

IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT, IN AND
FOR ALACHUA COUNTY, FLORIDA

CASE NO.: 2012-CA-1346
DIVISION: J

GAINESVILLE CITIZENS CARE, INC.,

Plaintiff,

vs.

CITY OF GAINESVILLE, d/b/a
GAINESVILLE REGIONAL UTILITIES,

Defendant,

and

GAINESVILLE RENEWABLE ENERGY
CENTER, LLC,

Intervenor.

_____ /

DEPOSITION OF: LEE J. PRICE
DATE: Monday, November 5, 2012
TIME: 9:40 a.m. - 11:00 a.m.
PLACE: VanLandingham & Durscher
408 W. University Avenue, #505
Gainesville, Florida
REPORTED BY: Rhonda D. Mashburn
Court Reporter/Notary Public

1 APPEARANCES:

ALSO PRESENT:

2 MARCY I. LAHART, PA
3 BY: MARCY I. LAHART, ESQUIRE
4 4804 Southwest 45th Street
5 Gainesville, Florida 32608
6 Attorney for Plaintiff

Jo Lee Beaty

7 OFFICE OF THE CITY ATTORNEY
8 BY: ELIZABETH A. WARATUKE, ESQUIRE
9 Post Office Box 490, Station 46
10 Gainesville, Florida 32627
11 Attorney for Defendant

12 AKERMAN SENTERFITT
13 BY: TIMOTHY J. MCDERMOTT, ESQUIRE
14 50 North Laura Street, Suite 2500
15 Jacksonville, Florida 32202
16 Attorney for Defendant

17 GARDNER, BIST, WIENER, WADSWORTH, et al.
18 BY: DAVID S. DEE, ESQUIRE
19 1300 Thomaswood Drive
20 Tallahassee, Florida 32308
21 Attorney for Intervenor

22 I N D E X

23 WITNESS: DIRECT CROSS REDIRECT RECROSS

24 LEE J. PRICE

25 By Ms. Waratuke 3

By Mr. Dee 56

E X H I B I T S

26 Defendant's for ID: Page

27 Exhibit 1 - First Amended Complaint 16

28 CERTIFICATE OF OATH 58

29 CERTIFICATE OF REPORTER 59

1 COURT REPORTER: Would you raise your right hand,
2 please? Do you solemnly swear that the testimony you
3 will give in this case will be the truth, the whole
4 truth, and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THEREUPON,

7 LEE J. PRICE

8 was called as a witness and, having been first duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. WARATUKE:

12 Q. Sir, could you state your full name for the
13 record, please?

14 A. Well, I'm registered to vote under Lee Jay Price,
15 J-a-y. Most people call me Jack. If somebody calls and
16 asks to speak to Lee, I know it's someone who's trying
17 to sell me something, so I hang up quickly.

18 Q. Okay. And what is your address, sir?

19 A. 5334 Northwest 34th Place.

20 Q. And that's here in Gainesville?

21 A. 32606-6915.

22 Q. Mr. Price, have you ever given a deposition
23 before?

24 A. No.

25 Q. Okay. This is your first time?

1 A. Yeah, make me nervous.

2 Q. Don't be. Okay? The way it works is I'm just
3 here to ask you --

4 A. Questions and I'll try to give answers. Okay.

5 Q. Okay. But one of the most important things that
6 we can do in this deposition, as you can see, she's
7 taking down my questions and she's taking down your
8 responses.

9 A. All those? They're irrelevant.

10 Q. Okay. But it's very important that we not talk
11 over each other, because if we do that, then she's
12 trying to take down both of us talking at the same time.

13 A. I'll try not to talk over you or anyone else.

14 Q. And I know a little bit of it is nervousness.
15 But what I'll do is I'll ask you a question, and then if
16 you could wait until I finish and then if you could
17 respond verbally, because you may nod your head and I
18 know what you mean, but it's kind of hard for her to
19 take it down.

20 The second thing also is that a lot of times
21 people will say uh-huh, nuh-uh, and I know what that
22 means, but again it's kind of hard for her.

