

JACKSONVILLE POLICE AND FIRE PENSION FUND  
BOARD OF TRUSTEES MEETING  
CLOSED SESSION

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DATE: March 18, 2016

TIME: 12:08 p.m. to 12:58 p.m.

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

BOARD MEMBERS PRESENT:

Larry Schmitt, Board Chairman  
Richard Patsy, Trustee  
William Scheu, Trustee  
Willard Payne, Trustee

ALSO PRESENT:

Beth McCague, Interim Executive Director  
Jake Schickel, Special Counsel

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

Cindy Danese, Notary Public  
AAA Reporters  
233 East Bay Street, Suite 912  
Jacksonville, Florida 32202  
904.354.4789

P R O C E E D I N G S1  
2 March 18, 2016

12:08 p.m.

3 - - -

4 CHAIRMAN SCHMITT: It's 12:08. Call the  
5 meeting back to order, still in public session.

6 I will read from --

7 MS. MANNING: Actually, I think Paul goes  
8 first.

9 CHAIRMAN SCHMITT: Okay.

10 MR. DARAGJATI: Generally I don't like reading  
11 things into the record, but because such a hyper  
12 technical area of the law this is, I'm simply going  
13 to read the rules.14 During the regular meeting, you were advised  
15 of a request by special counsel Jake Schickel of  
16 the need for a closed meeting pursuant to Florida  
17 Statute 286.011(8), the purpose to receive advice  
18 regarding litigation strategy regarding expenses  
19 and settlement negotiations.20 You may not take any votes during this closed  
21 session except to end the closed session. Any  
22 formal action taken following the closed meeting  
23 must be taken in open session.24 As I am not counsel on that case, I will exit  
25 the room as soon as the closed session begins.

1           There will be a verbatim record of the  
2           proceedings that will become public once the  
3           litigation is concluded.

4           I defer to the Chair and I will leave the  
5           room.

6           CHAIRMAN SCHMITT: I have one question and  
7           then I'll read this into the record as well.

8           The notice of an executive session closed  
9           meeting was posted?

10          MS. McCAGUE: It was posted on Tuesday,  
11          Tuesday or Wednesday.

12          CHAIRMAN SCHMITT: So our intent to have a  
13          shade meeting was posted on Tuesday. And I'll read  
14          into the record: As the fund's special counsel has  
15          requested a closed session to receive advice  
16          concerning litigation costs and settlement  
17          strategy, I will take a motion to enter executive  
18          session to discuss the matter of City of  
19          Jacksonville versus Board of Trustees Police and  
20          Fire Pension Fund and John Keane, Fourth Judicial  
21          Circuit, Case Number 2015-CA-007380.

22          A verbatim record of the meeting will be kept  
23          as required by law.

24          The names of the persons in attendance are  
25          myself, Trustee Lawrence Schmitt; Trustee Willard

1 Payne; Trustee Rick Patsy; Trustee William Scheu;  
2 Attorney Jake Schickel, Special Counsel; and Beth  
3 McCAGUE, Interim Executive Director; and Cindy  
4 Danese, court reporter, who will take a verbatim  
5 record of the meeting.

6 The closed session will last approximately 45  
7 minutes. And the motion is made by?

8 MR. PATSY: Me.

9 CHAIRMAN SCHMITT: Trustee Patsy. And second  
10 by --

11 MR. SCHEU: Me.

12 CHAIRMAN SCHMITT: -- Trustee Scheu.

13 MR. PATSY: Is Debbie on your list?

14 CHAIRMAN SCHMITT: Debbie's not on the list.

15 MS. MANNING: I'm leaving when the attorney  
16 leaves.

17 CHAIRMAN SCHMITT: So all in favor?

18 (Responses of "aye.")

19 Opposed?

20 (No responses.)

21 CHAIRMAN SCHMITT: Motion carries. The closed  
22 section will convene at 12:10.

23 MR. DARAGJATI: I would ask the record to  
24 reflect that everyone except those named left the  
25 room.

1           (Whereupon, all persons except those named  
2 herein left the room at this time.)

3           (Begin closed session.)

4           CHAIRMAN SCHMITT: Good afternoon.

5           MR. SCHICKEL: Hello everybody.

6           MR. PAYNE: Nice of you to drop by.

7           MR. SCHEU: Certainly had a dramatic entrance.

8           MR. SCHICKEL: I told Beth it'd be four to  
9 five hours, and she said: No, make it four to five  
10 minutes, and I said: Well, we'll compromise in the  
11 middle then at 45 minutes or less. It won't take  
12 that long.

13           Let me sort of back you up a little bit and  
14 briefly tell you how we got here at this point in  
15 time, at least as far as I was concerned.

16           We had at the -- early on, there was a series  
17 of subpoenas issued by the City Council and others  
18 to the Board to try to resolve things.

19           I was retained then, as well as Hank Coxe, I  
20 think, by Bob Klausner to -- Hank was to represent  
21 Klausner and his firm because certain items had  
22 been subpoenaed from the law firm, and then I was  
23 coming in on behalf of the Board and John Keane.

24           We had a meeting. The Chief was there. We  
25 sat down. The City laid out four or five different

1 options in terms of having to pay John, and we said  
2 fine, and realized right then that that part was  
3 more John's decision as to what to compromise and  
4 how much he would be willing to compromise on the  
5 pension plan.

6 And the other part of it, though, that we were  
7 concerned about as much as anything -- I know the  
8 Chief was and I was, and Bob Klausner was there as  
9 well -- was what the whereases were going to be,  
10 what the -- the gist of what we were agreeing to,  
11 and how we were agreeing and why we were agreeing  
12 and all of that.

13 We left, and nothing really happened for a  
14 while. Partly, the plans were being vetted by an  
15 annuity specialist to tell what the actual numbers  
16 were, and they were crunching numbers and Joey was  
17 going and finding out some other information and  
18 all of that.

19 And just to let you know all the way through,  
20 I was calling the City and talking to a couple of  
21 attorneys there, trying to find out what was  
22 happening, what was going on, and said: Well,  
23 let's sit down and try to work it out, because they  
24 had some of the items together.

25 Matter of fact, we met at -- the Bedell firm

1 was having a party that night. I said -- we  
2 couldn't work a schedule -- so let's meet over  
3 there. We did --

4 MR. PAYNE: Before drinks or after drinks?

5 MR. SCHICKEL: It was before drinks. That's  
6 why the meeting was real quick.

7 (Laughter.)

