process --

23 MR. MULLANEY: There is a --

24 (Simultaneous speaking.)

25 MS. BARRETT: The mayor just doesn't go and

1 say, I want so and so --

2 MR. MULLANEY: By the way, I think this
3 goes back --

4 MS. BARRETT: -- you've got to go through a
5 process.

6 MR. MULLANEY: Yes. It goes back to the
7 1980s. We changed the statute. For the first
8 20 years it was not that way, and then we came
9 up with this five-person committee, two are
10 former General Counsels, three others, they
11 receive applications, three names are forwarded,
12 and then the mayor selects.

13 Steve.

14 MR. ROHAN: To add on -- thank you.

15 And they're all public meetings. None of
16 them are secret meetings or people meeting
17 outside of the Sunshine. The constitutional
18 officers have an opportunity to speak up to this
19 committee, the five-member committee, when the
20 recommendations are made, and they also have
21 that opportunity by council rule to speak up and
22 make written recommendations in front of the
23 council too.

24 What Mr. Holland was saying and what we
25 heard at the last legislative debate when this

1 came up in front of the Duval Delegation is they
2 want to take the appointing authority away from
3 the mayor and that the council -- that the
4 General Counsel would not be responsible to the
5 council or the mayor. The General Counsel would
6 be responsible to the five-member committee.
7 That was the last recommendation that was made.

8 MR. MULLANEY: That would not be my
9 recommendation.

10 THE CHAIRMAN: Any other questions?

11 MR. ROHAN: Can I make one comment?

12 THE CHAIRMAN: Is it editorial in nature?

13 MR. ROHAN: Yes.

14 THE CHAIRMAN: No.

15 MR. MULLANEY: No.

16 THE CHAIRMAN: Thank you, Mr. Mullaney.

17 MR. MULLANEY: Thank you all.

18 THE CHAIRMAN: Okay. We have 20 minutes
19 left in today's scheduled meeting time.

20 Ms. Tropa has Planning Commission at
21 one o'clock and in a different building, so we
22 will not be able to extend our meeting past
23 12 o'clock because she has to get over there --
24 has to eat some lunch, go to the bathroom, get
25 set up, get ready for Planning Commission, which

1 will in turn be another long meeting.

2 So, given that, I have compiled your
3 issues -- a list of all the issue that were
4 submitted to Mr. Clements and forwarded to me as
5 the issues that we would like to take a look at
6 going forward, and I will -- I'd like to get a
7 sense of the commission as to whether we want to
8 start talking about that now in 20 minutes or
9 defer until the next meeting. I'm open to
10 suggestions.

11 Commissioner Oliveras.

12 MR. OLIVERAS: Mr. Chairman, I'd -- if it's
13 in agreement with the commission, I'd like to
14 defer where we could spend some more time on
15 that issue, specifically delving into what we're
16 going to be working on.

17 And also, John Keane, the executive
18 director of the Police and Fire Pension Fund,
19 has come in today, and the issue of pensions has
20 been brought up a couple of times. And since we
21 don't have a lot of time, it might be a good
22 time to -- if he could give us perhaps a brief
23 overview of what's happening from his
24 perspective and what's going on.

25 THE CHAIRMAN: I appreciate your comments

1 on that. I appreciate Mr. Keane coming to the
2 meeting today and sitting through this.
3 Unfortunately, that's such a complex issue, we
4 don't have enough time to get to that today.

5 I will tell you it's on the issues list and
6 has received votes from more than a third of the
7 commissioners as an item that we should look
8 at. And based on my tally, that is an issue
9 that we will look at in depth. And so you will
10 have plenty of time at a future date to come
11 talk to us. I appreciate that.

12 MR. KEANE: So then you're not going to do
13 number 5 on the agenda today? You're going to
14 switch to 6; is that correct?

15 THE CHAIRMAN: No. We just haven't gotten
16 there yet.

17 MR. KEANE: Okay. I thought you were at 6.

18 THE CHAIRMAN: No. Thank you.

19 So the sense of the commission I hear,
20 then, is that we are going to defer --

21 MS. KORMAN: Okay. Mr. Chairman, may I ask
22 a quick question?

23 How is that -- I mean, I'm going to be late
24 to the next one, which is fine. What's the
25 process? You guys are just going to discuss it,

1 and then -- just out of curiosity.