23 A. Okay.

24 Q. Okay?

25 A. Yeah.

1 Q. If I ask you a question that's confusing, just
2 ask me to --

3 A. Ask you to rephrase it. Okay.

4 Q. That's just perfect, because if you answer the
5 question, then I'll assume that you understand what I'm
6 asking you. Okay?

7 A. (Nods head affirmatively).

8 Q. All right. Are you currently employed, sir?

9 A. No, I'm retired.

10 Q. And what are you retired from?

11 A. I'm retired from an organization that no longer
12 exists, the National Conference of Christians and Jews,
13 which was really primarily a human relations education
14 organization whose purpose was to reduce prejudice and
15 discrimination rather than any kind of conversionary
16 effort.

17 Q. Okay.

18 A. But it doesn't exist anymore.

19 Q. What kind of position did you hold with them?

20 A. Well, I was the director. When they opened
21 offices in Tampa, in Jacksonville, I served those
22 activities living in Tampa. Then I was transferred to
23 New York where I worked primarily in interreligious
24 and in liaison with a whole variety of community
25 organizations.

1 Q. Okay. And how long did you work for them?

2 A. Twenty years. Before that I worked for a
3 railroad, which disappeared.

4 Q. What did you do when you worked for the railroad?

5 A. I was in freight sales.

6 Q. And how long did you do that for?

7 A. I did that for eleven years.

8 Q. And what kind of work did you hold before that?

9 A. Before that I was in school.

10 Q. Oh, okay.

11 A. That's the story of my life.

12 Q. Okay. What's your educational background?

13 A. I graduated from Andrew Jackson. Then I had
14 some -- what was then community college. I do not have
15 a degree.

16 Q. What was your -- did you have a specialty or a
17 major in the community college?

18 A. No. It was much more general. Humanities was
19 once emphasized at that level, so I think I learned a
20 lot there.

21 Q. Okay. What is your relationship to Gainesville
22 Citizens Care, Inc.?

23 A. Well, I'm a director.

24 Q. And tell me a little bit about the organization.
25 What is it?

1 A. Well, it's a group of citizens who are concerned
2 because they thought that the biomass was an ill-advised
3 project, which might ultimately cost the ratepayers a
4 great deal of money, that probably was not necessary.
5 There probably were wiser ways -- if this project were
6 viable, there were probably other ways that it might
7 have been brought online.

8 Q. Okay. When was -- do you mind if I just call it
9 Gainesville Citizens just to shorten it?

10 A. No. I'll know what you're talking about I think.

11 Q. Okay. When was Gainesville Citizens formed?

12 A. My memory of dates is hazy. I was there from the
13 beginning, whenever that was.

14 Q. Okay.

15 A. I guess it was three years ago.

16 Q. Okay. Just like I said, stay with your own
17 memory and if you don't recall, then --

18 A. There will be a lot of things I don't recall.

19 Q. That's all right. Let me see if I have something
20 here that might --

21 A. I do recall my name.

22 Q. Okay. Now, you said that you were with the
23 organization from the very beginning?

24 A. I think so.

25 Q. Whose idea was it to form the organization?

1 A. Well, there were a lot of people who were very
2 upset about the biomass proposal, and I'm not sure -- I
3 think probably the spark plug was Mrs. Beaty, who took
4 the lead in pulling together people who were concerned
5 enough to pursue the issue.

6 Q. Okay. So you say that you were with the
7 organization from the beginning?

8 A. Yes.

9 Q. And you were one of the directors?

10 A. Right.

11 Q. Okay. How many directors are there now?

12 A. I don't know. I think four or five, I think.

13 Q. Okay. And who are they?

14 A. I'm terrible with names.

15 Q. Okay. Can you give me the names of anyone who's
16 on the board?

17 A. Well, Jo Beaty is certainly on the board, I'm on
18 the board. I'm drawing a blank. I'm sorry.

19 Q. That's okay.

20 A. No, it's not.

21 Q. Like I said, I know this --

22 A. It troubles me, whether it does you or not.

23 Q. Is Ray Washington on the board?

24 A. I'm not sure. He has certainly been very
25 involved with this and, you know, was the attorney at

1 some point.