8 MR. SCHICKEL: And the meeting was real quick  
9 as well because they said: We're filing a lawsuit  
10 tomorrow.

11 And I went: You're what?

12 And they said -- I said: You hadn't told me  
13 this.

14 And they said: Well, we told Hank.

15 And I said: Well, Hank represents Klausner.  
16 I represent the Trustees. What are you doing?

17 Somebody somehow had given them the word,  
18 okay, that they had to file a lawsuit the next day,  
19 which was Friday.

20 MR. SCHEU: This was back in November.

21 MR. SCHICKEL: This was back in November.

22 We had a flurry of phone calls going back and  
23 forth. I spoke with the Chief, I spoke with John,  
24 spoke with some others.

25 We decided at that point that we really

1       couldn't do anything by that afternoon. And, of  
2       course, their timetable for doing something moved  
3       from noontime to 3:00 o'clock to 5:00 o'clock to  
4       midnight, each being an absolute deadline for doing  
5       anything.

6               And I said: I am 99.9 percent sure that  
7       everything's going to be fine and we're going to do  
8       it, and I just need to sit down and walk through --  
9       and I can't do it in five minutes -- with the Chief  
10      or with John, anything else.

11             And then he said: Well, we had marching our  
12      orders.

13             So I said: Okay. Who's giving you the  
14      marching orders?

15             And they told me it was -- I would have to  
16      talk with either Mike Weinstein or Sam Mousa. So I  
17      called both of them, did not get any responses, and  
18      5:00 o'clock came and went. I couldn't do  
19      anything, and so I went home.

20             Low and behold, at about 11:30 that night,  
21      they did file the lawsuit.

22             Monday morning I called them up and said --  
23      I've now had a chance, after we had talked and John  
24      and I had talked -- said: We're agreeable to  
25      everything. We had a few minor details to work



1 out, but everything was fine.

2 They agreed to eliminate them, such as the  
3 language which talked about binding agreement, a  
4 binding legal opinion, which was a big issue that  
5 they had. We contested that very vigorously, and  
6 they agreed just to put "a legal opinion" and  
7 deleted that word. They deleted "unlawful" at  
8 different times and just put "unauthorized."

9 We got down to where we were relatively happy  
10 with everything that was there. We had another go-  
11 round, and by that time -- were you at the second  
12 meeting that we had? We had another go-round with  
13 them. Larry was there and Sam Mousa.

14 MS. McCAGUE: Oh, yes, I was there. That was  
15 just last month.

16 MR. SCHICKEL: Was that it? Time flies when  
17 you get old, so it's a heck of a time.

18 But we had several different meetings and were  
19 able to work things out reasonably easily,  
20 reasonably quickly, and going down the road.

21 They came to this meeting, and I really didn't  
22 realize they were going to be here and do that, but  
23 then it went ahead and we were on a good path.

24 Then City Council met, okay, and if you  
25 haven't seen it, I urge you to see it because it

1 was quite -- I'm a lawyer, not a politician, and so  
2 I was rather shocked at some of the things that  
3 were said and the way it was handled and all of  
4 that.

5 I took as a good sign that they had a shade  
6 meeting, because then the lawyers could sit and  
7 talk honestly with everybody about what was  
8 happening.

9 My concern all along was that -- a couple of  
10 things.

11 Number one, I never felt that your story had  
12 been told to the public or the City Council, okay?  
13 Y'all had just been punching bags by everybody else  
14 who just wanted to say bad things, and I felt -- I  
15 kept saying: How can we get this out?

16 And in talking with Beth, she came up with a  
17 great idea, which was to file an answer or a  
18 pleading in the lawsuit.

19 My concern about going directly to the  
20 Council, which I debated doing, was that it would  
21 make the General Counsel's Office upset, okay? And  
22 I had seen enough emotion in the City Council  
23 meeting, knowing that emotions were driving a lot  
24 of what was happening as opposed to considered,  
25 thoughtful action by anyone. And I didn't want

1 General Counsel using some of them, but Beth's idea  
2 was great.

3 So I notified Rita Mairs, who was in the  
4 General Counsel's Office, that I was going to go  
5 ahead and file a responsive pleading. She went  
6 ballistic, saying: No, no, please don't do that.  
7 I haven't served you yet.

8 Well, as we have talked at different times,  
9 service of the lawsuit is a technical thing that  
10 starts the clock running for the defendants, okay?  
11 I am under no duty or obligation under the law  
12 right now to do anything because they haven't  
13 served the lawsuit.

14 Now, that doesn't mean I can't file something,  
15 because it is of record over there right now, and  
16 we would proceed. Several people had asked me that  
17 at different times. We discussed it, and I said:  
18 It's no big deal.

19 In fact, I told the City that if they ever  
20 wanted to serve it, just tell me, and I would  
21 accept service for the Board as well as for John.  
22 There's no sense a deputy or a process server  
23 walking in and going: Here.

24 We've seen that recently in the news, and I  
25 thought that was a horrible thing to -- is a

1 horrible thing to do. It was very inappropriate to  
2 get the news media in it.

3 Anyway, so then, after the shade meeting,  
4 though, I called her and I said: What's going on?

5 And, of course, they couldn't tell me, just  
6 like y'all can't tell the world as we leave here  
7 what happened at the shade meeting, because it is  
8 confidential until it's later disclosed in the  
9 minutes later on by the court reporter, which will  
10 be after the litigation is over.

11 That's the background.

12 Now, why things have happened and what's gone  
13 on the way they have, I, from a legal standpoint,  
14 really don't always understand everything, okay?  
15 They're doing things that just don't make sense.  
16 Why they filed the lawsuit and haven't said: Serve  
17 it, Jake, do something, let's get it on down the  
18 road, I don't know.

19 There are lots -- several City Councilmen  
20 asked that same question at the meeting, and nobody  
21 responded, as I recall, and told them why they  
22 haven't done it.

23 Even after the City Council at that meeting  
24 didn't do anything, the public meeting, they still  
25 haven't served the lawsuit.

1 I was encouraged at the -- Beth was all upset.  
2 She watched it. I watched it on TV a day or so  
3 later. But I was encouraged by what happened  
4 because there were a couple of people saying no,  
5 but I got the gist that most people wanted to go  
6 forward, and once the shade session was mentioned,  
7 it encouraged everybody to say: Yes, this is where  
8 we can go.

9 Now, two things happened also that were in  
10 addition to that. One was that they rejected  
11 Councilman Crescimbeni's motion to go back to the  
12 original numbers or cut the numbers in half, okay?  
13 The Council defeated that, which encouraged me to  
14 say they either want to do it or not do it.

15 And the second thing they did was, the auditor  
16 had -- and us in the process had made some  
17 suggestions that we change the language of some of  
18 the whereases, and this one -- I don't remember the  
19 exact language now, but the whereas in essence said  
20 the City didn't discover that this pension plan  
21 existed until --

22 MS. McCAGUE: 2012.

23 MR. SCHICKEL: -- 2012, and the auditor agreed  
24 that that wasn't true and they deleted that  
25 language.

1           So that was a technical amendment that the  
2 auditor general -- inspector general -- council  
3 auditor suggested. General Counsel agreed with it,  
4 and it was very important, I felt, for y'all to  
5 have that straightened out.

6           So we were -- I was encouraged by all of that,  
7 okay? In spite of the rhetoric, I figured saner  
8 heads would prevail and it'd happen.

9           Shade meeting came along and nothing, okay?  
10 As far as I know, it's not back on City Council  
11 agenda. I asked the General Counsel, they said  
12 nothing. They wouldn't tell me anything.

13           We prepared then a motion to dismiss or abate,  
14 which are legal -- have I shared -- have we shared  
15 that with everybody? I brought some with us. It's  
16 a long lawyer gobbledygook-type thing that tells  
17 you a lot about what we're saying. Some of it will  
18 be changed, I just haven't sat back down and did  
19 it --

20           MR. SCHEU: From what we --

21           MR. SCHICKEL: -- from what we've talked  
22 about.

23           But I wanted to -- she told me: Please don't  
24 file it, please don't file it.

25           And not wanting to make the lawyers mad, okay,

1 because clients oftentimes listen to lawyers, not  
2 always, but I didn't --

3 MR. PATSY: Clarify something for me.

4 MR. SCHICKEL: Yes.

5 MR. PATSY: This says the City of  
6 Jacksonville. Does that mean City Hall, or does  
7 that mean City Council, or does it mean  
8 collectively the two?

9 MR. SCHICKEL: I think that means -- I would  
10 guess that means the City Council and the  
11 administration. But City Council is the -- is  
12 likened to the Congress, which can pass laws and do  
13 things. It's also part of the government, is the  
14 executive branch, along with the judicial branch.

15 MR. SCHEU: It's the City. They're not a  
16 separate entity.

17 MR. PATSY: Right. I'm just trying to -- I'm  
18 curious as to where the motivation to file this  
19 came from. You mentioned Sam and Mike being  
20 involved in the process, and that's City Hall.  
21 I've heard a lot of discussion about the City  
22 Council being in the argument, but it sounds like  
23 Sam and City Hall filed the suit, but --

24 MR. SCHICKEL: I have not been privy to the  
25 information that will tell me all of that. I think

1 what's happened is the City Council finance  
2 committee -- and anybody correct me if you know  
3 more or have different feelings, because they  
4 didn't tell me. But I think the City finance  
5 committee got involved with this and said: We want  
6 to resolve this issue.

7 They passed the -- passed an ordinance or  
8 resolution which said: File suit against the  
9 Board, but you can settle it if you can.

10 MR. SCHEU: Which is why in November they told  
11 the City Council -- whoever that leadership was,  
12 probably Gulliford or Crescimbeni, said: You've  
13 got until end of business Friday to file a lawsuit,  
14 which they did.

15 And the General Counsel represents not only us  
16 but also the Mayor and all the others. So he felt  
17 he had a duty to file because he's been directed by  
18 his client. I think that's what happened.

19 MR. SCHICKEL: That's the best I understand it  
20 as well.

21 MR. PATSY: Because if we can't identify  
22 exactly where the impetus for this lawsuit came  
23 from, then can we really figure out how to settle  
24 this thing and resolve it without --

25 MR. SCHICKEL: Well, everyone -- and, Chief,



1       you were there, and I think everyone decided at the  
2       meeting that it needed to be resolved by ordinance,  
3       okay, that the settlement would be an ordinance as  
4       opposed to just everybody sitting down and signing  
5       a document saying we agree.

6               Do you recall those discussions?

7               CHAIRMAN SCHMITT: Yes. And I think it's  
8       pretty clear that the drive to file the lawsuit  
9       came from the City Council. Not the Mayor's  
10      office, City Council.

11              And just to give a little bit more background  
12      to our newest Trustee, this all stems back to John  
13      Keane's -- well, there's three members in a senior  
14      volunteer requirement plan.

15              Initially, when John was hired at the Police  
16      and Fire Pension Fund, the Board at that time  
17      wanted to put them into the general employees  
18      pension plan, which is the City's general pension  
19      plan, general employees pension plan.

20              At that time, the City said: No, he can't go  
21      into our pension plan. He's not a City employee,  
22      he's an employee of the Police and Fire Pension  
23      Fund.

24              So several years later, I think it was in  
25      2000, the Board at that time decided they were

1 going to initiate the process to create a pension  
2 plan for the Police and Fire Pension Fund employees  
3 who were not in the general employees pension plan.

4 So that's where this all started.

5 So over the years, the pension fund obviously  
6 paid John Keane a salary, paid into his pension  
7 plan.

8 Upon getting ready to retire, I guess, or  
9 getting close to retirement in 2011, 2012, the  
10 issue arose as to how much John Keane's actual  
11 pension payments were going to be, and that's what  
12 started this whole trail down this, ultimately  
13 ending in this lawsuit that hasn't technically been  
14 filed yet.

15 MR. SCHEU: It has been filed.

16 MR. SCHICKEL: It's been filed.

17 CHAIRMAN SCHMITT: Oh, it has been filed?

18 MR. SCHICKEL: Yes.

19 CHAIRMAN SCHMITT: Hasn't been served.

20 As an employer, the pension fund, from the  
21 perspective of an employer, paid John Keane a  
22 certain salary each year and paid him -- or  
23 promised him a pension for those years of service.