2 THE CHAIRMAN: I'm going to share with the
3 commission essentially the tally of the issues
4 that received more than one vote. There were a
5 few issues that only received one vote. One of
6 them is the Article 15 recall issue that
7 Commissioner Youngblood brought up, and we --
8 and it actually got on the table today.

9 But there were not many of those issues
10 that only received one vote, and I -- I'm happy
11 to have any commissioner stand up and advocate
12 for an issue that they feel strongly about, but
13 the process will be to share with the commission
14 the list of issues that received more than one
15 vote and tell you what those are. There are
16 several that received six or seven or eight
17 votes, so there's a clear on consensus that
18 those are issues that we should look at. Then
19 there are some that received two to three, less
20 than a third of the commission.

21 So my intention is to share that
22 information with the commission at the next
23 meeting, and then throw it up into discussion
24 and allow each commissioner the opportunity to
25 comment upon whether they think those issues are

1 worth looking into, suggestions of adding an
2 issue that perhaps they didn't think of when
3 they made their list based on things they've
4 heard today, and to give people an opportunity
5 to advocate for other issues.

6 MS. KORMAN: Okay. Thank you.

7 THE CHAIRMAN: Commissioner Barrett.

8 MS. BARRETT: Will we know who suggested
9 what? In other words, say, like Commissioner
10 Barrett suggested this, Commissioner Austin
11 suggested --

12 THE CHAIRMAN: I have that data. They were
13 broken out and --

14 MS. BARRETT: I would like to know, if
15 that's okay.

16 THE CHAIRMAN: Okay.

17 MR. YOUNGBLOOD: And I second the motion to
18 defer, so -- that's what's on the table,
19 correct?

20 THE CHAIRMAN: We can -- you can make a
21 motion, that's fine.

22 MR. YOUNGBLOOD: Okay. I thought you had
23 made the motion.

24 THE CHAIRMAN: No, I was just going to open
25 it for discussion.

1 (Simultaneous speaking.)

2 MR. YOUNGBLOOD: -- (inaudible) the next
3 meeting, then, sure.

4 THE CHAIRMAN: Is there a second?

5 MS. BARRETT: Second.

6 THE CHAIRMAN: Okay. All in favor.

7 COMMISSION MEMBERS: Aye.

8 THE CHAIRMAN: All opposed.

9 COMMISSION MEMBERS: (No response.)

10 THE CHAIRMAN: All right. Thank you.

11 That concludes our agenda for the items
12 that we were going to address today, so we are
13 now at public comments.

14 Is there anybody from the public who would
15 like to address the commission?

16 MR. KEANE: I'd just like to ask one
17 question.

18 THE CHAIRMAN: Mr. Keane, please take a
19 seat.

20 Name and address for the record.

21 MR. KEANE: My name is John Keane. I'm the
22 executive director and administrator of the
23 Police and Fire Pension Fund. Our office is at
24 One West Adams, here in downtown Jacksonville.

25 Thank you for letting me speak to you

1 today.

2 I had a question. At your last meeting,
3 Commissioner O'Brien was reading from a
4 document, toward the end of the meeting, and I'd
5 like to get a copy of that document.

6 MS. O'BRIEN: Sure. I'm happy to refer it
7 to you. I was referring to Article -- I believe
8 it was Article 16 of the charter itself, so I'm
9 sure that we can provide you with a copy of the
10 full charter.

11 MR. KEANE: Well, if that's the document
12 you were looking over when you were talking,
13 then that -- I have a copy of that. I thought
14 you were looking at something else.

15 MS. O'BRIEN: No, I believe there was a
16 conversation about what was specifically
17 pertinent to the charter and the task of the
18 Charter Review Commission, and I was just
19 specifically referring to the section number,
20 which was for the benefit and retirement plan.

21 MR. KEANE: At the time and place that
22 y'all choose, and you want to speak about
23 pensions, we would certainly like to come over
24 here and give y'all some factual information
25 versus the demonized version that you've been

1 exposed to in the Times-Union and on the
2 television stations.

3 THE CHAIRMAN: We would look forward to
4 that.

5 MR. KEANE: I'll be glad to come.

6 If you would let me know when you want that
7 to happen, whatever conflicting schedule we may
8 have will be resolved in your favor because we
9 would like to be here and share our expertise on
10 this matter with you.