2 Q. Is he the attorney now for Gainesville Citizens?

3 A. I think Ms. LaHart is now the primary attorney
4 and she's here.

5 Q. Has Michael Canney ever been on the board?

6 A. Who?

7 Q. Michael Canney.

8 A. Yes.

9 Q. Okay.

10 A. That was the name I couldn't come up with and I
11 should have remembered it.

12 Q. Is he still on the board?

13 A. Uh-huh.

14 Q. What about Matt McEachern?

15 A. He's been very interested. I'm not sure whether
16 he's on the board or not. He's the former mayor and
17 he's been very outspoken on this project -- about this
18 project.

19 Q. Is there a membership list of the members of
20 Gainesville Citizens?

21 A. I'm not in the position to offer it. There may
22 well be a list, but I don't have it.

23 Q. Okay. Do you know whether there is such a list?

24 A. No, I do not.

25 Q. What does one do to become a member?

1 A. I was asked to become a member because of my
2 interest in the project and because I guess I had some
3 credentials in the community which they thought would
4 further the organization.

5 Q. What credentials are you referring to?

6 A. Well, I have been honored by the Alachua County
7 Democratic Executive Committee for a lifetime of
8 activity. That was three years ago. I'm on the -- I'm
9 the vice president of the Florida Alliance of Retired
10 Americans, called FLARA, which was the successor to the
11 old National Council of Senior Citizens, which played a
12 major role in the enactment of Medicare all those many
13 years ago.

14 It was made up primarily of retired union people.
15 It's less though now because we don't have that many
16 retired union people anymore, and it's also a much
17 smaller organization. But I'm vice president at large
18 of it still. So I think I modestly can say that I do
19 have some community -- I'm very involved with the Civic
20 Media Center and a lot of issues, and I was very
21 involved with civil rights issues.

22 Q. Do you have any kind of background in biomass?

23 A. No, but I've had great interest in the
24 environment ever since I read Rachel Carson's book when
25 I was almost a child. I think her book is now being

1 observed for its 50th anniversary.

2 Q. And which book is that?

3 A. I can't remember the title. I knew you would
4 ask. It was about the devastating effect of
5 insecticides and pesticides on the environment and the
6 water and so on.

7 MS. LAHART: I can answer that if you're really
8 curious.

9 THE WITNESS: I know you can. If I could
10 remember it, I would -- if I could remember all I
11 know, I would be brilliant, but I can't remember it.

12 BY MS. WARATUKE:

13 Q. That's okay. Does the organization have a
14 treasurer?

15 A. I assume it has. I'm not sure. I've not been
16 that involved and I should have been. But I did make an
17 effort to speak on the issue before the City Commission
18 when I was interrupted by the mayor.

19 Q. Okay. Does the organization have a bank account?

20 A. I don't know.

21 Q. Okay. Do you know whether the organization
22 accepts contributions?

23 A. Oh, it will certainly accept contributions.

24 Q. Okay.

25 A. Every organization I'm involved with will accept

1 contributions.

2 Q. Okay. Are you aware of who's funding the
3 organization?

4 MS. LAHART: Objection.

5 THE WITNESS: No.

6 MS. LAHART: Mr. Price, when I interpose an
7 objection, you need to --

8 THE WITNESS: Yes.

9 MS. LAHART: (Continuing) -- wait until I get it
10 on the record. Okay?

11 THE WITNESS: Sorry, sorry.

12 MS. LAHART: So if I object to a question, that
13 means you stop talking, please. Okay?

14 THE WITNESS: Yes. I'll try to remember that.

15 MS. LAHART: Ms. Waratuke -- am I saying that
16 right?

17 MS. WARATUKE: Yeah.

18 MS. LAHART: I've been calling you Liz.

19 MS. WARATUKE: Yeah, Waratuke is fine.

20 MS. LAHART: The identities of persons who
21 contribute to organizations to fund litigation is
22 privileged under the constitution, and I ask that he
23 not answer any questions regarding that.

24 MS. WARATUKE: It's privileged under what --

25 MS. LAHART: It has to do with the freedom of

1 association. I'll be happy to provide you the case
2 law.

3 MS. WARATUKE: Okay.

4 MS. LAHART: I don't know the cases off the top
5 of my head.

6 MS. WARATUKE: Yeah. If you could, that would
7 be good, and then if I need to address it further, I
8 guess I can.

9 BY MS. WARATUKE:

10 Q. Okay. Now, you had talked a little earlier about
11 Gainesville Citizens and how it was formed and why it
12 was formed. Has Gainesville Citizens been involved in
13 anything other than the biomass issue?

14 A. No, because that issue I think is -- as far as I
15 know, that would be the issue that has consumed all its
16 time and resources and energy.

17 Q. Okay. Did the Gainesville Citizens take -- what
18 action did Gainesville Citizens take to initiate this
19 lawsuit?

20 A. Well, I don't know. Obviously a suit was filed
21 to try to interrupt the progress of the project.

22 Q. Did you vote -- I mean, was there a vote to file
23 suit? Do you know?

24 A. Oh, I think so.

25 Q. Okay. Did you vote --

1 A. Of course I was in favor of whatever we could do.

2 Q. Okay. And the purpose of the suit was to do
3 what?

4 A. It was to halt the project and try to have the
5 city abandon that project. I'm not sure what all the
6 objectives are. But obviously we think biomass is a bad
7 idea and we were trying to block it.

8 Q. Okay. Now, when did you first start coming to
9 the City Commission to talk about the biomass issue?

10 A. I don't know. Two years ago, I guess, or three
11 years ago.

12 Q. Was it before or after the city entered into the
13 power -- and let me finish. Okay? Was it before or
14 after the city entered into the Purchase Power Agreement
15 with American Renewables or GREC?

16 A. When I came into this, I was against it at the
17 beginning, but I didn't take any public part. But when
18 we learned that there was to be a backout clause and the
19 full disclosure about the contract that had been agreed
20 to was not made public, we thought it was an issue that
21 we needed to respond to.

22 Q. Do you remember when it was that you first
23 started going to the City Commission meetings on the
24 matter?

25 A. I've gone from time to time over a variety of

1 issues.

2 Q. Okay. On the biomass -- let's talk about the
3 biomass.

4 A. The biomass, I only went once and that was when
5 the three-minute rule was arbitrarily abrogated by the
6 mayor, which made me very angry because we were there to
7 address the commission, not solely to address the mayor.
8 But he arbitrarily decided that we didn't -- couldn't be
9 allocated that much public comment.

10 Q. Okay. Do you remember what the matter was in
11 regard to the biomass that was on the agenda that you
12 were there to talk about that day?

13 A. It was citizen comment.

14 Q. So there wasn't something specifically on the
15 agenda?

16 A. I don't think so.

17 Q. Okay.

18 A. It was citizen comment.

19 Q. Do you remember when that meeting was?

20 A. It may have been as much as three years ago. I
21 can't remember now.

22 Q. But that was the only one that you attended on
23 the biomass?

24 A. No. I went without planning to speak on a couple
25 other occasions.

1 Q. But you only spoke at one?

2 A. That was right.

3 Q. Okay. What did you speak about on the day that
4 you were there, before you were interrupted?

5 A. I think it was an appeal for reconsideration of
6 the project.

7 Q. Do you know what the status is of the plant
8 that's being built right now?

9 A. I know the plant has been moving forward.

10 Q. Because, you know, I --

11 A. It wasn't that far along when we started.

12 Q. Okay. Mr. Price, I'm going to hand you what
13 we've marked as an exhibit to your deposition. It's
14 just a document I'd ask you to look at. It's the First
15 Amended Complaint in this case. I'd like you to take a
16 minute, if you could, and look through that.

17 Mr. Price, have you had the opportunity then to
18 read through Defendant's Exhibit 1, which is the
19 complaint that was filed by Gainesville Citizens in
20 this case?