24 So that's why, when this whole thing started,  
25 really, from an employer's perspective, whether

1 we're getting sued by the City, one of their  
2 suggestions is that we just stop paying John Keane  
3 his pension.

4 Well, from a federal lawsuit standpoint and an  
5 employer's standpoint, I don't see how we could  
6 possibly do that and not be shown -- we would get  
7 sued by John in that case, and I don't see how  
8 there's any way possible we would win that lawsuit.

9 So taking that into consideration, that's how  
10 we've hired Jake to represent us and basically John  
11 at the same time, because if we don't pay the  
12 pension, we'll get sued by John.

13 So really it's in our best interest to have  
14 this settled with the support of John, he's happy  
15 with the settlement and we don't get sued again by  
16 not paying a pension.

17 MR. PAYNE: So John has agreed to an amount of  
18 some --

19 MR. SCHICKEL: Yes.

20 CHAIRMAN SCHMITT: He did.

21 MR. SCHEU: As did the General Counsel's  
22 Office.

23 CHAIRMAN SCHMITT: Right.

24 MR. SCHEU: But the City Council did not.

25 CHAIRMAN SCHMITT: They rejected that and had

1 a shade meeting, and that's where we are now.

2 MR. SCHICKEL: Right.

3 MR. SCHEU: And there's only one little twist  
4 to that that I might have a slight disagreement,  
5 because Jake and I have discussed whether or not --  
6 because if a circuit judge does rule that the  
7 pension plan was void ab initio -- which I don't  
8 think that's going to happen, but that's a  
9 possibility -- we would have paid out that money  
10 and not be able to get it back.

11 So I've raised with Jake the possibility of  
12 paying what we promised into an escrow account  
13 rather than to John. That would also, presumably,  
14 increase some leverage. But Jake and I -- he  
15 explained that to me one time, but I don't remember  
16 in my old age.

17 MR. SCHICKEL: We would look at each and go:  
18 Now, what was that? What was that?

19 (Laughter.)

20 MR. SCHICKEL: Let me carry you just a little  
21 bit further than that, which will bring us up to  
22 probably right now.

23 I think it is the City Council's the  
24 motivators behind it. I think they're the ones  
25 that are telling the General Counsel what to do,

1 and I think they're moving forward.

2 The General Counsel wouldn't tell me what  
3 happened at the shade meeting.

4 I'm going: Are we going ahead with the  
5 litigation or what?

6 And the answer was: Well, I guess so.

7 So it made sense for us to go ahead and file  
8 something, which is going to be to tell everybody  
9 where we were coming from and what our position  
10 was.

11 And she said: Please don't do that. She said  
12 -- she told me that they would share it with the  
13 City Council when they had their shade meeting. I  
14 took her at her word, and so that's where we are.

15 What happened after that last conversation  
16 was: I guess we're going ahead with the  
17 litigation.

18 I got an email requesting 25 different items  
19 from y'all, which were minutes, which were notices,  
20 which were --

21 MS. McCAGUE: Copies of documentation of  
22 posting of notices, copies of reports from the  
23 compensation committee of the Board and personnel  
24 committee of the Board, and requests for emails  
25 from the time that this plan was created in '99 and

1 2000, among other things. It's an extensive list.

2 MR. SCHICKEL: Here's the list. I didn't  
3 bring one for everybody, but you can look at it.

4 So as a result of that, I called them and I  
5 said: What are we doing? Why are you requesting  
6 that? Is it for you, or is it some third party  
7 requesting that?

8 Because if it's for -- if it's in part of the  
9 lawsuit, it technically ought to be part of a  
10 pleading somewhere. If it's not, then it ought to  
11 come some other way. And if wasn't part of the  
12 lawsuit, I was going to give it to Klausner or the  
13 City and say: Y'all figure it out. No sense  
14 paying me to do that.

15 She said: It's part of the lawsuit. She  
16 said: We need to figure this out.

17 Reading between the lines that I got -- now,  
18 subsequent to that, Beth and I did meet with Loree  
19 French, who's Assistant General Counsel, and talked  
20 about getting this information together and what  
21 was happening and letting them look at it.

22 So I think that what happened, the gist I got  
23 reading between the lines, anyway, was that the  
24 General Counsel's Office was not going to go  
25 forward with any sort of settlement talks or

1 discussions anymore until they were satisfied that  
2 the creation of this pension was legal from a  
3 sunshine standpoint. They had not ever addressed  
4 that or looked at that until Councilman Crescimbeni  
5 said something that night, that he had been  
6 informed that this, that and the other occurred.

7 Beth has done a lot of work in trying to find  
8 and put together all of that information, and from  
9 everything I understand and have seen, it was  
10 created in the sunshine and there are no sunshine  
11 problems with when it was created.

12 As a matter of fact, part of it which became  
13 humorous, and I asked Loree when she came over to  
14 bring it with her, so she was asking me for public  
15 information, I wanted it from her, which is what  
16 was the City's policy in 1999 --

17 MS. McCAGUE: '99 and 2000.

18 MR. SCHICKEL: -- to 2000 for doing public  
19 notices of meetings and so forth.

20 I found out Beth had been asking Durden for  
21 that for weeks and had no answer. And when Loree  
22 came over, she had no answer. And as we told her,  
23 I said: Well, it's our understanding that the  
24 Board would provide notice to the City and the City  
25 distributed it. So if the City didn't distribute

1           it, that's your problem, folks.

2           But I think that's -- I can understand her  
3 point, that if it was brought up, okay, that to  
4 settle the case and then have some citizens lawsuit  
5 come along and a court someplace said: Oh, it  
6 wasn't in the sunshine, then you lose. I mean,  
7 then the City Council looks bad, the General  
8 Counsel and everybody else looks bad.

9           So they're trying just now to vet it and see  
10 whether or not that was accurate or not.

11           All of this gets tied up in a whole lot of  
12 city law, state law and federal law, okay? And  
13 it's sort of like a bowl of spaghetti, you never  
14 know what you're going to get when you reach in  
15 there, which noodle is going to come out.

16           There is language out of the Florida Supreme  
17 Court and others that says: Establishment of a  
18 pension is part of someone's remuneration, their  
19 salary, their pay. It may be called a pension, but  
20 it's part of their pay.

21           And from all indications, if everything  
22 happens, this Board has the right to do and set the  
23 compensation of anybody, any of your employees,  
24 without regard to all the other formalities that  
25 they're talking about.



1           One of the reasons why we wanted to get this  
2 out and we tried to put right in the first is that  
3 we don't believe that Cindy's opinion -- Cindy  
4 Laquidara's opinion that this was an -- only the  
5 City Council can authorize a pension is incorrect,  
6 for a couple of reasons.

7           It's correct in the sense that -- subtle  
8 differences -- only the City Council can establish  
9 a pension for a City employee, but as the Chief  
10 said a minute ago, none of the employees here are  
11 City employees.

12           MS. McCAGUE: Well, the director is not.

13           MR. SCHICKEL: Oh, okay.

14           MS. McCAGUE: The other employees are  
15 employees of the City.

16           MR. SCHICKEL: Well --

17           MR. PATSY: And that's a change, correct?  
18 Isn't it a change?

19           MS. McCAGUE: No.

20           MR. SCHEU: But he's never been a City  
21 employee.

22           MS. McCAGUE: He's never been a City employee.

23           MR. SCHICKEL: Well, Cohee and Walmsley  
24 weren't either.

25           MS. McCAGUE: That's correct.

1 MR. PATSY: The three people on the --

2 MS. McCAGUE: The three people were not a part  
3 of the -- were not employees of the City, but the  
4 other employees here are.

5 MR. PATSY: Okay. So you --

6 MS. McCAGUE: I am a contractor. I have no  
7 part of any pension.

8 MR. PATSY: Right. But the executive  
9 director --

10 MS. McCAGUE: Is employed by the fund.

11 MR. PATSY: -- is part of the plan. And who's  
12 the third person?

13 MS. McCAGUE: A woman named Donna Wollins,  
14 something like that.

15 MR. SCHICKEL: Walmsley.

16 MS. McCAGUE: Thank you.

17 MR. PATSY: Is she retired?

18 MS. McCAGUE: Oh, yes. And her pension  
19 portion is very small.

20 MR. PATSY: So all three of the participants  
21 in that plan effectively were retired.

22 MR. SCHEU: Are retired.

23 MR. PATSY: Or --

24 MS. McCAGUE: Or survivors.

25 MR. PATSY: Or a survivor.

1 MS. McCAGUE: Correct.

2 MR. PATSY: All right, got it.

3 MR. SCHICKEL: Now, as we talk about this some  
4 more, from a legal standpoint, I don't like to -- I  
5 sue people, okay? I didn't want to bring -- or  
6 bring Walmsley or Dick Cohee's wife into all of  
7 this.

8 We did allege that they're indispensable  
9 parties, though, because, technically, if they're  
10 going to abolish this or think that they can, then  
11 they got to do it to Walmsley and Cohee's widow at  
12 the same time. And while I didn't want them  
13 around, you just sort of had to do that.

14 I was also hopeful that it would soften things  
15 a little bit, as they started seeing: Oh, my  
16 golly, we're going to have to do something to these  
17 people as well. Because it's totally inconsistent,  
18 in my mind, to say: We're going to treat John this  
19 way and we're going to treat everybody else like  
20 none of this arose, like everything with them was  
21 fine but with John we don't like it.

22 I think from listening to City Council and all  
23 that, the only thing that they're griping about  
24 John with is the amount of the money.

25 They all agreed, at least Councilman

1 Crescimbeni, as I heard him say about four  
2 different times: He's entitled to a pension.

3 They just don't like the amount. But the  
4 amount of the pension is determined by the length  
5 of service, as well as your salaries, and that's  
6 what it was. So there's not a whole lot getting  
7 around.

8 But we felt Cindy was wrong in that sense. We  
9 felt that an agency of the City of Jacksonville had  
10 not asked her to write that opinion. In other  
11 words, City Council didn't do it, Mayor didn't do,  
12 this Board didn't do it. And so, therefore, it was  
13 just like --

14 MR. SCHEU: It's just a memorandum.

15 MR. SCHICKEL: Yeah, sending something out.

16 CHAIRMAN SCHMITT: And there are all other  
17 independent agencies in Jacksonville, of  
18 Jacksonville, who have created pension plans within  
19 their agencies, not through City Council.

20 MR. SCHICKEL: So --

21 MR. PATSY: And they didn't have to go through  
22 City Council to do that.

23 CHAIRMAN SCHMITT: Correct.

24 MR. SCHEU: Correct. So could we -- I would  
25 like to get off to Atlanta. Could we just sort of

1 cut to the chase?

2 MR. SCHICKEL: Yes.

3 MR. SCHEU: I feel that we really ought to put  
4 our position of record so that City Council sees  
5 it, it's in black and white, and they say: Well,  
6 you know, they really do have a pretty good case.

7 Now, I realize the General Counsel may have  
8 communicated that.

9 We really feel like we ought to file the  
10 motion to dismiss. That might put more pressure on  
11 the -- the General Counsel is not our counsel, and  
12 we might want to please them, but I just feel  
13 strongly that the public hasn't seen this, and so  
14 you get the newspaper, which doesn't like John  
15 Keane either -- we need our legal -- we've got a  
16 strong legal position, and we're just being (makes  
17 sound).

18 MR. PATSY: And the one point that was brought  
19 up earlier about the pension plan being created  
20 without the knowledge of City Council, the thing  
21 that was redacted from the --

22 MR. SCHICKEL: Right, the discovery, the  
23 discovery language, yeah.

24 MR. PATSY: Well, to the best of my knowledge,  
25 that's still out there in print as far as the paper

1 is concerned. Just because they made that  
2 declaratory statement, everybody takes it as fact,  
3 even though they backpedalled and said: Okay,  
4 well, maybe we did know about this before 2012.

5 MR. SCHICKEL: Well, we had --

6 MR. PATSY: That story doesn't get out.

7 MR. SCHICKEL: Well, I think the rest of it is  
8 that, as we go through it they're going to see that  
9 there was -- well, John told me that the City  
10 Council didn't audit the books here for 10 years,  
11 12 years.

12 So all the financial stuff was there. It was  
13 plainly visible to all of them. But they, quote,  
14 unquote, didn't discover it because they didn't  
15 look, you know.

16 And so I think that a lot of this is just, you  
17 know, the perfect storm hit. If we didn't have a  
18 big deficit right now, we probably wouldn't have  
19 that. But we've got a big deficit, we've got John  
20 making a lot of money, we've got public records  
21 enthusiasts running around everywhere doing all of  
22 that and so forth.

23 So what I want to do is to bring y'all up to  
24 date on where it is.

25 I was thinking and we have started -- and sort

1 of what you're talking about. We can request  
2 admissions, say: City, do you agree this is true,  
3 do you agree this is true, do you agree this is  
4 true.

5 If they deny them and they are in fact true,  
6 then there's certain penalties assessed against the  
7 City, the other side, for wrongfully denying, okay,  
8 and also asking for the audit reports that were  
9 going on.

10 So we were sort of putting together a package  
11 to do that, and then stopped when she said don't,  
12 and she assured me it was going to be there.

13 But I'm happy to go ahead and start moving  
14 forward on this. Doing nothing doesn't cost y'all  
15 money. Doing something does cost you money. But  
16 as much as anything else you can see, it's a  
17 political decision, because Sam Mousa agreed, Mike  
18 Weinstein's agreed. The General Counsel, to the  
19 extent that they're willing to agree, they  
20 negotiated the deal, and they agreed. And we're  
21 just now to the City Council.

22 And is going forward with the litigation end  
23 of it, getting our story out, going to help or hurt  
24 in the long run. And so that's sort of a political  
25 decision, which I'm not an expert in.

1           CHAIRMAN SCHMITT: I would prefer to make  
2 these decisions based on facts and not politics.  
3 And from a business perspective --

4           MR. SCHICKEL: Sounds like a good policeman  
5 and a good lawyer.

6           CHAIRMAN SCHMITT: Well, from a business  
7 perspective, this whole lawsuit doesn't make any  
8 sense. Whether you agree with the salary that John  
9 Keane was paid or not, that was his salary. That's  
10 indisputable. The number of years that he served  
11 as the executive director of the Police and Fire  
12 Pension Fund is not disputable.

13           So to come back after he's about to retire and  
14 say: We're going to change the amount that we  
15 agreed to pay you, to me we can't win that case.  
16 There's no way we can win that case from an  
17 employer's perspective.

18           So this political lawsuit just doesn't make  
19 any sense to me, and especially when you factor in  
20 we are going to spend more money on the lawsuit  
21 than we would save the difference between what they  
22 want to pay John and what he's legally entitled to.  
23 We will pay more in attorneys' fees than that  
24 difference. It makes zero sense to me.

25           So I'd like to get this resolved, and I think



1 one of the ways to do that is to push forward with  
2 filing this response, to get it on the table, try  
3 to stop the silliness, let them come up with a  
4 settlement, we agree to it and we move on.

5 MR. SCHEU: In the City Council debate, you  
6 heard it, they said they were willing to spend up  
7 to over a million dollars to collect \$600,000.

8 CHAIRMAN SCHMITT: Makes no sense.

9 MR. SCHEU: It's ridiculous.

10 MR. PATSY: Depending why, foolish.

11 MR. SCHEU: Until you get it out in the public  
12 that they can start getting political pressure  
13 coming the other way, maybe it is better to settle.  
14 You basically got Bill Gulliford and John  
15 Crescimbeni driving the debate, driving the  
16 insistence.

17 And their people, like that Becton guy, he  
18 turned out to be a reasonable guy. And there are  
19 others that want to just put it behind them. And  
20 for the good of the community, this just needs to  
21 get behind us. I just really think you've got to  
22 do that.

23 MS. McCAGUE: So, Jake or Bill, could you  
24 detail then what happens if you file this motion to  
25 dismiss? What should we expect happens in the

1           judicial system and what will happen with the City  
2           attorneys?

3           MR. SCHICKEL: Well, from a legal standpoint,  
4           once it's filed, it starts the process going.  
5           We'll call it up before a judge and have a hearing  
6           on it where the judge will look at it and read it  
7           and decide whether it's accurate or inaccurate.

8           Candidly, there's a lot of argument in it that  
9           isn't technically supposed to be there. A lot of  
10          it, the judge may say: Well, they've stated a  
11          cause of action. I'm going to let it go forward,  
12          or I'll want to strike certain portions of it, and  
13          then decide what's valid and legally binding and  
14          not.

15          It's almost that you need evidence to show  
16          this, but we're going to try to do it through  
17          ordinances and statutes, saying: This is the  
18          General Counsel's duty, this is responsibilities,  
19          this is what a binding opinion is. This isn't  
20          that, okay?

21          The judge can make a decision then and strike  
22          part of it, leave part of it, or say abate it  
23          because you haven't done it the right way.

24          The City Council has not made a demand on this  
25          body as of this point in time. Cindy did not issue

1 a ruling to this body at all saying you can't do  
2 it.

3 MR. SCHEU: She gave a memorandum and said it  
4 was preliminary anyway, saying that the City  
5 Council was the only entity that could create a  
6 pension for a City employee, and John wasn't a City  
7 employee.

8 And that's a legal issue that a judge could  
9 decide on a motion to dismiss. You wouldn't have  
10 to take testimony for that.

11 MR. SCHICKEL: So he could say yes, no, or  
12 parse it up, or: City, it's dismissed. Go back  
13 and you can try again, phrase it differently.

14 During the course of that, and I think when we  
15 file this, we want to file along with it a request  
16 to produce, which is what Beth and I talked about  
17 it for a period of time, the types of documents  
18 that they've got, like: Well, show us where the  
19 auditor looked at all these records at any point in  
20 time, as well as some admissions, admit that this  
21 wasn't delivered directly -- was not an opinion  
22 directly to this Board or was not on behalf of an  
23 agency of the City and start setting it up.

24 Then, after that, it will start -- that's the  
25 paper discovery that we're talking about. And then

1           it starts people discovery, which is probably a  
2           deposition of John, a deposition of the chairman  
3           back then, what was happening, who did what, who  
4           said what.

5           But a lot of the paperwork is going to be out  
6           by that time, which is going to be people just  
7           saying: Well, on such and such a date, here are  
8           the minutes of the meeting.

9           MS. McCAGUE: So, alternatively, if we did not  
10          officially file this motion, then the City  
11          attorneys would do their work to look to see from  
12          their viewpoint were there any sunshine violations,  
13          and I don't think they will find any, and then we  
14          would still be in a position that there may be  
15          settlement?

16          MR. SCHICKEL: I should certainly hope so. It  
17          could have been -- it could have been -- and we  
18          don't know the answer -- it's a shade meeting --  
19          while there are no votes taken, everybody looked up  
20          and said: Full speed ahead. We don't want to make  
21          a decision and settle it. We want a court to  
22          settle it.

23          And so I'm hopeful, though, that saner minds  
24          will prevail in despite of some of the things that  
25          we saw.

1           My suggestion, if that's where you want to go,  
2           is to give them -- I don't want to fall into what  
3           they've done to us at different times, okay? I  
4           want to take the higher position.

5           I think, just like I saw at different times,  
6           if we've got records to give them, let's give them  
7           to them as soon as we can get them together. Let's  
8           not have a bunker mentality or make them fight for  
9           everything. All of this is public records.

10          But I would say that we tell them that by  
11          April 1, which is two weeks, a little less than two  
12          weeks, 10 days or so, we don't have some direction  
13          in this from them, we're going to file an answer or  
14          file these papers --

15          MR. SCHEU: Well, let me just --

16          MR. SCHICKEL: -- which -- I'm sorry -- which  
17          may give them the opportunity to say: Wait a  
18          minute. We're taking it back, give us some more  
19          direction. If not, then, you know --

20          MR. SCHEU: I just think it's like rope-a-  
21          dope. I mean, I just think we're just -- and I  
22          would normally counsel that sort of thing, but then  
23          they got to go back to the City Council and you got  
24          to do it all over again.

25          You can still settle it. You say: Loree,

1           this has drug on for so long, you've given us no  
2           direction, so we're going to go ahead and file the  
3           motion and hope we can settle it. We're giving you  
4           stuff, we're going to ask you for stuff.

5           I wouldn't wait to get all the discovery  
6           pleadings done. I'd go ahead and file it.

7           MR. SCHICKEL: No, I'm --

8           MR. SCHEU: And just say: You know, it just  
9           frames it, and you can still settle it.

10          We are just getting beat up everywhere. At  
11          the Rotary Club, the questions you got, you got  
12          them about John, about this.

13          And I had lunch yesterday with Jerry Holland.  
14          He said he gets asked: Why did you do that stupid  
15          thing and approve that 30-year agreement back in  
16          1990? You were the president of the Council. He  
17          said: Well, because the administration --  
18          everybody said it was okay.

19          MR. PATSY: And to be honest with you, when  
20          you looked at the numbers back then, 1999, equity  
21          returns -- or four years prior to that, you know,  
22          20 percent, 18, 20 percent, so the numbers were  
23          good. The expected rate of return was 8 1/2  
24          percent, very high number.

25          So the funded status of the plan was probably

1 very healthy, so it seemed like a very reasonable  
2 -- and then world changed.

3 MR. SCHEU: I don't think we need to take a  
4 vote, just like the City Council didn't take a  
5 vote, so that it doesn't -- we don't have a public  
6 meeting after this, then we get the sense of the  
7 Board that we feel the motion ought to be filed.

8 MR. PATSY: I'm not an attorney, but I would  
9 defer to you, Bill and --

10 MR. PAYNE: I know I would. I just think that  
11 we need to get this behind us and move forward,  
12 because this will have a bump for all the other  
13 stuff that we're trying to do and move forward.  
14 That's what I'm hearing publicly, from the public,  
15 and we just need to get it behind us.

16 MR. PATSY: There are going to be a lot of  
17 people that aren't going to be happy about this --

18 MR. PAYNE: Exactly.

19 MR. PATSY: -- but we'll deal with it.

20 MS. McCAGUE: And one thing -- I don't have a  
21 view on this, but I remember that Council -- some  
22 of the Council members at the meeting were  
23 concerned about litigation being filed while the  
24 Mayor's bill was being processed in Tallahassee.  
25 And so we may need to think about -- I think Mike

1 Weinstein said earlier today that the governor had  
2 until the 25th or 26th to --

3 MR. PAYNE: 30th. I thought he said 30th.

4 MR. SCHEU: I thought he said the 25th or  
5 26th.

6 MS. McCAGUE: So is it worthwhile waiting  
7 until that date passes before we do something that  
8 could cause another news article?

9 MR. SCHICKEL: Who are the worst clients?

10 MR. PATSY: I'm not sure what the  
11 ramifications are --

12 MR. SCHICKEL: Who are the worst clients?

13 MR. PATSY: -- of waiting --

14 MR. SCHICKEL: Lawyers.

15 MR. SCHEU: They are.

16 MR. SCHICKEL: I would --

17 MR. PATSY: I'm not sure --

18 MR. SCHICKEL: The first thing I would do is  
19 give them a warning, say --

20 MR. SCHEU: I would do that, too --

21 MR. SCHICKEL -- you've got --

22 MR. SCHEU: -- I'd say --

23 MR. PAYNE: She can't hear what you're saying.

24 THE REPORTER: Well, I need one person at a  
25 time, please.



1           MR. SCHICKEL: I would suggest we give them a  
2 warning. I'd say a week, 10 days. That's why I've  
3 picked the first of the month.

4           MR. SCHEU: That's okay. I just think we --

5           MR. SCHICKEL: And then we'll find out --

6           MR. SCHEU: -- they need to know we're not  
7 going to roll over much longer, that we need to get  
8 it out there.

9           MR. PAYNE: I agree.

10          MR. SCHICKEL: Okay.

11          CHAIRMAN SCHMITT: I'm conflicted as to  
12 whether we should wait. I will concede and we will  
13 wait. I don't think any of this requires a motion.

14                 You are our attorney. We will go on your  
15 advice, and hopefully it's worked out by April 1st.  
16 I highly doubt it, but that would be great.

17          MR. SCHEU: Well, Mr. Chair, if the 25th is  
18 the date, that's a Friday. That's a week from  
19 today, just like that was a Friday.

20                 I think you said: Loree, we're going to file  
21 if we don't have -- what do we tell them?

22          MR. SCHICKEL: No.

23          MR. SCHEU: Because, see, they've still got --  
24 what are we asking them for? We don't --

25          CHAIRMAN SCHMITT: I'm asking them to settle

1 it.

2 MR. SCHEU: Well, they're not going to settle  
3 it by then, because you got to go to the Council,  
4 and so, you know, that's sort of backing up. I  
5 think we ought to go ahead and file --

6 MR. SCHICKEL: My hope is, okay, in the best  
7 of all worlds and an optimist, that they sit there  
8 and it would hurry up with their vetting whether or  
9 not it was in the sunshine or not, and be able then  
10 to come say: We vetted it, it was in the sunshine,  
11 everything is fine. Now let's push it forward.

12 CHAIRMAN SCHMITT: If that's truly what they  
13 want to do, then why can't they just communicate  
14 that to you?

15 MR. PATSY: It's not the politically correct  
16 thing --

17 MR. SCHICKEL: I had -- she was here when we  
18 sat and talked, and I looked at them and I said:  
19 Guys, this isn't a big-time lawsuit over personal  
20 injury cases or anything like that where you're  
21 going to get banged somehow. I said: We're all in  
22 the game together. We're all citizens of  
23 Jacksonville. We're all trying to do the right  
24 thing. Quit playing games with me, you know, quit  
25 playing lawyer. Open up and talk.

1           Didn't I say that?

2           MS. McCAGUE: You did.

3           MR. SCHICKEL: And I said: I don't want --  
4 I'm not going to surprise you with anything and I  
5 don't expect you to surprise me with anything.  
6 It's only helpful to the City to move forward.

7           MR. SCHEU: What were you going to get if you  
8 tell them -- what are you going to say, if you  
9 haven't done what by the 25th, we're going to file  
10 it? You don't get anything.

11          MR. SCHICKEL: You'd be surprised. I bet you  
12 we'll -- we're going to make them scramble, anyway.  
13 We're going to make them scramble, anyway.

14          But I think what will happen is that they will  
15 be more forthcoming about what they're trying to do  
16 and move forward. Lawyers have a great  
17 procrastination in us --

18          MR. SCHEU: They sure do.

19          MR. SCHICKEL: -- and so unless there's  
20 something, like Larry was saying, that's pushing  
21 them forward, they're going to just let it sit.

22          MR. SCHEU: Well, I'd agree to go out to the  
23 close of business on the 25th, but I don't know  
24 what to say we get. I mean, what is the quid pro  
25 quo?

1 MR. SCHICKEL: We just tell them: This is  
2 what we're doing --

3 MR. PATSY: So, Bill, are you --

4 MR. SCHICKEL: -- pick your best hole.

5 MR. PATSY: -- do we go ahead and, if this is  
6 ready to go, go ahead and file --

7 MR. SCHEU: He's got to make some changes that  
8 we talked about --

9 MR. SCHICKEL: Yes.

10 MR. SCHEU: -- but by the end of next week, it  
11 needs to be filed.

12 CHAIRMAN SCHMITT: When we come --

13 MR. PAYNE: I concur with that.

14 CHAIRMAN SCHMITT: When we come out of the  
15 shade meeting, we'll have to do a motion, and  
16 basically the wording is here -- it's somewhat  
17 generic -- a motion is in order to adopt the  
18 recommendation of counsel and to authorize him to  
19 take such actions as may be necessary to protect  
20 the interests of the fund.

21 That will basically be it.

22 MR. SCHEU: Sounds good. He gets to --

23 MR. SCHICKEL: If you want it, I'll take it.  
24 I mean, it doesn't matter to me.

25 MR. PATSY: I'd like to read it.

1 MR. SCHEU: This is what I've got already.

2 MR. SCHICKEL: Yes.

3 MS. McCAGUE: Yes.

4 MR. SCHICKEL: It shows -- it shows -- I was  
5 out of town and they were working on it. It shows  
6 a certificate on it, which is a Certificate of  
7 Service. It was not served, so that was just a  
8 preliminary --

9 MS. McCAGUE: Jake, make I ask a question?

10 MR. SCHICKEL: Yes.

11 MS. McCAGUE: If a reporter or citizen asks  
12 for any material that was presented in this  
13 meeting, is that covered under the shade and would  
14 not be released until the lawsuit --

15 MR. SCHICKEL: Correct.

16 MS. McCAGUE: -- or any litigation was  
17 settled?

18 MR. SCHICKEL: Correct.

19 MS. McCAGUE: So this is not for public  
20 knowledge.

21 MR. SCHICKEL: That is correct.

22 MS. McCAGUE: Except if it's filed, it is  
23 public --

24 MR. SCHICKEL: Then it -- once it becomes  
25 filed --

1 MR. PATSY: So all the minutes --

2 MR. SCHICKEL: -- it's public record.

3 MR. PATSY: -- she's taking are not releasable  
4 until this --

5 MS. McCAGUE: The case is settled.

6 MR. PATSY: -- lawsuit is settled.

7 MR. SCHEU: Or a judgment is entered.

8 MS. McCAGUE: Right. And then the transcript  
9 is fully available, but not until that point.

10 And, as Jake said earlier -- you guide us --  
11 we don't say -- everything here is confidential.  
12 We don't say anything about what happened one way  
13 or the other, correct?

14 MR. SCHICKEL: Right. We discussed the  
15 litigation. You're the client.

16 MR. PATSY: Can't say nothing. That's  
17 perfect.

18 CHAIRMAN SCHMITT: Does --

19 MR. PAYNE: Lips are sealed.

20 (Laughter.)

21 MR. SCHEU: I'm sorry to feel so vehement  
22 about it, but I just feel we're getting led down  
23 the primrose path and we just need to say: Enough  
24 is enough. I just feel strongly about that.

25 MR. SCHICKEL: Okay.

1           CHAIRMAN SCHMITT: It is 12:58. We'll need a  
2 motion to end the closed session and return to  
3 public meeting.

4           Do we have a motion?

5           MR. PATSY: Motion.

6           MR. PAYNE: Second.

7           CHAIRMAN SCHMITT: We have a motion and a  
8 second. It is 12:58. The closed session is -- the  
9 motion passes and the closed session is adjourned.

10           (End of the closed session.)

11           (Thereupon, at 12:58 p.m., the closed session  
12 was adjourned.)

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STATE OF FLORIDA )

COUNTY OF DUVAL )

I, Cindy Danese, Notary Public in and for the State of Florida at Large, do hereby certify that the foregoing pages are a true and accurate recordation of the proceedings which took place.

WITNESS my hand and official seal this 22nd day of March 2016.

STATEWIDE REPORTING SERVICE

CINDY DANESE, Notary Public  
State of Florida at Large.