11 I've been with the government for 47 years,
12 so when they want to talk about institutional
13 memory and who did what and how this happened,
14 we'll be happy to share that lifelong experience
15 with you.

16 Appreciate y'all's service to our community
17 as a member of this commission.

18 THE CHAIRMAN: Thank you, Mr. Keane.

19 MR. KEANE: Thank you.

20 THE CHAIRMAN: We look forward to hearing
21 from you.

22 Any other comments from the public?

23 AUDIENCE MEMBER: I would like to ask --

24 THE CHAIRMAN: Sir, we're going to need you
25 to come -- so we can get you on the microphones

1 better.

2 AUDIENCE MEMBER: Oh.

3 THE CHAIRMAN: Name and address for the
4 record, please.

5 AUDIENCE MEMBER: Sit, stand?

6 THE CHAIRMAN: You could sit. Please sit.

7 AUDIENCE MEMBER: Conrad Markle, 1146
8 (inaudible) Street.

9 I was wanting to ask Mr. Mullaney if -- and
10 this may not be the right place to bring it up,
11 but there's a perception by a lot of the public,
12 particularly the constituency and the property
13 owners when there are problems with certain
14 divisions of the City government, they'll get to
15 a point where there is what I call a brick wall
16 that goes up, and when referred to the General
17 Counsel's Office you can no longer -- we can no
18 longer deal with you; you have to deal with the
19 General Counsel's office only.

20 And there seems to be a problem with no
21 return contact, no return phone calls, no return
22 contact when we're told to only deal with the
23 General Counsel's Office, and I don't know -- he
24 may not even be aware this is going on, but I've
25 had a situation for two years where I can't get

1 a problem with Code Enforcement addressed at
2 all. That's a personal situation.

3 THE CHAIRMAN: All right. Well, thank you
4 for your comments. I'm sure that Mr. Rohan will
5 share that information with Mr. Mullaney.

6 And the General Counsel's Office is on our
7 issue list as well, and I believe that we'll be
8 examining that further down the road. And I
9 know that you've been a regular attendee at
10 these commission hearings, and I believe you'll
11 have an opportunity to perhaps address this
12 issue again when we get to that as a substantive
13 hearing matter.

14 MR. MARKLE: I had another question also
15 for Mr. Holland. There's a bill in front of the
16 City Council right now because they're trying to
17 head off this Florida Hometown Democracy
18 amendment that's building steam in Tallahassee.

19 I have a question about how the City
20 Council has the power, if the legislature allows
21 us to go through the constitutional amendment
22 process -- it's almost like an oxymoron. You
23 know, you've got Hometown Democracy countering
24 hometown democracy if this bill is voted
25 through.

1 I don't have the bill number with me. I
2 can't quote it, but it was quite a stir at
3 City Council -- I mean, the other night about
4 it.

5 THE CHAIRMAN: Well, I appreciate your
6 interest in that, but that's not within our
7 purview.

8 MR. MARKLE: Okay.

9 THE CHAIRMAN: Thank you.

10 MR. MARKLE: Thank you.

11 THE CHAIRMAN: Any other comments from the
12 public?

13 AUDIENCE MEMBERS: (No response.)

14 THE CHAIRMAN: Any other items from the
15 commission?

16 Mr. Catlin.

17 MR. CATLIN: Do we have any other planned
18 speakers for this next meeting as of yet?

19 THE CHAIRMAN: No, we don't,
20 unfortunately.

21 My hope was that we would have sufficient
22 time today to get more deeply into the issues
23 list so that we could start planning the agenda
24 for the next meeting and I could schedule
25 people, but unfortunately we didn't.

1 Today is the last of the regular
2 presentations from the stakeholders, so from now
3 on we will have, I hope, a little bit better
4 control over the pacing of our meetings. Not
5 that anything we have heard wasn't worth
6 hearing, but --

7 So at this point -- I guess at this point,
8 if you are concerned about the efficient use of
9 our time next week, I'm happy to pick an issue
10 that has a clear majority of votes and schedule
11 maybe one or two speakers to hear from on that
12 issue because three hours is a long time to talk
13 about just our issues list.

14 Commissioner Flowers.

15 MR. FLOWERS: Thank you, sir.

16 I was just wanting to make sure that HUD
17 comes before us to articulate how they function
18 and are represented under the flow chart of the
19 City because we heard today about dispersed
20 responsibility and no one is really addressing
21 it.

22 THE CHAIRMAN: I know that -- Commissioner
23 Flowers, that you and Mr. Clements have been
24 working on that issue, to identify the various
25 stakeholders in the City who have a piece of

1 that, and it was my understanding -- because,
2 Commissioner Flowers, you and I can't talk
3 directly to each other except here.

4 It was my understanding, Mr. Clements, that
5 you were going to work with -- or help
6 Mr. Flowers talk to the right people in the City
7 to identify perhaps that -- who has
8 responsibility with that issue since it's not in
9 the charter, it's just in the code, and --

10 MR. CLEMENTS: I have not done that, but I
11 will talk to Mr. Flowers as soon as we're
12 finished here.

13 THE CHAIRMAN: Okay. Thank you very much.

14 Getting back to Commissioner Catlin's issue
15 about next week, did you have a comment about
16 that?

17 MS. O'BRIEN: Well, I just -- in the
18 efficient use of all of our time, I would highly
19 recommend that of our three hours, we set aside
20 possibly an hour to an hour and a half for the
21 discussion points, possibly at the beginning of
22 the meeting, and I certainly have no concern
23 with asking you to pick one of those items that
24 ranks highest on the number of concerns to bring
25 in at least one presenter or one subject matter

1 where maybe there's various presenters on
2 different sides. And there may be multiple
3 sides of a matter, but I would like to use at
4 least an hour, hour and a half of the next
5 meeting in a substantive manner about the
6 issue -- one of our issues of greatest
7 importance, and I would make that as a
8 recommendation to the committee.

9 THE CHAIRMAN: Is there a second?

10 MS. BARRETT: Second.

11 THE CHAIRMAN: Okay.

12 Any further discussion on that?

13 Commissioner Barrett.

14 MS. BARRETT: No. I just wanted to make
15 sure that we get that list before we come into
16 the meeting so that we're prepared, and I'd like
17 to see the names and who did what.

18 THE CHAIRMAN: Absolutely. That's fine.

19 I'll get the list to Mr. Clements, who can
20 distribute it to the rest of you.

21 MS. BARRETT: Thank you.

22 THE CHAIRMAN: Any further discussion on
23 that motion?

24 MS. KORMAN: I just have a curious
25 question, and I don't really care, but I don't

1 know why it's relevant. I mean, you can see
2 whatever I vote, but I'm just trying to figure
3 out the relevancy of who supported what.

4 MS. BARRETT: I'm just curious. It's just
5 a public record.

6 MS. KORMAN: No. It was just fine, I'm
7 just trying to figure out --

8 (Simultaneous speaking.)

9 MS. BARRETT: -- (inaudible) public record.
10 When you're on a commission, you can
11 always -- you know, I think it's right to be
12 able to say this is what this person wants,
13 this -- and I think it helps us.

14 MS. KORMAN: Okay.

15 MR. AUSTIN: I thought it was about what we
16 wanted to consider. I didn't know that it was
17 you're necessarily endorsing something because
18 you suggest it, you consider it.

19 THE CHAIRMAN: I think that's a reasonable
20 position -- or interpretation of somebody's
21 issues list. It's just something you want to
22 talk about.

23 MR. CATLIN: So the list you're going to
24 send to us that shows the -- I guess the top
25 vote-getter goes without -- it goes without

1 saying, that's who is -- who we're getting --
2 who the discussion is going to be about this
3 next --

4 THE CHAIRMAN: No. It will be who I can
5 get ahold of to come talk to us.

6 MR. CATLIN: Okay.

7 THE CHAIRMAN: And just so you know,
8 because of considerations like that going
9 forward, we might -- and since we're going to
10 meet as a committee of the whole, what we might
11 end up having to do is not necessarily being
12 able to have one meeting on one issue. We
13 might --

14 Once we have identified the common issues
15 list, then it might be a situation that at each
16 meeting we hear from a speaker on one issue, a
17 speaker on another issue, and a speaker on a
18 third issue. They might not all be on the same
19 issue that day, based on -- I will try to
20 schedule it that way, but if I can't, we're just
21 going to be hearing who we can hear from when
22 they're available.

23 MR. CATLIN: Okay. I have a little bit of
24 an issue -- it just seems like these last few
25 meetings are -- I mean, it's just -- having -- I

1 just feel like if you had one issue -- if
2 we're trying to tackle one issue that -- the
3 Mullaney -- Mr. Mullaney and Mr. Holland, just
4 the infighting that was going on, just with what
5 they're hearing -- I know they're going to see
6 it -- public record, but it just seemed
7 like -- I feel like we wasted a little bit of
8 time here by saying he said, she said, I missed
9 this.

10 I don't know, it just seems like if we want
11 to tackle one, if you can get the one in here --
12 I think it's just going to be a lot of -- a lot
13 of talk, just -- if we have a full table here on
14 this first issue or second issue. I just feel
15 like if we keep on --

16 I mean, obviously it's open to the public,
17 which they -- anybody can show up, but if you
18 have some of this discussion that's been going
19 on on the side, I just think it kind of steers
20 away from our goal.

21 Is it possible to have just one issue
22 per -- I mean, how many more meetings do we
23 have?

24 Mr. Chairman, I'm sorry if I --

25 THE CHAIRMAN: No, no. It's a good

1 question, and I don't disagree with you. Like I
2 said, I would like to have -- well, thematic
3 meetings.

4 MR. OLIVERAS: As a thought, some of these
5 issues -- I'm not sure what the list is going to
6 turn out to be. Some of these issues are
7 probably going to be a little bit contentious,
8 and so we may end up with some more of what we
9 had today, with opposing views, so . . .

10 THE CHAIRMAN: We have 13 more meetings.

11 MR. OLIVERAS: We should probably want to
12 expect what happened today to occur again.

13 THE CHAIRMAN: And I suspect that we'll
14 probably, for that reason, have issues carry
15 over to later meetings. You know, we'll hear
16 somebody at one meeting who will raise an issue
17 and then that will lead us to hear from another
18 speaker at a later meeting.

19 I mean, it will be hard to wrap up an issue
20 all at --

21 MR. CATLIN: Okay. That's fine, but -- I'm
22 sorry.

23 MS. KORMAN: Go ahead.

24 MR. CATLIN: Should they have their time in
25 the queue to come speak, if someone is on a side

1 chair, shouldn't they have their time and not
2 speak during someone else's time? Is that how
3 it's supposed to -- supposed to run?

4 THE CHAIRMAN: In terms of the back and
5 forth today?

6 MR. CATLIN: Yes.

7 THE CHAIRMAN: I did not appreciate that
8 either, but Mr. Holland, who was the speaker,
9 didn't seem to mind, so I didn't feel like it
10 was my prerogative to say, "No, you can't do
11 that." If that's what he wanted to spend his
12 time on on his presentation --

13 MR. CATLIN: Okay. That's all.

14 THE CHAIRMAN: But going forward, now I see
15 this as, we've finished listening, now we're
16 going to start asking questions. And so I will
17 exercise -- I will give the speakers less
18 latitude in that regard than we've seen
19 coming -- up till now.

20 MR. CATLIN: Thank you.

21 MS. KORMAN: I think, Mr. Chair, also, the
22 room setup -- it wouldn't have happened in a big
23 room because you're -- I mean, it's more
24 informal than it was.

25 My question is -- and I'm going back to

1 just a specific example, Mr. Holland's point
2 about Orange County and Daytona, Volusia. If we
3 wanted to hear from people who did that, just so
4 we can rule it out or -- I mean, would that
5 be -- are we allowed to bring in someone outside
6 of Jacksonville?

7 THE CHAIRMAN: Absolutely. There's no
8 reason we can't, other than cost, and that
9 raises an issue that I wanted to bring up for
10 either Mr. Clements or Mr. Rohan.

11 What funds does the commission have to
12 reimburse speakers to come for their travel
13 costs if they're out of their -- outside of
14 Duval County?

15 MR. ROHAN: Well, many times people come
16 voluntarily, so that's one option.

17 I feel comfortable that -- since this is a
18 commission of the council, that the council
19 would find ways to reimburse actual costs.

20 Jeff, do you have a different opinion on
21 that?

22 MR. CLEMENTS: That would be a matter to
23 ask Cheryl Brown, if there's capacity in the
24 budget to do that.

25 MR. ROHAN: We can get you an answer -- a

1 specific answer to that, but there is a way to
2 get them here, and it's important City business.

3 THE CHAIRMAN: Right.

4 I'm not saying this to sound flip -- it
5 might -- but I do recall the council president
6 saying on the night of the millage vote that he
7 had a council reserve of \$150,000 to retrim if
8 necessary. Obviously, that's no longer
9 necessary, so I would hope perhaps we could find
10 money.

11 MR. ROHAN: There's money in City
12 government.

13 THE CHAIRMAN: That's right.

14 MR. ROHAN: At least there's \$500 in our
15 imprest --

16 THE CHAIRMAN: Okay. So there was a motion
17 and a second for me to try and schedule a
18 speaker -- a substantive speaker for our next
19 meeting.

20 Is there any further discussion on that?

21 COMMISSION MEMBERS: (No response.)

22 THE CHAIRMAN: All in favor.

23 COMMISSION MEMBERS: Aye.

24 THE CHAIRMAN: All opposed.

25 COMMISSION MEMBERS: (No response.)

1 THE CHAIRMAN: All right. Thank you very
2 much.

3 Any other items?

4 MR. YOUNGBLOOD: Mr. Chairman, not to table
5 my issue again, but what I seek to do, as part
6 of the commission -- I hope as the commission
7 collectively does the very same thing -- is on
8 our own time look for a solution versus
9 overstating the problems because, unfortunately,
10 I see a City government, as it's -- as you very
11 clearly stated, Ms. O'Brien, is -- it's at both
12 sides, and we're hearing from both sides and a
13 lot of clamoring.

14 But look for a solution, and that's the
15 reason I look at the recall, because what's
16 taking place is -- they say they don't trust
17 their officials and they'd rather appoint.
18 Well, the election gives the trust directly to
19 the people. And in speaking with the
20 constitutional officers, they each agreed, it
21 shouldn't be easy, but it should be easier than
22 it is right now. And I think that may resolve
23 the appointed over elected, by tabling that
24 Article 15 and should it be revisited, and
25 that's the purpose for it.

1 So, again, I -- I don't know if I -- I know
2 it only had one vote, and that's what I bring to
3 everyone's attention. There are other issues
4 that may be more important, but if we're looking
5 at the issue of appointment over election, then
6 this is an issue that would be a solution for
7 both questions and it would probably be pleasing
8 to the public.

9 THE CHAIRMAN: And that's certainly a
10 discussion we could have in more detail at our
11 next meeting.

12 I mean, I encourage each of you to stand up
13 and advocate for issues that you feel strongly
14 about to the commission as a whole so that we
15 have the benefit of your perspective on that. I
16 mean, that's what I see as the strength of this
17 commission. We all come from different
18 backgrounds and different perspectives and
19 different networks of people, and I hope we
20 share those perspectives with each other.

21 So if you only had one vote for your issue,
22 get up an advocate for it because you might be
23 able to find some more.

24 MR. YOUNGBLOOD: Sure.

25 THE CHAIRMAN: Okay.

1 AUDIENCE MEMBER: (Indicating.)

2 THE CHAIRMAN: Yes, sir.

3 AUDIENCE MEMBER: Has your issues list been
4 drafted and/or published?

5 THE CHAIRMAN: No, not yet.

6 I've got -- internally, I've got the
7 results of the commissioners' issues list that
8 was sent to me by Mr. Clements so that I could
9 compile the list. I thought we were going to be
10 able to have time to talk about it today.

11 What I will do is -- well, I'll go back and
12 add the issues that only got one vote because
13 currently they're not on there.

14 MR. YOUNGBLOOD: Thank you.

15 THE CHAIRMAN: And that -- so everybody's
16 issues will be on the list, and I will send it
17 to Mr. Clements so he will distribute it and he
18 can put it on the Charter Revision web page.

19 AUDIENCE MEMBER: Okay. Good. Thank you.

20 THE CHAIRMAN: Sure.

21 Anything else for the good of the order?

22 COMMISSION MEMBERS: (No response.)

23 THE CHAIRMAN: Is there a motion to
24 adjourn?

25 MS. O'BRIEN: So moved.

1 MR. OLIVERAS: Second.

2 THE CHAIRMAN: We're adjourned.

3 Thank you very much.

4 (The above proceedings were adjourned at

5 12 o'clock p.m.)

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C E R T I F I C A T E

STATE OF FLORIDA:

COUNTY OF DUVAL :

I, Diane M. Tropa, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 23rd day of August, 2009.

Diane M. Tropa