21 A. This is the one you're --

22 Q. Yes.

23 A. I read it hurriedly at this point.

24 Q. Okay. Had you ever seen that document before?

25 A. I think I have. I'm not sure.

1 Q. Okay. Now, if you --

2 A. I know that I'm familiar with the complaint
3 about the failure to comply with the sunshine law and so
4 on. I'm aware of that. But I can't recall whether I
5 specifically read this prior to this moment.

6 Q. Okay. Near the end of that complaint there's a
7 part that's called the relief requested. Can you tell
8 me in your own words what it is that Gainesville Care
9 hopes to accomplish by this lawsuit, what it is that you
10 want?

11 A. Well, I think it's stated in here.

12 Q. Can you tell me in your own words?

13 A. Well, I think one intent was to halt further
14 expenditure of public monies to further the project, and
15 the city was on notice that its failure to comply with
16 the government and the sunshine law, as we understand
17 it, needs to be remedied.

18 Q. Okay. Anything short of shutting down the plant
19 that Gainesville Citizens would like to see happen?

20 A. I don't know what the consequences would be if
21 this suit -- I don't think it's too late to do so, but
22 it may be. I don't know.

23 Q. Have there been discussions among members of
24 Gainesville Care about the consequences to the city if
25 the project is halted?

1 A. I think there have been discussions about the
2 consequences for the city of the risks to ratepayers and
3 so on that it entails. But I'm not sure -- I'm not sure
4 I know the answer to the question that you're posing.

5 Q. Okay. Does Gainesville Care have regular board
6 meetings?

7 A. It does from time to time, but I don't -- I can't
8 characterize them as regular. I don't know.

9 Q. Okay. When was the last meeting that Gainesville
10 Care -- Gainesville Citizens had?

11 A. I think it was -- I don't know. I think it was
12 several months ago. I'm not sure.

13 Q. Do you remember what the topic was that was
14 discussed there?

15 A. Well, obviously the only topic has been the
16 biomass project.

17 Q. Okay.

18 A. It has not entered into a broad range of
19 environmental concerns or ratepayer concerns.

20 Q. Can you go to paragraph five of that complaint,
21 which is on Page 3, and if you could read aloud, so it's
22 in the record, what paragraph five is, please.

23 A. Under Parties?

24 Q. No, paragraph five.

25 A. Yeah, but it's under Parties?

1 Q. It is.

2 A. Okay. That was my question.

3 Q. Sorry.

4 A. Number five, "On or about May 12, 2008, the City
5 of Gainesville authorized GRU General Manager Robert
6 Hunzinger to negotiate an agreement between GRU, a City
7 of Gainesville owned utility, and Nacogdoches Power,
8 LLC."

9 Q. Okay. Were you at that meeting of May 12th,
10 2008?

11 A. I don't know whether I was or not. I can't
12 remember.

13 Q. Were you involved with the biomass issues as of
14 May 12th, 2008?

15 A. Yes.

16 Q. You were. Okay. But you don't know whether you
17 were at that meeting?

18 A. I can't recall.

19 Q. Okay. And to your recollection, you've only
20 spoken once at a City Commission meeting on the biomass
21 issue?

22 A. I attempted to. That was kind of discouraging.

23 Q. Okay. Have you spoken at City Commission
24 meetings on other items?

25 A. Yes, I have.

1 Q. What other items have you spoken to the City
2 Commission about?

3 A. The anti-discrimination for gender issues.

4 Q. Anything else?

5 A. I can't recall. I'm not a regular at City Hall.
6 I don't think I'm generally viewed as a pest.

7 Q. Well, we don't view our citizens as pests. Now,
8 let me ask you this, Mr. Price: Did you ever talk to
9 anyone about what happened at the meeting that night
10 on May 12th, 2008, when the contract was approved -- or
11 whenever they were authorized to negotiate the contract?

12 A. It's certainly been talked about. We also met
13 individually with the members of the City Commission,
14 and I don't know whether that was two years ago or not.

15 Q. