

JACKSONVILLE POLICE AND FIRE PENSION FUND
SPECIAL MEETING OF THE BOARD OF TRUSTEES

DATE: October 9, 2015

TIME: 9:30 to 11:00 a.m.

PLACE: Jacksonville Police and Fire Pension Fund
One West Adams Street
Suite 100
Jacksonville, Florida 32202

BOARD MEMBERS PRESENT:

Larry Schmitt, Board Chair
Richard Tuten, III, Secretary (via phone)
Adam Herbert, Trustee
Nathaniel Glover, Jr., Trustee
William E. Scheu, Trustee (via phone)

ALSO PRESENT:

John Keane, Consultant
Paul Daragjati, Board Counsel
Debbie Manning, Executive Assistant
Joey Greive, Fund Treasurer

Tommy Hazouri, City Council Liaison
Stephen Durden, Office of General Counsel
Loree French, Office of General Counsel
Lawsikia Hodges, Office of General Counsel

These agenda matters of the special meeting of the JPPFF Board of Trustees came on to be heard at the time and place aforesaid, when and where the following proceedings were reported by:

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P R O C E E D I N G S

October 9, 2015

9:30 a.m.

- - -

CHAIRMAN SCHMITT: It's 9:30. I call the meeting to order.

MR. KEANE: Everyone please rise and join me as we, pledge allegiance to the flag of the United States of the America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Thank you very much. Please be seated.

CHAIRMAN SCHMITT: Please let the record reflect, obviously, I'm here. Trustee Herbert and Trustee Glover are also present, and Trustees Tuten and Scheu are on the phone.

The first order of business is related to the Senior Staff Voluntary Retirement Plan, a creation of Section 10, for Excess Benefit Arrangements.

You-all have the attachment. This has been discussed at several previous meetings --

MR. KEANE: Public speaking.

MS. MANNING: We do have a public speaker.

CHAIRMAN SCHMITT: Oh, I'm sorry. I apologize. I skipped that.

1 MR. LEE: My name is Curtis Lee. My address
2 is on file.

3 I remind you, all trustees, that I have
4 asked for many documents in my email yesterday.
5 You are on notice --

6 MR. TUTEN: Hello? Hello?

7 CHAIRMAN SCHMITT: Can't quite hear. We'll
8 have him speak up a little bit.

9 MR. LEE: I remind all the trustees that I
10 have asked for many documents. See my email
11 yesterday. It puts you-all on notice. I really
12 don't want to sue, but I will if I have to.

13 All right. On the topic of Mr. Keane and
14 compensation and so on. The trustees' mantra
15 seems to be, see no evil, hear no evil, speak no
16 evil. It's an odd way for any board of trustees
17 to operate and in public.

18 Number 1: Mr. Keane stonewalled Ed Siedle,
19 respected forensic auditor, causing the City
20 Council to approve a subpoena. Apparently you
21 don't care.

22 Number 2: John Keane many times violated
23 the law, including the Public Records Act,
24 assisted by Bob Klausner. Not only do you not
25 care, but you allowed Mr. Klausner to personally

1 profit. Mr. Keane was never penalized. Instead,
2 he has been publicly praised.

3 Number 3: Mr. Keane disgraced the pension
4 fund and earned the contempt of Jacksonville's
5 leaders and residents with his many excesses and
6 abuse of the public trust. You don't care and
7 you still praise him.

8 MR. SCHEU: Hello?

9 MR. LEE: Number 4 --

10 MR. TUTEN: Yeah, I can't -- I can't hear.
11 I'm having trouble hearing Larry. I don't know
12 if the microphone freezes up or what.

13 CHAIRMAN SCHMITT: We'll turn the phone a
14 little bit.

15 MS. MANNING: Okay. Go ahead. He's going
16 to talk some more.

17 MR. LEE: Number 4: Other critical
18 information is sent to you. You don't respond.
19 Are you too biased to read and understand?

20 In conclusion, please, start caring. Show
21 you care by having someone else manage the
22 pension fund now. How about an existing staffer?
23 There are about seven of them, most of them with
24 a lot of service.

25 How about a city official? How about an

1 outsider? In conclusion, you trustees have
2 violated your fiduciary duties for years with
3 respect to Mr. Keane.

4 He does not deserve to have the position as
5 a consultant. He does not deserve to have a
6 contract. Integrity and the appearance of
7 integrity matter.

8 Thank you.

9 CHAIRMAN SCHMITT: All right. Any other
10 public comments?

11 MS. MANNING: Yes.

12 CHAIRMAN SCHMITT: Good morning.

13 MS. FRENCH: Loree French with Office of
14 General Counsel. I'm here on behalf of the
15 general counsel.

16 I think it's his understanding at this point
17 in time that the amendment to the senior plan was
18 going to be deferred from this meeting, and I
19 guess I really just wanted to confirm whether
20 that was correct or not before the meeting goes
21 over and the public speaking opportunities have
22 passed.

23 CHAIRMAN SCHMITT: Well, we won't know until
24 we get to that on the agenda, but you're more
25 than welcome to comment on it now.

1 MS. FRENCH: Okay. It's simply that this
2 Board knows what the -- this Board knows what the
3 position of the general counsel is.

4 There was already an opinion issued by the
5 former general counsel on the senior plan and,
6 therefore, to go forward with the amendment to
7 the senior staff plan to create this excess
8 benefit arrangement, the general counsel believes
9 would also be an unauthorized action.

10 So the general counsel is basically
11 requesting respectfully at this time that you
12 defer action on that amendment to the senior
13 plan.

14 Thank you.

15 CHAIRMAN SCHMITT: One question for general
16 counsel. There are three different attorneys
17 from the general counsel's office here.

18 Do all three of you share that same opinion?
19 Are you required to?

20 MS. HODGES: I'm actually only here to
21 answer contract questions. So that's why I'm
22 present today. Loree is --

23 MR. SCHEU: Mr. Chairman, can you describe
24 what opinion you're talking about?

25 CHAIRMAN SCHMITT: The opinion of the

1 general counsel on the Senior Staff Voluntary
2 Retirement Plan that was, in their opinion, not
3 authorized.

4 MS. FRENCH: It was the opinion issued by
5 Cindy Laquidara back in 2012.

6 CHAIRMAN SCHMITT: The opinion issued by
7 Cindy Laquidara back in 2012.

8 MS. FRENCH: That's all I have to say.
9 Thank you.

10 CHAIRMAN SCHMITT: Okay.

11 DR. HERBERT: Will you be here for the
12 balance of the meeting?

13 MS. FRENCH: I can stay.

14 MR. TUTEN: What are we proposing that we
15 need to be doing here? I mean, are we -- and I
16 apologize. It's hard to tell when somebody else
17 is talking.

18 CHAIRMAN SCHMITT: Right.

19 MR. TUTEN: Are we now on the agenda for
20 2015-8-1?

21 CHAIRMAN SCHMITT: If there are no other
22 public comments -- is that correct? -- we'll
23 close the public comment period and then we'll
24 start with the agenda.

25 And, yes, the first item on the agenda is

1 2015-8-1, which is the Amendment to the Senior
2 Staff Voluntary Retirement Plan. We've discussed
3 this at several Board meetings, and to give you a
4 little bit more of an overview, Paul, if you
5 wouldn't mind.

6 MR. DARAGJATI: Sure.

7 The plan has already approved a fund benefit
8 pension for Mr. Keane. What this --

9 MR. SCHEU: Could you speak closer to the
10 microphone?

11 MR. DARAGJATI: Sure. I'll try and speak
12 up, Bill. I apologize.

13 The plan has already approved a defined
14 benefit pension plan -- the defined benefit
15 pension for Mr. Keane.

16 What this 415(m) plan does is it's an
17 arrangement whereby the excess beyond which the
18 IRS places a limit on a benefit can be paid. The
19 excess would get paid not out of the corpus of
20 the fund, but out of the administrative cost of
21 the fund.

22 The bottom line is that in Florida, once a
23 person achieves his standard -- and I'm trying to
24 place this in as common English as possible.

25 Once he has achieved this standard defined

1 benefit limitation so that he has earned his
2 pension, it cannot be diminished. Therefore,
3 what the IRS has provided is a means by which
4 excess beyond that 415 limit can be paid. And
5 this is only an administrative method of paying
6 that full pension which has been earned by the
7 employee.

8 I'm not quite sure -- I won't comment on
9 what the public comments were, but in essence,
10 all this Board is doing is approving an
11 administrative method of paying what the Board
12 owes Mr. Keane.

13 CHAIRMAN SCHMITT: And I have a question,
14 Bill, if you don't have one first.

15 So this is not whether the money is owed.
16 It's whether it's paid within the IRS
17 regulations?

18 MR. DARAGJATI: That is correct. The IRS
19 415 limits a person's benefit to a certain amount
20 depending upon their age. And in John's case, I
21 believe it's somewhere around 211-. I don't
22 remember the exact number. Excuse me, 261-.

23 So the excess of 261- still has to be paid
24 under Florida law, and Section 415(m) of the IRS
25 code provides for a means of doing that.

1 And, again, it's not paid out of the corpus
2 of the fund. It's paid out of the administrative
3 cost. And what happens is the actuary for the
4 fund will calculate ahead of time how much that
5 cost is, and it ends up being a zero net
6 basically to the fund. It doesn't have any extra
7 cost.

8 CHAIRMAN SCHMITT: All right. So if the
9 Board does not make this amendment to the
10 retirement plan, we're still required to pay out
11 the full amount. If we pay out that full amount
12 as the plan is in its current state, it would
13 have to be paid out of the corpus of the pension,
14 which would violate the IRS regulations?

15 MR. DARAGJATI: That is correct. The plan
16 cannot pay beyond the IRS limit. If it does,
17 then it risks losing its qualified status as a
18 defined benefit pension plan.

19 CHAIRMAN SCHMITT: But in order to comply
20 with Florida laws related to retirements, we have
21 to pay that amount?

22 MR. DARAGJATI: That is correct. Yes.
23 That's why --

24 MR. SCHEU: Mr. Chair, again, I can't see,
25 so whenever you get ready to call for questions,

1 this is Bill Scheu and I've got several comments.

2 CHAIRMAN SCHMITT: Go ahead, Bill.

3 MR. SCHEU: I've got real concerns about
4 this, and I appreciate Paul's opinion. But I
5 think that our counsel is really the Office of
6 General Counsel. And I want to lay out the
7 questions that I have, and then people can
8 discuss them or respond to them.

9 Number 1: It seems to me that the plan, as
10 previously enacted, was subject to whatever the
11 law was. So even if the plan was -- the senior
12 staff was to receive X dollars, it was subject to
13 the limitations of the Internal Revenue Service
14 code. So that's subject to that.

15 So what we're now doing is approving
16 retroactively an increase in the plan for work
17 done in the past.

18 Several queries: Can we do that? Are we
19 prohibited by law from making a retroactive
20 granting on the retirement benefits?

21 Number 2: Is it, in fact, a bonus rather
22 than retirement, which I believe -- I have not
23 researched but, I believe we're not authorized to
24 pay a bonus for any employee.

25 Number 3: From where will it be funded?

1 You've answered that. From the operating
2 expenses. Well, is it in the budget? Did we --
3 was this part of the budget that was approved by
4 the City Council? If not, how are we going to
5 pay for it?

6 And I've seen the Barnworth (phonetic)
7 opinion that, Mr. Chair, you kindly furnished to
8 us this morning, but I believe it is trumped by
9 Section 14.01 and .02 of the charter, which were
10 not discussed in that opinion. In fact, they
11 overlooked -- the opinion said that there was
12 nothing in the charter.

13 But I'd just call to your attention Section
14 14.01 of the charter which says that each
15 independent agency entitled to receive
16 appropriations from the council shall also
17 prepare and submit a proposed budget for
18 operations -- for the employee or to the council.

19 14.02. At the conclusion of the public
20 hearings, the council shall adopt and approve the
21 budgets submitted to them with such changes as
22 the council may deem appropriate, blah, blah,
23 blah.

24 Also, Section 54.07 of the charter says that
25 the council reviews all independent agencies'

1 budgets. So as far as the funding, I have deep
2 concerns about that.

3 Section 22.07(a) of the charter says that
4 the Police and Fire Pension Board does not have
5 any power to amend the plan without the approval
6 of the City Council. That's section 22.07(a).

7 (Interrupting cough) the Barnworth opinion
8 and the citation to the ordinance code, the
9 charter (inaudible) that you cited in your email.
10 So legally I don't think we have the power to do
11 this.

12 Fourth: This is the third retirement plan
13 for -- this would be particularly for Mr. Keane.
14 Who is the administrator of that plan? Is it the
15 full Board? Is it Mr. Keane, if he is
16 administering the plan for himself?

17 We're in the middle of a dispute with the
18 City Council as to whether or not the plan itself
19 was legal, exacerbating the problem, which would
20 throw this in the face of the City Council, by
21 amending this plan today.

22 I believe as I said last week that we should
23 request a formal opinion from the OGC as to our
24 powers with respect to this plan. I don't
25 believe the Crescimbeni memorandum is a binding

1 letter. I said that before. It's just a memo
2 from the general counsel to Mr. Crescimbeni as a
3 council member.

4 There would be no standing for the Board to
5 challenge that either in circuit court or to the
6 attorney general, what is the remedy provided
7 under the charter. So I don't think that that
8 rises to the level of an opinion.

9 Finally, I believe that we may have personal
10 liability as trustees if we amend this plan if it
11 is illegal, and I'll cite you to 22.05(b) of the
12 charter, which says -- I've misplaced that at the
13 moment. Let me see if I can find it.

14 In any event, let me start with
15 liabilities -- it's a consequence of an opinion
16 from counsel. And I believe we need a written
17 opinion. So I intend to vote against this, but I
18 would propose that we defer it and refer to the
19 Office of General Counsel for a full and binding
20 opinion.

21 Thank you.

22 CHAIRMAN SCHMITT: Okay. On your
23 recommendation, are you also saying that we
24 should not pay his regular pension amount?

25 MR. SCHEU: I think we should pay the

1 reduced amount until we see that it's limited by
2 ERISA or the Internal Revenue Code, whichever it
3 is. We clearly have an obligation to do that.
4 But I'm not convinced at this point that our
5 counsel -- and I know Paul is in some fashion our
6 counsel, but we're required under the charter to
7 use the OGC as our counsel.

8 And I think we should request a binding
9 opinion to protect ourselves and to ensure that
10 we're doing it right.

11 I would also -- well, that's all I've got to
12 say.

13 CHAIRMAN SCHMITT: Okay. Well, I mean,
14 we've had discussions about counsel before.
15 We're also authorized to have our own independent
16 counsel as well. So I just wanted to clarify
17 that.

18 And then you used the term several times,
19 the term "illegal." I think it's been clarified
20 that illegal means that the trustees who set up
21 this plan in the first place did something
22 criminal, and certainly I don't think there's any
23 evidence to indicate that they did something
24 illegal.

25 MR. SCHEU: I certainly did not mean it that

1 way. I don't know whether it was improper or
2 not. That's why we need to get a binding opinion
3 from the general counsel. We have Mr. Klausner's
4 opinion, but we also have our -- under the
5 charter, we're required to use the general
6 counsel's office.

7 It's true that we have the ability to hire
8 our own counsel under Article 22 of the charter,
9 but we're also limited by other provisions in the
10 charter which require us to use the general
11 counsel. And the procedure is that the general
12 counsel works with the independent authority to
13 name special counsel when necessary, such as for
14 pension matters.

15 CHAIRMAN SCHMITT: Right, which this is.

16 MR. SCHEU: I would just feel much more
17 comfortable in acting as a fiduciary if we
18 requested the general counsel to approve it.

19 CHAIRMAN SCHMITT: Okay.

20 MR. SCHEU: To look at it. They may not
21 approve it. Then we would have an option under
22 the charter to take appropriate -- to seek
23 appropriate relief either with the attorney
24 general or in circuit court.

25 MR. TUTEN: If I might chime in for just a

1 second.

2 I don't disagree with, one, the legal
3 opinion, Bill. I think we already know how the
4 general counsel feels, because as you've stated,
5 he already issued a memo to Councilman
6 Crescimbeni. So I don't think his official
7 opinion is probably going to deviate much from
8 that. Okay?

9 Second thing. Someone -- and I know I've
10 asked John this before, but aren't there other
11 independent agencies in the city that have done
12 this? In other words, they paid the ERISA
13 amount, but then they paid the extra amount.

14 I believe our former Chairman Bussells is
15 one of them that had a special arrangement like
16 this set up. Am I correct? And I know there are
17 others, especially with the JEA where their
18 pensions were over the amount.

19 CHAIRMAN SCHMITT: You are correct. I think
20 it's --

21 MR. SCHEU: -- retroactive. We don't know
22 the circumstances. As far as the general
23 counsel's opinion is concerned, we don't know
24 what the general counsel would say because the
25 general counsel is -- when Cindy did her memo,

1 she didn't deal with all the facts.

2 As for example, with John it's always been
3 he's not an employee of the city. All that would
4 need to be framed properly to get a proper
5 opinion from the general counsel.

6 MR. TUTEN: Well, Bill, I understand that.
7 And like I said, I don't, you know, want to take
8 the cynical view here. But the general counsel,
9 they have the people that are the bosses of them.
10 You know, I see a potential, a slight
11 potential -- I hate to say conflict of interest,
12 because I'm assuming that everyone is going to do
13 what's right all the time.

14 That said, if you were to say we're going to
15 go to a third party or the attorney general in
16 Tallahassee for an opinion, that would be one
17 thing.

18 But me, personally, the City Council is
19 going to say, Look, your lawyer is working for
20 you guys. And I'm going to say, Well, you know,
21 the general counsel works for the council.

22 So we're kind of spinning our wheels here,
23 if what I'm saying. Even if the OGC comes back
24 and says whatever they say, then it just -- it
25 doesn't make any sense.

1 And I go, once again, by precedent. Someone
2 needs to tell me what other independent agencies
3 have done in similar circumstances.

4 MR. DARAGJATI: Rich, in Section 120 --

5 MR. SCHEU: Well, I'm talking too much, but
6 the charter provides that the general counsel --
7 he or she does not work for any particular agency
8 or the mayor even. He is vested with a lot of
9 power because he is the person who resolves
10 disputes, but it was set up so that we avoided
11 litigation.

12 So what the charter provides clearly is that
13 the general counsel issues a binding opinion to
14 bind the various entities in a dispute. If one
15 of those entities disagrees, then the remedy is
16 either to seek an opinion from the attorney
17 general or a judgment from the circuit court in a
18 declaratory rights action.

19 That's what the charter providers for the
20 remedy. We can't go to the attorney general by
21 ourselves. I don't really think the City Council
22 can go to the circuit court by itself without
23 seeking a real binding opinion from the general
24 counsel. But that's the way we -- our wise
25 forefathers decided that this consolidated

1 government would operate. That's one reason it's
2 become a very efficient government.

3 CHAIRMAN SCHMITT: Okay. I don't mean to
4 cut off the discussion, but we're starting to say
5 the same things over and over again.

6 Steven Durden from the Office of General
7 Counsel is here. He'd like to make one comment
8 about one of the issues.

9 MR. DURDEN: Very narrowly, just so you will
10 know, in order to get to the attorney general,
11 one thing that has to be done is that the person
12 or the organization or entity asking for the
13 attorney general opinion has to draft one to
14 start with.

15 So in a sense going to the general counsel
16 is going to be what is necessary, or whoever else
17 you ask as your lawyer to write the opinion,
18 there has to be an opinion sent to the AG first.

19 We did that recently with the -- the office
20 did that recently with the City Council
21 request -- or city request for an AG opinion on a
22 tax question, and the demand from the attorney
23 general is to draft the opinion first.

24 Just so you know, going to the general
25 counsel first is essentially what you would need

1 to do before you went to the attorney general
2 anyway, assuming that's who you felt was the --
3 where you wanted to get to in the end.

4 CHAIRMAN SCHMITT: Okay. Any other
5 comments?

6 MR. GLOVER: Let me just sum this up --

7 MR. TUTEN: So basically, Bill, the proposal
8 is get an opinion from the OGC. If the Board
9 doesn't agree with it, then we get our lawyer to
10 take it to the attorney general for an official
11 opinion?

12 MR. SCHEU: Well, no. I think that we
13 reserve our rights. And I guess I'll move that
14 we refer this to the -- we defer it and refer it
15 to the general counsel for a formal binding
16 opinion, reserving our rights under the charter
17 to proceed thereafter, either to the circuit
18 court or to the attorney general.

19 MR. TUTEN: Okay.

20 CHAIRMAN SCHMITT: Okay. Prior to the --
21 hey, guys, prior to the motion, we have a little
22 bit more discussion from the trustees here.

23 Sheriff Glover.

24 MR. GLOVER: We need to put a motion on the
25 floor and see if we get a second, then open it up

1 for questioning.

2 CHAIRMAN SCHMITT: All right.

3 So, Bill, do you want to restate your motion
4 for the record?

5 MR. SCHEU: Yes. I move that we defer this
6 matter and refer the matter to the Office of
7 General Counsel for a former binding opinion as
8 to our rights and responsibilities, and that we
9 reserve our rights after that either to accept
10 that opinion or to seek appropriate remedies from
11 either the circuit court or the attorney general,
12 as provided in the charter.

13 CHAIRMAN SCHMITT: Thank you.

14 Do we have discussion on the motion -- or a
15 second?

16 MR. GLOVER: I'm going to second it for
17 discussion.

18 CHAIRMAN SCHMITT: Okay. Comments?

19 MR. TUTEN: Are we having discussion yet?

20 MR. GLOVER: Yeah. We're in discussion now.
21 Go ahead, Rich.

22 MR. TUTEN: I'm going to ask a simple
23 question for the record once again.

24 Is there anyone else in this city that's an
25 independent agency as ours, JTA, JEA, whomever,

1 that has a similar type retirement plan? Because
2 from the beginning, my understanding is this is
3 what this was. Look, we have ERISA rules. We're
4 going to pay John up to this, and then we're
5 going to set up a separate fund under the law to
6 pay the extra amounts.

7 And I just -- look, if there's no one else
8 in the city that has this special type of
9 arrangement, even better. But if there are other
10 people in other agencies that have this similar
11 type arrangement where they have two --
12 essentially two checks coming in every month,
13 even though it's the same pension, then I think
14 as a Board we open ourselves up to problems with
15 John because he's expecting to get paid.

16 And it's just -- I just want to know if
17 there's precedence anywhere within the city. If
18 someone else has this similar type of
19 arrangement, why was it legal? Why is it
20 continuing to be legal? And what did they do
21 differently? Because we are an independent
22 agency just like them.

23 MR. TUTEN: All right, Rich.

24 Treasurer Joey Greive is here, and I believe
25 he can answer part of your question.

1 MR. GREIVE: Sure. And I'll avoid wading
2 into the legal argument. We've got several
3 representatives from OGC here and Klausner's
4 firm.

5 But Section 124.01 of the municipal code,
6 authorizes an excess benefit arrangement under
7 415(m) for the general employees retirement
8 system, the City of Jacksonville Employees
9 Retirement System, which covers general
10 employees, corrections; and there are -- you
11 know, JEA is a participant in that plan.

12 And, you know, there are a few former city
13 officials and a few formal JEA officials who are
14 currently receiving excess benefits under that
15 plan as authorized by City Council.

16 MR. TUTEN: And so, Joey, I'm sorry. I
17 can't hardly hear you. You're such a
18 soft-talking man.

19 But you are saying there are other officials
20 that do have an excess benefit plan?

21 MR. GREIVE: Yes. Under 124.01 of the local
22 municipal code.

23 MR. GLOVER: Rich, did you finish?

24 MR. TUTEN: Is that just a simple -- I just
25 need a yes or no.

1 MR. DARAGJATI: That's a yes.

2 MR. GLOVER: That's a yes, right, Joey?

3 MR. SCHEU: And we don't know the
4 circumstances of that.

5 Rich, your question is a good one, and
6 that's the kind of information we need formally
7 from our counsel to look at and give us the
8 particulars about.

9 This is really all speculation. What we're
10 doing is retroactively changing this agreement
11 after the service has been performed. And that
12 may not be what happened in these other
13 situations.

14 MR. GLOVER: Well, let me just get something
15 straight. Let's cut through all of the legal,
16 because I've been in a quagmire of legal opinions
17 in a number of instances, and what in my mind I
18 have to be concerned about is doing the right
19 thing for the right reasons.

20 Now, the question is simple to me. I think
21 if I go back to what we did for the pension
22 compromise with the -- our constituency, I have
23 to look back at the whole notion of what I felt
24 so badly about and still feel badly about is the
25 fact that after all is said and done, we cut a

1 deal with the police officers. And we said, If
2 you come on, here's the deal we have for you.

3 And then, of course, we got into the -- ran
4 into some problems with the pension, and I'm not
5 going to rehash all that. But we had to go back
6 and break the deal and come back with a
7 compromise and say, Okay, in order to sustain the
8 pension fund, we've got to cut this deal with
9 you. So, in essence, you're going to get a
10 little less than you started out with.

11 Now we get to this situation and, you see,
12 it's a similar situation to me because I'm going
13 to ask the question: When the Board approved the
14 plan, which was -- it obviously had an excess
15 component to it, did the Board know exactly what
16 it was doing?

17 And, in fact, knew that, Well, there is some
18 precedence for this, so we're going to go ahead
19 and okay this plan because at the end of the day
20 we'll be able to pay it out.

21 Is that my understanding?

22 CHAIRMAN SCHMITT: Sounds right to me.

23 MR. GLOVER: So here we go again. Now it
24 comes time to pay, and then we say, Oh, my
25 goodness, I know we told you this, but sorry

1 about that. We're going to have to cut another
2 deal.

3 And I'm just going to tell you, I don't feel
4 comfortable with it. I do not feel comfortable
5 with it, and beyond all of the legal opinion back
6 and forth, general counsel says it's illegal, our
7 attorney says it's legal and we should do it.
8 And Joey says there's some precedence for it, and
9 probably that was taken into consideration when
10 we cut the deal.

11 It just seems to me that I cannot -- I
12 cannot go back on another deal. I just can't
13 swallow that. So that's my comments.

14 CHAIRMAN SCHMITT: Dr. Herbert.

15 DR. HERBERT: Let me -- one of the things
16 that Bill has raised, I just want to ask our
17 counsel a question about this.

18 Is this a new deal? I mean, is this
19 something that should have been done at the
20 outset of approving the senior plan?

21 MR. DARAGJATI: I want to make sure --
22 because I've heard the term "retroactive" and
23 "bonus."

24 The plan actuary has calculated what John's
25 benefit is, and it corresponds to exactly the

1 plan that was set up by this Board years ago.

2 Due to John's longevity and level of pay,
3 the benefit has exceeded what the IRS allows.
4 This 415 arrangement is done in several places
5 around the state. It's -- and the language of
6 this agreement, this arrangement, is used
7 virtually everywhere else in the state. It's
8 pretty standard language.

9 Should this plan have been set up at the
10 time when the plan itself -- I should say, should
11 the arrangement have been set up at the time the
12 plan was set up? Maybe.

13 But at the time you all didn't know how long
14 John was going to be here. You didn't know how
15 long -- what he was going to end up earning at
16 the end. It might have been superfluous work at
17 the time.

18 But at this point this plan is not -- this
19 arrangement is not providing for anything extra
20 to John. The benefit is the benefit. There's
21 nothing -- I want to make sure everyone is clear
22 that there's no -- this arrangement is not
23 providing any bonus, any further enhanced
24 benefit. The benefit is the benefit.

25 This is just an administrative means of

1 paying it and for the Board to conform to Florida
2 law.

3 MR. KEANE: Mr. Chairman, if I may interject
4 in answering Dr. Herbert's question.

5 CHAIRMAN SCHMITT: Yes, please.

6 MR. KEANE: When the plan was created by the
7 Board in 2000, the clear language of the plan
8 says it has to be operated in accordance with the
9 IRS rules.

10 IRS rules in 2000 and IRS rules in 2015 are
11 different than any other IRS rules. Just like
12 the General Employees Pension Plan that Joey
13 mentioned a while ago was created in 1937 by the
14 legislature. They enacted the excess benefit
15 plan years later. When people started to retire,
16 just as our former chairman is one of them, their
17 pension exceeded the IRS limitation. So they
18 created the 415.

19 It has nothing to do with extra pension or
20 retroactive or none of that other. It's the
21 administrative mechanism that pays the pension to
22 me that I've worked for, paid for, earned and
23 been approved by the Board. It's that simple.

24 CHAIRMAN SCHMITT: Dr. Herbert, do you have
25 anything else?

1 DR. HERBERT: I do, but I want to wait.

2 COUNCILMAN HAZOURI: May I ask -- and this
3 is Tommy Hazouri -- Loree, if she can restate
4 what their intention is? For my own sake and for
5 the council's sake -- will you come up there so
6 everybody can hear you?

7 Are you-all asking -- and I hope I'm asking
8 it the right way. It has nothing to do with -- I
9 mean, I heard what John said and I understand the
10 whole gamut there, but are you-all looking to
11 defer it to put it in that whole package of
12 reviewing that binding opinion, or are you
13 looking at it as a separate issue from that?

14 Because I can envision you-all packaging it
15 together as you mitigate -- or mediate or take it
16 on to court. Is that going to be part of that
17 package, or are you-all going to look at it --
18 and I'm just trying to understand -- as a
19 separate item, right or wrong, if he's entitled
20 to it, he gets it and let it go from that?

21 Because it really seems to me like it's all
22 part of the whole idea of the pension, whether
23 it's legal or not legal, you know. So I'm not
24 sure where you were coming from earlier because
25 we hadn't gotten into this.

1 I just want to see if I understand if you're
2 looking at it as a package as a whole or if
3 you're looking at it individually, separate from
4 questioning whether or not the legal opinion --

5 MR. SCHEU: The intention of the amendment
6 is treated separately. The issue of the larger
7 question is separate. It seems to me that we
8 would be well served to get legal advice on this
9 particular matter.

10 And also, I would like to know where in the
11 budget this is getting paid from (inaudible)

12 COUNCILMAN HAZOURI: Bill, before you do
13 that -- I'm sorry. That's you-all's -- that's
14 you-all's concern and how you-all deal with that.
15 I understand that and we'll look at that.

16 But I'm just kind of curious as to where
17 you-all are coming from so I kind of get an idea
18 whether you're looking at the whole picture or
19 you're going to look at this -- you're asking to
20 defer it because you want to look at the legality
21 or illegality of this particular amendment that
22 they want to do.

23 I wasn't sure if that's what you wanted to
24 do, is to look at the whole picture and gather it
25 altogether, or if you're going to look at it as a

1 separate item.

2 MS. FRENCH: Well, I can't speak for
3 everyone who is involved in, you know, settlement
4 discussions or potential discussions on the
5 senior plan in general.

6 But I think the understanding and the reason
7 that I was here to request it is, first of all,
8 there were some facts as were raised by several
9 of the trustees here -- there were some facts
10 that were not clear to the Office of the General
11 Counsel, and we wanted to get a better
12 understanding of the facts.

13 One of them, which I wasn't going to get
14 into because I didn't know about it, but one of
15 them was the question -- when I saw the package
16 here and the statement that was made that it
17 could not be paid out of the senior plan or the
18 Police and Fire Pension Fund, then the question
19 is, Where was it going to get paid from and was
20 it approved in the budget as a line item or an
21 expenditure for this coming year?

22 But the real reason was there's already a
23 dispute over the senior plan. This appears to be
24 an amendment to the senior plan. If we're
25 already disputing it and trying to reach some

1 resolution over it, the request was, Can we
2 please defer this because there is an active
3 movement right now to try and resolve this?

4 COUNCILMAN HAZOURI: Resolve this particular
5 issue.

6 MR. FRENCH: The senior plan. There is a
7 movement right now to resolve this, and so --

8 COUNCILMAN HAZOURI: Yeah. And so that's
9 not part of the whole picture -- I'm talking
10 about of the plan -- I'm talking about their plan
11 itself, the Police and Fire pension plan that
12 they have.

13 MS. FRENCH: I'm guess I'm not following
14 your question. This has nothing to do with the
15 Police and Fire Pension Fund itself.

16 COUNCILMAN HAZOURI: All right. So it has
17 nothing to do with Loree's decision -- I mean,
18 not Loree --

19 MS. FRENCH: Not the fund, not the reformed
20 agreement for the fund or anything.

21 COUNCILMAN HAZOURI: Okay. So that's not
22 going to be part of the discussion then?

23 MS. FRENCH: No. Just the senior plan.

24 COUNCILMAN HAZOURI: Right, I understand.
25 But that's still part of -- you know, you're

1 still talking about the whole package that's
2 going to court now or being mediated now. Is
3 that not part of it? To me it would be.

4 MS. FRENCH: It would be. If this is -- if
5 this is an amendment to the senior plan and
6 there's a dispute over the senior plan, it would
7 be a part of the same thing, yes.

8 CHAIRMAN SCHMITT: I don't see how any
9 changes -- administrative changes would affect
10 whatever it is they're trying to mediate.

11 This is --

12 MR. SCHEU: I think it does. It affects the
13 numbers.

14 CHAIRMAN SCHMITT: Well, I disagree. The
15 numbers are what the numbers are. How it's paid
16 out is the difference.

17 Now, in my opinion, to follow up on what
18 Sheriff Glover had to say, this is an attempt to
19 wiggle out -- whether you agree with the amount
20 or not, it's an attempt to wiggle out of paying
21 that amount either by going through this process,
22 which is deferring what we should do as a Board,
23 and then also I heard a number of comments where
24 they're trying to wiggle around it by going
25 through a budget process as if, Well, the money

1 is not there so we don't have to pay it.

2 To me that's just shameful. Whether you
3 agree with the amount that he should receive or
4 not is not the issue here. The issue, to me, is
5 the obligation of the Board to do its
6 administrative function in amending the plan to
7 comply with the IRS regulations.

8 It has nothing to do with the amount. It
9 has nothing to do whether we think he's owed that
10 amount or not. It has nothing to do with the
11 political side of this. It's our obligation as a
12 Board, from an administrative function, to make
13 this plan comply with IRS regulations.

14 All that other stuff, they can -- they can
15 battle it out in court all they want. It has
16 nothing to do with our function here today.

17 MR. SCHEU: I respectfully disagree. It's a
18 question about how to do it. And I still don't
19 know where we're going to get the funds. Where
20 are the funds in our budget?

21 CHAIRMAN SCHMITT: And that's a whole nother
22 issue. You obviously disagree with the process
23 that has been used in previous years for the
24 funding of the administrative functions of the
25 Board. I get that. But that's a totally

1 separate issue.

2 DR. HERBERT: Let me ask a question, then --

3 MR. SCHEU: Well, regardless, we don't have
4 the money. Where are you going do get the
5 money -- just internally, forget the City
6 Council.

7 Where in our budget is this going to come
8 from?

9 MR. TUTEN: Correct me if I'm wrong, but
10 isn't the senior retirement plan fully funded for
11 the three people that are in it?

12 CHAIRMAN SCHMITT: Yes.

13 DR. HERBERT: Now, the way that I'm
14 understanding this is that John is entitled to a
15 specific amount of money that comes from the
16 senior plan.

17 And so the issue is: Should a portion of
18 that money to which he is entitled that would
19 come from those designated funds be placed into
20 another pot because the IRS doesn't allow him to
21 get all the money to which he's entitled, and
22 that he would get that money separately.

23 Is that correct, Counsel?

24 MR. DARAGJATI: That's my understanding of
25 basically how it works.

1 MR. SCHEU: But can we take money out of an
2 ERISA controlled and regulated fund and put it in
3 a different fund? I thought that one of the
4 things in the memo that we got was that we were
5 not allowed to pay it out of the fund and that's
6 one reason we had to do it and it would come from
7 operating expenses.

8 CHAIRMAN SCHMITT: Right. In essence, in
9 order to comply with the IRS regulations, and
10 this is my understanding, that only a certain
11 amount of money can be paid out. They have a cap
12 on that out of that fund.

13 So we have more -- we have the additional
14 amount that we owe in that fund.

15 MR. DARAGJATI: Mr. Scheu, think of it in
16 this manner, that the --

17 MR. SCHEU: But that fund is subject to
18 ERISA. We can't just willy-nilly move stuff in
19 and out of the fund.

20 MR. DARAGJATI: It's not, sir. It's not
21 subject to ERISA. Only -- any government plan is
22 exempted from ERISA. There are still rules and
23 regulations that it must follow --

24 MR. SCHEU: Well, what the Internal Revenue
25 says --

1 MR. DARAGJATI: -- but it's not subject to
2 ERISA.

3 (Simultaneous speech)

4 MR. SCHEU: -- whatever the citation is in
5 this memo.

6 MR. DARAGJATI: Let me just -- if I could
7 draw an analogy. The Police and Fire Pension
8 Fund itself has a corpus by which it pays
9 benefits directly to members.

10 But it also has administrative expenses
11 whereby you'll tell your investment consultant to
12 sell X number of shares of a money-market pension
13 fund -- money-market fund to fund the
14 administrative expenses of the fund. It would
15 work in the same way with the senior staff fund.

16 MR. SCHEU: So you're saying, despite the
17 memo, that we cannot -- that we can shift funds
18 in and out without regard to Section 415 of the
19 Internal Revenue Code?

20 MR. DARAGJATI: No, I'm not saying that,
21 sir.

22 What I'm saying is that to administer
23 administrative costs, any fund in the State of
24 Florida would have to sell or transfer money from
25 its corpus to a separate operating account, and

1 administrative costs are paid out of that
2 operating account --

3 MR. SCHEU: So that further -- the unfunded
4 liability --

5 (Simultaneous speech)

6 THE REPORTER: Mr. Scheu, can you start over
7 again? I'm not hearing you. I'm the court
8 reporter.

9 MR. SCHEU: So that means that we take the
10 money to pay the special plan from the police and
11 firemen from the regular plan --

12 MR. DARAGJATI: No, no, no, sir.

13 MR. SCHEU: -- so that would be to their
14 detriment.

15 MR. DARAGJATI: You're misunderstanding me.
16 I was just drawing an analogy as to how
17 administrative costs and operating costs are paid
18 from the general Police and Fire Pension Fund.

19 What I'm saying is that as a rule, to pay
20 the excess benefit through the arrangement, it
21 cannot be paid directly from the corpus of the
22 senior staff fund. It would come out of the
23 general budget of that fund.

24 So what would happen is a certain amount of
25 money would be transferred from the corpus of the

1 senior staff fund to an operating account.

2 MR. SCHEU: Well, just to be clear, I'm not
3 saying we don't pay this. All I'm saying is
4 before we pay it, we get a clear understanding of
5 what our rights are. This may delay it a month
6 for the general counsel to get this done.

7 I'm not saying that we just ignore what has
8 been done, but what we need to do is clarify what
9 our responsibilities and liabilities are. And I
10 don't believe that time to get this assurance
11 affects Mr. Keane in any way, because if the
12 general counsel finds that we're obligated to pay
13 it, then we pay it. If he finds that we're not,
14 then he can seek appropriate relief as we deem
15 fit.

16 CHAIRMAN SCHMITT: And I believe that the
17 administrative actions --

18 MR. SCHEU: And, Sheriff, that's really
19 what -- I'm not saying -- we're not ignoring the
20 obligation. We're getting a clear indication as
21 to what our responsibilities are from the general
22 counsel.

23 MR. GLOVER: And I appreciate consideration
24 for that, but it just -- it just feels like
25 another broken promise to me.

1 CHAIRMAN SCHMITT: Any administrative action
2 that we take today in regard to the plan will not
3 alter the OGC's options on whatever attempts to
4 reduce the amount they want to pay -- it doesn't
5 change that at all. This is merely an
6 administrative function related to the plan.

7 MR. SCHEU: I see it as a substantive legal
8 act that we need legal advice on.

9 COUNCILMAN HAZOURI: Excuse me --

10 MR. TUTEN: I understand what you're saying,
11 Bill, and I'm not against what you're saying.

12 How -- is there any -- my fear is what's
13 happened in the past is the general counsel will
14 rule something that we don't like. We'll say,
15 No, that's not correct. We'll get our lawyers,
16 then we'll do this whole legal dance.

17 Is there any way, like we've done in the
18 past, where we can say, Hey, general counsel,
19 city council, whoever doesn't agree, how about we
20 just fire off a letter to the attorney general
21 together to get an opinion? Instead of going
22 through all of that, why don't we just go
23 straight to the source and find out what they
24 say?

25 MR. SCHEU: That's fine, but I think that

1 will take longer.

2 MR. TUTEN: Well, I'm just afraid, Bill,
3 that that's where we're going to end up anyway.
4 Based on what I've seen from the general
5 counsel's office thus far -- I know it was just a
6 memo, this, that and the other -- thus far, I
7 don't see them coming back -- you know, I'm
8 trying to be a realist here. You know, nothing
9 against them guys.

10 But the truth is, they're not -- I don't see
11 them coming back with, Yes, you guys can do it,
12 pay the excess benefit out of the fund, transfer
13 this, do that. I think they're going to come
14 back and say what they've already said: No, it
15 wasn't legal in the first place.

16 And we're going to end up in Tallahassee
17 regardless. I'll go over there because I go to
18 football games --

19 CHAIRMAN SCHMITT: Okay. Guys --

20 MR. TUTEN: -- I'd love to go. I'll
21 hand-deliver it.

22 CHAIRMAN SCHMITT: Rich --

23 MR. TUTEN: -- instead of doing all this,
24 why don't we just go to the source and see what
25 he says.

1 CHAIRMAN SCHMITT: Rich, Bill, I'm going to
2 cut off the discussion here. Again, we're
3 starting to go in circles a little bit.

4 I'm going to take one more comment from
5 Councilman Hazouri, and then I think we'll call
6 the motion, vote on the motion.

7 COUNCILMAN HAZOURI: This is just an
8 observation, Mr. Chairman.

9 It's what I tried to say a while ago, maybe
10 it wasn't clear enough. They're going to be
11 meeting next week on the whole plan. You know,
12 in other words, we asked that they go -- you
13 know, to court, but we're going to try to
14 mediate. Hopefully general counsel wants to do
15 that and I know you-all would, if there's any
16 room for mediation.

17 I cannot envision -- this is a subset of
18 that whole plan. And so I can't envision -- I
19 mean, you-all do what to want to do. He
20 rightfully deserves what he's getting and
21 whatever source of revenue you an legally take it
22 from -- I doubt if it would be the city; you'd
23 have to go to another funding source -- but
24 that's fine. I mean, that's what you-all agreed
25 to.

1 But is this agreement right in the face
2 again of the whole pension plan as it is the day
3 that Cindy Laquidara ruled on -- I mean, gave
4 that binding opinion on?

5 I can't help but think that they're going to
6 have to consider -- if you defer it today, no
7 matter what happens, that's going to be a poke in
8 the eye, another hole, in what they're going to
9 be looking at when they take up the whole
10 picture.

11 So if you-all do this today, that's still
12 going to be some decision because it is a sublet
13 piece of that, of what they decide and what
14 you-all decide, whether it's a legal plan or not
15 legal, or you can do it or you can't do it.

16 So if your decision today is to do whatever
17 you're going to do, that's going to carry forward
18 to the whole study anyway and the review of that
19 decision.

20 CHAIRMAN SCHMITT: Right.

21 COUNCILMAN HAZOURI: I don't see how that
22 gets avoided.

23 So if you-all do that today, it's no
24 different than what you-all would be doing
25 normally, except, you know, assuming that your

1 plan is legal, you're moving forward as if it is,
2 and then they're going to look at the whole
3 picture. In my judgment, that's the way it would
4 be viewed.

5 CHAIRMAN SCHMITT: I agree.

6 MR. GLOVER: And just to respond to --

7 MR. SCHEU: I think if you want to defer
8 it -- Tommy, I disagree. We're putting a higher
9 level on the table, and I think we ought to keep
10 our options open. Let's go through negotiations.
11 I hope our lawyers are going to be at that
12 mediation representing us, and Mr. Keane must
13 have a separate lawyer because our lawyer doesn't
14 represent Mr. Keane, as he said last week when I
15 asked him. But at the very least, we should
16 defer it until our meeting on the 19th after the
17 mediation.

18 CHAIRMAN SCHMITT: Okay. I said one last
19 comment, but one last, last comment by Sheriff
20 Glover, and then we will vote.

21 MR. GLOVER: I was going to respond to
22 Tommy.

23 I just see this as kind of a big-picture
24 environment. We've got an opinion from our
25 general counsel. We've got an opinion from the

1 general counsel's office. We've got precedence
2 that Joey so eloquently articulated.

3 Now it comes to us as a board, as a
4 governing board. We look at the whole
5 environment and we make a judgment call. That's
6 what we do.

7 COUNCILMAN HAZOURI: I agree with that.

8 MR. GLOVER: And everybody is trying to do
9 the Lord's work. It's not -- we're not trying to
10 favor anybody. We're trying to do what a
11 governing board does, and that is, look at the
12 terrain and do what's best within the law, the
13 circumstances here. And that's how I see it.
14 That's how I see it.

15 COUNCILMAN HAZOURI: And I agree with you.

16 MR. GLOVER: And, you know, you might have
17 entities come in later and say this, that and the
18 other, but it's our call as a governing board.

19 COUNCILMAN HAZOURI: Just in response,
20 Mr. Chairman.

21 I agree. You-all can do what you need to do
22 as if everything is the same way it's always
23 been, but then in the end, the final decision is
24 going to rest with the decision that you-all
25 reach either in mediation or in a courtroom.

1 MR. GLOVER: Yes, sir.

2 COUNCILMAN HAZOURI: And that's going to
3 effect -- because this is a sublet of that --

4 MR. GLOVER: But any way we go, that's going
5 to be the situation.

6 COUNCILMAN HAZOURI: Right, right. So
7 that's all I'm saying. I'm not advocating you do
8 or you don't do it. I'm not saying he deserves
9 it or doesn't deserve it. I don't even look at
10 it that way. I look at the bigger picture like
11 you're talking about.

12 CHAIRMAN SCHMITT: Okay. I'm going to go
13 ahead -- the formal motion was to defer this
14 decision to OGC for a final -- a formal binding
15 opinion, still retaining our rights under the law
16 to appeal in whatever avenue is available to us.

17 That's the motion, correct, Bill?

18 MR. SCHEU: Yes.

19 MR. TUTEN: One other comment, I promise.

20 Could we have that opinion by the next
21 meeting on the 19th from the OGC?

22 MR. SCHEU: That would be acceptable to me,
23 if they're able to do it.

24 CHAIRMAN SCHMITT: We have Steve Durden from
25 OGC here to answer that.

1 MR. DURDEN: I can't guarantee that the
2 general counsel will have it done, but I know
3 that that would be our goal. I certainly would
4 tell them, and I don't think he's ever missed a
5 deadline of sorts like that. If that's what's
6 necessary, then that's what's necessary.

7 CHAIRMAN SCHMITT: So I think the response
8 is there's no guarantee.

9 MR. TUTEN: The problem I -- I don't mind
10 going along with you, Bill, on this, because I do
11 like certain -- but my problem is, if we defer
12 this to the 19th, then we're going to be right
13 back where we are today then.

14 MR. DURDEN: Let me clarify that. I
15 apologize for being unclear. It will be done.

16 MR. SCHEU: Well, if (inaudible) -- they
17 would have met to mediate, number one. And
18 number two, we might -- and I heard Steve making
19 strong assurances that they would do their level
20 best to get this by the 19th.

21 CHAIRMAN SCHMITT: Right. He just said --
22 he just said it will be done.

23 Again, I hate to cut off comments, but we
24 keep going in the same circle. So I'm calling
25 for the vote.

1 All in favor of deferring it, say aye.

2 (Responses of "aye.")

3 CHAIRMAN SCHMITT: Okay. Rich, did you
4 understand the question? We're deferring this.
5 The motion is to defer it. You're in agreement
6 to defer it, correct?

7 MR. TUTEN: Defer it until the 19th? Yes,
8 correct.

9 CHAIRMAN SCHMITT: Yes. Okay.

10 MR. SCHEU: The 19th is fine.

11 CHAIRMAN SCHMITT: All right. So we have
12 two in favor of deferring it.

13 All in favor of not deferring it, likewise
14 say aye.

15 (Responses of "aye.")

16 CHAIRMAN SCHMITT: So the motion to defer it
17 fails 3 to 2.

18 So the next point of business is whether
19 anybody has a motion to accept the amendment and
20 pass the amendment to the Senior Staff Voluntary
21 Requirement Plan.

22 Does anybody have a motion for that?

23 MR. TUTEN: I'll make a motion.

24 MR. GLOVER: Second.

25 CHAIRMAN SCHMITT: Okay. We have a motion

1 and second to amend the Senior Staff Voluntary
2 Retirement Plan, attachment 2015-8-1, all in
3 favor, aye.

4 (Responses of "aye.")

5 CHAIRMAN SCHMITT: Opposed?

6 (Response of "no.")

7 CHAIRMAN SCHMITT: The amendment passes 4 to
8 1. That took a lot longer than I was hoping.

9 MR. TUTEN: Welcome to the pension board,
10 baby.

11 CHAIRMAN SCHMITT: All right.

12 You have an attachment for the unused annual
13 leave payout for John Keane. The calculation was
14 completed by our controller with the assistance
15 of our former controller, Kevin Stork, who is now
16 the city comptroller.

17 This is for your review, and we can either
18 approve to pay it out today, or you-all can have
19 a chance to look at it and decide to vote on it
20 next week.

21 MR. SCHEU: I've got a number of concerns
22 about this, too, Mr. Chairman. But I'll wait.

23 MR. HERBERT: We don't we wait until next
24 week when he's here?

25 CHAIRMAN SCHMITT: Okay.

1 So the motion is to defer it until next
2 week. Any discussion?

3 MR. SCHEU: Second.

4 CHAIRMAN SCHMITT: All right. We've got a
5 second. Any further discussion?

6 (No responses.)

7 CHAIRMAN SCHMITT: All in favor?

8 (Responses of "aye.")

9 CHAIRMAN SCHMITT: Opposed?

10 (No responses.)

11 CHAIRMAN SCHMITT: Passed unanimously. It
12 will be discussed next week.

13 We have the consulting contract with John
14 Keane. It's also an attachment. It's got a lot
15 of standard language in there, with an hourly
16 rate of \$130 per hour.

17 The term of this one goes to October 31st,
18 which we have another meeting before then, but I
19 just want to point that out, that this is only
20 through October 31st.

21 DR. HERBERT: Move approval.

22 MR. GLOVER: Second.

23 CHAIRMAN SCHMITT: We have a motion and a
24 second to approve the contract as submitted.

25 Anything discussion?

1 MR. SCHEU: I've got a question, please.

2 CHAIRMAN SCHMITT: Okay.

3 MR. SCHEU: On page 3 of the agreement, I
4 would make just two suggestions. That we change
5 the cut-off date to November 30th. We're already
6 halfway through October. That way we'll be
7 further along in the personnel search.

8 And then number -- paragraph 12, we change
9 the termination to 7 days rather than 14.

10 CHAIRMAN SCHMITT: Any other discussion on
11 that, changing seven calendar-days written notice
12 for termination, Number 12; and changing Number
13 15 to, "shall expire on November 30th"?

14 MR. SCHEU: And then I've got a question.
15 If that -- I guess that's an amendment. If that
16 passes, I've got a question for you as the Chair.

17 CHAIRMAN SCHMITT: Well, we can discuss
18 whatever changes we want, and we can make a vote
19 on whether to accept or not. So if you have
20 questions, let's get them out of the way now.

21 MR. SCHEU: My question is, how is it going
22 to be determined how many of the up to 40 hours a
23 week John is going to work?

24 Are you going to direct him as to specific
25 things, or is he just going to come in when he

1 wants, or are there going to be specific tasks so
2 we have some control over it?

3 CHAIRMAN SCHMITT: Well, that's up for
4 discussion. If we want to give him a list of
5 specific tasks, we can certainly do that.

6 The way it has been working this past week,
7 he's been doing many of the functions that he did
8 prior to his retirement, including directing the
9 staff, answering questions from the staff, and
10 taking phone calls related to the pension fund.

11 MR. SCHEU: Is he going to submit time
12 sheets or anything like that so we know what he
13 did?

14 CHAIRMAN SCHMITT: We can certainly have
15 time sheets. He's required to submit invoices to
16 get paid --

17 (Telephone technical difficulties for a
18 brief time.)

19 CHAIRMAN SCHMITT: All right.

20 So to continue our discussion, in order to
21 get paid any of these hours, John is required to
22 submit invoices and they will be paid monthly.

23 So if we want to add some requirements of
24 what needs to be included on those invoices, or
25 if we want to switch -- or anything as far as his

1 specific assignments, we can certainly do that.

2 MR. SCHEU: I just think we need to have the
3 invoices -- and I think John will do this -- is
4 to recite with reasonable specificity for an
5 hourly basis what he does.

6 MR. TUTEN: Well, I think part of it would
7 be to continue the duties he was performing as
8 director before he left and completing whatever
9 tasks that still needed to be completed.

10 I know Larry sent out the email where
11 everyone was kind of divided up into doing
12 different things, you know. And maybe that
13 should be John's focus, as to doing whatever it
14 was he was working on before he retired wrapped
15 up, completed, or at least to the point where the
16 next director can be briefed and move on.

17 CHAIRMAN SCHMITT: Right. And he has
18 provided the Board with several projects that
19 have been in the works and he's continuing to
20 work on those. They have been in previous board
21 packets as well.

22 MR. TUTEN: Correct.

23 DR. HERBERT: And it seems to me that item 7
24 really addresses it. He "shall report to the
25 Board of Trustees at regular meetings and shall

1 be directed by the Board's chairperson or his
2 designee in consultation with the interim
3 administrator, if one is hired."

4 So the bottom line is that he'll operate
5 under the direction of the Chair, and then with
6 the appropriate reporting back to us at the
7 meetings.

8 So, Mr. Chairman, I would move -- I would
9 like to amend my original motion to include the
10 change in item 12, from 14 to 7 calendar days;
11 and item 15, to change the expiration date to
12 November 30th, 2015.

13 CHAIRMAN SCHMITT: Do we have a second on
14 that?

15 MR. GLOVER: Second.

16 CHAIRMAN SCHMITT: All right. Any further
17 discussion?

18 (No responses.)

19 CHAIRMAN SCHMITT: All in favor, approving
20 the hourly consulting agreement, as amended, say
21 aye.

22 (Responses of "aye.")

23 CHAIRMAN SCHMITT: Opposed --

24 MR. TUTEN: Aye.

25 THE REPORTER: Is that one?

1 CHAIRMAN SCHMITT: Those are all "ayes."
2 Opposed?

3 (No responses.)

4 CHAIRMAN SCHMITT: All right. Passes
5 unanimously.

6 MR. SCHEU: I didn't hear the last part of
7 Adam's motion. Did they also change the November
8 30th?

9 DR. HERBERT: Yes, uh-huh.

10 MR. SCHEU: Okay. Thank you.

11 CHAIRMAN SCHMITT: All right.

12 I have two quick items before we go into the
13 Personnel Committee.

14 One: All the trustees got a printout of an
15 email, one of John Keane's email, in reference to
16 an airline ticket. And the allegation was that
17 there was possibly some theft by using the Police
18 and Fire Pension Fund credit card to pay that for
19 airline ticket.

20 And I've checked into that. The Police and
21 Fire Pension Fund, first of all, does not have a
22 credit card; and actually the credit card that
23 was used to pay for this ticket is, in fact,
24 issued to John Keane.

25 So he paid for this with his own credit

1 card. So that should answer any questions
2 related to that. Obviously no theft involved
3 there.

4 The other thing I have is I spoke to
5 Councilman Gulliford, I believe it was yesterday
6 morning, in regards to them not receiving
7 documents for the forensics audit. I assured
8 Councilman Gulliford that we want to give him any
9 and all documents that we have in the -- or at
10 the Police and Fire Pension Fund.

11 I invited him to come on over with any city
12 staff, as many city staff as he has or wants to
13 bring, and I would give them a grand tour of all
14 the files, all the file rooms, all the boxes, and
15 allow him to make copies of whatever files they
16 want to make.

17 (Telephone interruption)

18 CHAIRMAN SCHMITT: I'm going to wait a
19 couple minutes for this ringing to stop,
20 gentlemen.

21 (Pause)

22 CHAIRMAN SCHMITT: Okay. I think it
23 stopped.

24 I also let him know that some of the
25 documents that he described that they are

1 requesting -- they're not sure if they existed in
2 the first place, and if they did exist, whether
3 we ever had a copy and if we still have a copy.
4 But going that far back, even if we had a copy,
5 we wouldn't be required by law to still possess
6 that copy.

7 But, again, I reiterated to him, You're more
8 than welcome to come on over with whatever staff
9 you want and look through whatever files you want
10 and copy whatever documents you want.

11 MR. SCHEU: I think that's great. I that we
12 ought to show that on the minutes because that
13 often doesn't get published in the press. And I
14 think that's very noble and appropriate for you,
15 Mr. Chairman.

16 CHAIRMAN SCHMITT: Thank you.

17 And I also explained to him the slowness of
18 getting the documents is kind of two- or
19 three-fold.

20 One: The volume of documents was a
21 challenge.

22 Two: The staff -- the amount of staff that
23 we have here at the Police and Fire Pension Fund
24 is quite limited. So there really wasn't anybody
25 that could pull away from their day-to-day duties

1 to do most of these things without their regular
2 work falling behind.

3 And then, three, trying to find the
4 documents that they're requesting that we don't
5 even know we have.

6 So all those things combined kind of slowed
7 down that process, but I assured him that he can
8 come on over anytime he wanted, that I would make
9 arrangements to meet him and his staff here and
10 show them where all the files are.

11 So I just want to make sure the Board was
12 aware of that.

13 COUNCILMAN HAZOURI: What was his response?

14 CHAIRMAN SCHMITT: He was quite cordial,
15 thanked me for the offer, said he would possibly
16 follow-up on that, and then he referred me to the
17 forensics auditor.

18 MR. TUTEN: Do any of these documents, do
19 they contain personal information that has to be
20 redacted?

21 CHAIRMAN SCHMITT: I did mention that to
22 him. We are required by Sunshine law to not just
23 release documents, but to not release
24 confidential information.

25 And the type of documents that they're

1 requesting I didn't think would contain any
2 confidential or exempt information like addresses
3 of police officers or firefighters or their
4 Social Security numbers or any of that; but I did
5 let them know that any of the documents that they
6 copied, before they release those, they have to
7 be reviewed to make sure there isn't any
8 confidential or exempt information in there
9 before -- before they release it.

10 MR. TUTEN: Well, I want to say that, too,
11 because, you know, there are numbers associated
12 with employees that are not necessarily Social
13 Security numbers, like employee numbers, PINS,
14 stuff like that, you know, that someone could
15 kind of sort of use to their benefit.

16 CHAIRMAN SCHMITT: Right. But they're under
17 the same legal requirement as we are as far as
18 not releasing confidential or exempt information.
19 But they're more than welcome to come copy with
20 whatever they want.

21 MR. TUTEN: I agree. Good job.

22 DR. HERBERT: Mr. Chairman, are there any
23 implications of that to the subpoena that
24 Mr. Keane has received for bringing all this data
25 over there?

1 MR. SCHEU: Mr. Chairman --

2 CHAIRMAN SCHMITT: Hold on. I have one
3 question from Dr. Herbert in reference to the
4 subpoena that's being issued for the documents.

5 And as I mentioned to Councilman Gulliford,
6 whatever documents are requested in that
7 subpoena, come on over. You can search any and
8 all files, and if they're there, make copies.
9 You're more than welcome to them.

10 Mr. Scheu, do you have another question?

11 MR. SCHEU: I couldn't hear anything so I
12 didn't know what had happened.

13 I've got a motion that I think I sent to you
14 that I would like the Board to consider before we
15 adjourn to Personnel.

16 MR. KEANE: And we've got one more item of
17 business too.

18 CHAIRMAN SCHMITT: Okay. Well, we do have
19 one more item of business.

20 And I sent -- well, Mr. Scheu, I'll let you
21 go ahead after I finish this one.

22 MR. SCHEU: Oh, sure.

23 CHAIRMAN SCHMITT: The other item of
24 business is the 2015 Annual Retiree Pension
25 Bonus.

1 As the trustees recall -- although it's kind
2 of a bad name, that's what it's called -- this is
3 the chapter funds that's allotted each year to
4 give the retirees another payment towards the end
5 of the year. The funds are already provided
6 through Chapter 175 and 185, but it requires
7 annual approval by the Board.

8 Last year I believe we did 2 percent, if I
9 remember correctly --

10 MR. KEANE: 3.

11 CHAIRMAN SCHMITT: 3 percent. Okay. So
12 last year was 3 percent. So if we're going to do
13 that again this year, we need a motion for that.

14 And I want to give the heads-up for next
15 meeting, I also want on that agenda for the
16 remaining amount of Chapter 175 and 185 monies to
17 be allocated to the share plan as part of the
18 pension reform agreement that is in effect
19 already.

20 DR. HERBERT: Mr. Chairman, I'm glad that
21 you raised that because I really feel very
22 strongly that we should begin putting some money
23 into the share plan, and that was one of my
24 questions: Does our doing this preclude the
25 possibility of making a contribution into that

1 plan?

2 CHAIRMAN SCHMITT: Well -- and I don't have
3 the exact dollar amount and hopefully we'll have
4 that by next meeting, but the total amount of
5 chapter money that comes from the state, we've
6 agreed, through the pension reform, that \$5
7 million of that will go to the city.

8 The remaining amount comes to the Board to
9 use as we decide. One of the options is to pay
10 the retirees the bonus.

11 The other option in combination with that is
12 to put the remaining amount in the share plan, or
13 we can give it all back to the city or any
14 combination thereof.

15 DR. HERBERT: Would it be inappropriate to
16 delay the vote on this until the next meeting
17 when we know exactly how much we have, and then
18 we can make a decision about how much to put into
19 this as well as how much to put into a share
20 plan?

21 MR. KEANE: We know the answer to the
22 question.

23 DR. HERBERT: Oh, okay.

24 MR. KEANE: \$5 million, a little over \$5
25 million.

1 CHAIRMAN SCHMITT: That's the total
2 amount --

3 MR. KEANE: Available.

4 CHAIRMAN SCHMITT: Okay.

5 MR. KEANE: The previous money that we had,
6 \$32 million, we transferred over as part of the
7 pension reform into the new unfunded payment
8 account. That was matched with the money that
9 came out of the city budget stabilization
10 account. Those two numbers came up to \$72
11 million.

12 That's the source of the 5 million this
13 year, 10 million, 15 million, and then 8 million
14 on out.

15 Future money, which came in this year, \$10
16 million, a little over \$10 million, 5 million has
17 gone to the city because the pension reform
18 agreement called for a 50/50 split. So there's a
19 little over \$5 million left.

20 Giving this payment to the retirees in
21 December, a little over \$2 million of it. That
22 leaves 3 million to be disbursed into the share
23 plan that was created by the pension reform
24 agreement.

25 We've had ongoing meetings and discussions

1 with the IT folks on the mechanism of setting up
2 that share plan and for that allocation to go
3 into effect in January. That's when that
4 happens.

5 CHAIRMAN SCHMITT: Okay. So today, if there
6 is a motion, we can decide on what percentage for
7 the retirees. If it's 3 percent, it would be a
8 little over \$2 million that would go to the
9 retirees. In that same motion, if someone had
10 one, we could do the remainder of that little
11 over \$5 million to go into the share plan.

12 COUNCILMAN HAZOURI: May I ask a question?

13 MR. TUTEN: I'll make that motion.

14 COUNCILMAN HAZOURI: On your COLA -- or the
15 bonus, is that part -- is that an outside fund
16 that doesn't go into the retirement, or it does?

17 CHAIRMAN SCHMITT: Correct.

18 COUNCILMAN HAZOURI: What?

19 CHAIRMAN SCHMITT: That is paid out.

20 COUNCILMAN HAZOURI: So it is kind of a
21 bonus.

22 CHAIRMAN SCHMITT: That's for the retirees.

23 COUNCILMAN HAZOURI: Right. That's who I'm
24 talking about.

25 CHAIRMAN SCHMITT: The share plan would go

1 into investment accounts for each individual --

2 COUNCILMAN HAZOURI: Right. But the COLA or
3 the bonus goes in as a separate item; it's not
4 part of the pension?

5 CHAIRMAN SCHMITT: Correct.

6 MR. KEANE: Correct.

7 DR. HERBERT: Rich, would you like -- would
8 you allow me to make a specific motion on this?
9 And that is that we approve \$2 million to go into
10 the annual pension -- what do you call this?

11 CHAIRMAN SCHMITT: Annual retiree pension
12 bonus.

13 DR. HERBERT: Annual retiree pension bonus,
14 and that the balance would go into the share
15 plan, whatever is left.

16 Again, it seems to me -- and we've had this
17 conversation before. I just think that our
18 current staff are not getting as fair a deal as
19 they should, and that this would help to address
20 some of those concerns that we discussed
21 previously.

22 MR. TUTEN: I agree.

23 MR. SCHEU: I agree too.

24 The only question I have, Mr. Chairman, was
25 there a limitation in the retirement reform

1 agreement on the percentage or on the dollar
2 amount to the Christmas bonus?

3 MR. KEANE: 3 percent.

4 MR. SCHEU: And the only thing we need to be
5 concerned about is that we comply with whatever
6 that limitation, if any, there was, whether
7 that's in the form of a percentage or in the form
8 of a specific dollar amount.

9 CHAIRMAN SCHMITT: That limit is 3 percent.
10 And \$2 million would be below that 3 percent
11 limit.

12 MR. SCHEU: Okay. Thank you.

13 CHAIRMAN SCHMITT: So the motion is
14 allocating \$2 million to the annual retiree
15 pension bonus, with the remainder of the current
16 year chapter funds going into the share plan.

17 MR. KEANE: Effective in January.

18 CHAIRMAN SCHMITT: Effective January 1st.

19 MR. GLOVER: I'm a recipient of that, so I
20 want to kind of defer.

21 CHAIRMAN SCHMITT: Okay. Good idea.

22 MR. KEANE: You can still vote. Now, last
23 year you voted and said you would forego --

24 MR. GLOVER: Oh, yeah. Okay. Do the same
25 thing here?

1 Okay. I'll vote, with the full
2 understanding for the press, that I am
3 contributing -- I'm going to defer my share of
4 that.

5 MR. KEANE: The sheriff is rejecting his
6 distribution --

7 MR. GLOVER: Yes, yes

8 MR. KEANE: -- of the annual retiree pension
9 supplement. Why don't you use that word instead
10 of bonus.

11 CHAIRMAN SCHMITT: Okay.

12 MS. FRENCH: Mr. Chair, just to clarify.
13 Was there a comment that there's a limit of 3
14 percent on how this money is spent? Because I
15 don't think it's in the agreement. I think
16 you-all can spend it the way you'd like, the 5
17 percent -- I mean, your share can go either to
18 the share plan or to the holiday bonus --

19 CHAIRMAN SCHMITT: No, no. What we're
20 talking --

21 MS. FRENCH: I apologize. I may have
22 misunderstood and I just wanted to make sure.

23 CHAIRMAN SCHMITT: What we're talking about
24 is the amount that can go towards the retiree
25 pension bonus.

1 MS. FRENCH: Got it. And that's in
2 another -- that's not in the agreement.

3 CHAIRMAN SCHMITT: Correct.

4 MS. FRENCH: Okay. I apologize for
5 interrupting.

6 CHAIRMAN SCHMITT: So the motion is \$2
7 million to the retiree pension bonus, remainder
8 of the current chapter funds to the share plan.
9 Sheriff Glover is rejecting his portion of the
10 pension bonus --

11 MR. KEANE: Supplement.

12 CHAIRMAN SCHMITT: -- supplement.

13 And we have that motion, and do we have a
14 second?

15 DR. HERBERT: Trustee Tuten, I think,
16 seconded.

17 MR. TUTEN: I made the second.

18 MR. KEANE: So it's just going to be a shade
19 under 3 percent.

20 CHAIRMAN SCHMITT: All right.

21 Any other comments?

22 (No responses.)

23 CHAIRMAN SCHMITT: All in favor?

24 (Responses of "aye.")

25 CHAIRMAN SCHMITT: Opposed?

1 (No responses.)

2 CHAIRMAN SCHMITT: Passed unanimously.

3 All right. Trustee Scheu, you had another
4 item of business that you wanted to bring up?

5 MR. SCHEU: I did. I appreciate that,
6 Mr. Chairman.

7 Like all of you-all, I have continued to get
8 communications from Mr. Lee. Without speaking to
9 the quality or quantity of -- well, the quality
10 of those communications, they put such a precise,
11 voluminous amount of work on our staff and for us
12 to consider, and some of it may or may not be
13 stuff that we need to deal with, some of it is.

14 So I spoke to the general counsel about it,
15 and they're willing to assign a paralegal or an
16 attorney to handle these on our behalf.

17 I think we would be much more efficient and
18 responsive -- because Mr. Lee is entitled to
19 responses in a timely fashion -- if we referred
20 all communications, all pending communications
21 and all future communication from Mr. Lee to the
22 JPFPPF or to individual trustees, although I don't
23 think that's appropriate, to the OGC with the
24 request that the OGC advise the JPFPPF as to the
25 proper response.

1 I think that will just let Mr. Lee get his
2 money's worth and to let us go on to the
3 important things that we have to do.

4 So I would like to move, with your
5 permission, Mr. Chair, that beginning
6 immediately, the JPFPPF transmit to OGC all
7 pending and future written communications from
8 Mr. Curtis Lee, to the JPFPPF or its trustees,
9 with the request that the OGC advise the JPFPPF as
10 to the proper response, if any, by the JPFPPF to
11 such communications.

12 I think that this is a matter of policy, not
13 just administrative.

14 CHAIRMAN SCHMITT: I'll start with the
15 comments.

16 If we're going to do that, I don't think we
17 should single out Mr. Lee. I think if we're
18 going to do that, we should do that with all the
19 public records requests.

20 MR. SCHEU: Well, I'm speaking with Mr. Lee
21 with all his communications because some of it --
22 it's hard to ferret through them. Some of them
23 are public records requests. Others of them are
24 demands for various actions.

25 So I think I would like to deal specifically

1 with him.

2 CHAIRMAN SCHMITT: Okay.

3 MR. GLOVER: I guess I'm a little bit
4 concerned about the slippery slope too.

5 I guess -- so if we had three or four other
6 people who decided that they have wanted to be
7 somewhat of a watch factor over the -- from the
8 citizen perspective -- over the Police and Fire
9 Pension Board, its administrator, and all of his
10 functions, would we do this for them as well?

11 And I guess that would be my concern.

12 MR. SCHEU: It would be my intention that
13 when that came up, we would probably refer them
14 too, but this is going to be the only one that is
15 overly burdensome at this time.

16 But I would have no objection to referring
17 all similar things, just not all communications.

18 CHAIRMAN SCHMITT: We're all three -- I
19 mean, lucky for us, he usually cc's almost
20 everybody in the city.

21 (Laughter)

22 CHAIRMAN SCHMITT: So OGC usually gets a
23 copy anyhow. But we could certainly request a
24 response from OGC on a proper response to
25 Mr. Lee.

1 MR. SCHEU: I just think that ought to be
2 our policy, and then we've protected ourselves.
3 And he keeps making threats, and I just think we
4 need to have a policy that this is the way we're
5 going to handle them. Then he can deal with it
6 and we can deal with it and, you know, OGC can
7 deal with it.

8 CHAIRMAN SCHMITT: Okay. And you said OGC
9 has already agreed to do this?

10 MR. SCHEU: Yes.

11 CHAIRMAN SCHMITT: Okay. Any further
12 discussion?

13 MR. TUTEN: Would this be kosher with all
14 the Sunshine laws and legalities involved with
15 public records requests of public entities, et
16 cetera?

17 I mean, are we allowed to defer this to them
18 without us actually seeing them first?

19 MR. SCHEU: I think we can always request
20 legal advice.

21 MR. TUTEN: Yes, I -- yeah, I agree with you
22 there, Bill. Believe me, I'm not arguing with
23 you the principle of the matter.

24 But what I have -- you know, if someone
25 makes a public records request of the pension

1 fund but they go through the city, and the city
2 doesn't get to it in proper form or fashion for
3 whatever reason -- I'm not casting aspersions --
4 but you're still sort of in the same spot, it's
5 just a layer between you and them.

6 The real question is two things, like you
7 mentioned. Sifting through the comments section
8 of the request versus the actual request, putting
9 it nicely.

10 Number 2 is: We don't have enough people to
11 deal with this. It's almost to the point where
12 we have to hire someone just to deal with public
13 records. And I know we agreed to let the city
14 help us, and they have, but it still doesn't
15 solve the problem, because if someone besides
16 Mr. Lee comes in, we're bogged down as it is
17 right now.

18 We don't have enough manpower. We don't
19 have enough staff. We've talked about it for at
20 least ten years that I know of.

21 The problem, I wonder, is, can we do this if
22 someone says, You know what, I don't want a
23 public record from the city; I want it from you
24 guys. We're still going to have to fulfill that
25 request.

1 CHAIRMAN SCHMITT: Rich, I think what the
2 process -- we can't send people to another agency
3 to fulfill our public records requests.

4 I think what the recommendation is that we
5 contact OGC and say, Hey, how do you want us to
6 respond? And we have to do the response.

7 MR. SCHEU: That's right. They're our
8 lawyers.

9 CHAIRMAN SCHMITT: Right.

10 MR. TUTEN: Okay. So you -- in other
11 words -- well, Bill, you're going to have to
12 clarify because -- so you don't want to stop
13 people from making public requests to the pension
14 fund; you just want the OGC to give their legal
15 opinion on how we should reply to certain cases?

16 MR. SCHEU: Yes, on these communications,
17 because he's making lots of threats. And I
18 frankly -- it's not my job to go through those,
19 and I don't have the facts on it.

20 So if the OGC can provide us the
21 appropriate response, and it may be really quick,
22 and then we know what to do.

23 But I think we need to have a policy so we
24 aren't distracted, either as trustees or as
25 staff.

1 MR. GLOVER: Bill, I don't disagree with it,
2 but is it appropriate -- well, better yet, is it
3 fair to name Mr. Lee in the motion?

4 That's my question, I guess.

5 MR. DARAGJATI: If I could jump in real
6 quick.

7 The recent agreement that the Board came to
8 with the city -- and Mr. Keane, correct me if I'm
9 wrong --

10 CHAIRMAN SCHMITT: You need to speak up.

11 MR. DARAGJATI: The recent agreement between
12 the Board and the City --

13 MR. SCHEU: -- I think it's appropriate
14 given the voluminous amount of requests.

15 CHAIRMAN SCHMITT: Okay. Paul Daragjati is
16 going to make a comment also here.

17 MR. DARAGJATI: I was just going to say, the
18 recent agreement between the Board and the City
19 calls for the Office of the General Counsel to
20 assist with routine public records requests.

21 I would argue that kind of encompasses what
22 Mr. Scheu is asserting if the Board -- for your
23 consideration. I can get the wording exactly, if
24 you wish, what's in the agreement.

25 CHAIRMAN SCHMITT: I would rather have an

1 amendment of any public records requests where
2 the trustees receive or the Police and Fire
3 Pension Fund employees receive where they're not
4 certain on how to respond, that they send those
5 to OGC for instructions on the appropriate
6 response.

7 MR. SCHEU: I would be happy with that if
8 you added, "and related communications."

9 CHAIRMAN SCHMITT: That sounds good.

10 MR. SCHEU: -- "public records requests and
11 related communications."

12 CHAIRMAN SCHMITT: And I don't think it
13 should be limited to any one individual. I think
14 it should be limited to circumstances.

15 MR. SCHEU: That's fine.

16 MR. DURDEN: And I -- it's Steven Durden,
17 and to confirm what Paul said.

18 Yes, we are there for you guys to answer
19 these kinds of questions. I don't even know
20 that you -- it doesn't hurt to have the motion,
21 but certainly anytime any Board member is
22 concerned about a question, a request that has
23 come to them or a communication that has come to
24 them, they can send it to us. And certainly
25 the -- any staff member who is responding to a

1 public records request or any other kind of
2 similar request that has a concern, then send it
3 to us. That is, in part, what the agreement was
4 contemplating, that you do that.

5 Some requests might be very simple. No need
6 to call us. It's like -- you know, give me --
7 give me the agenda for tomorrow. Okay, fine.
8 That's easy. And then some of them are much more
9 complicated.

10 So obviously we're there -- not obviously --
11 I want to make it clear that we're there.
12 Anytime you need something, you let us know.

13 MR. SCHEU: I appreciate that, Steve. But I
14 think as a matter of policy -- because you know
15 how to deal with it. We don't have to worry
16 about case-by-case. This is the way we're going
17 to handle it going forward. Mr. Lee knows it, we
18 know it, and we don't get distracted by it.

19 CHAIRMAN SCHMITT: Okay.

20 So we have the motion to send related
21 correspondence and any public records requests to
22 OGC received by any trustee or employee of the
23 Police and Fire Pension Fund for an appropriate
24 response in the OGC's opinion.

25 Is that the motion?

1 MR. SCHEU: Yes.

2 MR. GLOVER: Second.

3 CHAIRMAN SCHMITT: All in favor?

4 (Responses of "aye.")

5 CHAIRMAN SCHMITT: Opposed?

6 (A response of "aye.")

7 CHAIRMAN SCHMITT: Passed 4 to 1.

8 Okay. Are there any other items of
9 business?

10 DR. HERBERT: Just Personnel Committee.

11 CHAIRMAN SCHMITT: The Personnel Committee.

12 I'm going to adjourn the meeting, and the
13 Personnel Committee will have a meeting following
14 this meeting.

15 We are adjourned.

16 MR. SCHEU: Can we stay on for the Personnel
17 Committee?

18 CHAIRMAN SCHMITT: Yes, you certainly can.

19 (The Board meeting adjourned at 11:00 a.m.)

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1 CERTIFICATE OF REPORTER

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3 I, Denice C. Taylor, Florida Professional
4 Reporter, Notary Public, State of Florida at Large,
5 the undersigned authority, do hereby certify that I
6 was authorized to and did stenographically report the
7 foregoing proceedings, and that the transcript, pages
8 3 through 80, is a true and correct computer-aided
9 transcription of my stenographic notes taken at the
10 time and place indicated herein.

11 DATED this 23rd day of October, 2015.

12
13 _____
14 Denice C. Taylor, FPR
15 Notary Public in and for the
16 State of Florida at Large

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My Commission No. FF 184340
Expires: December 23, 2018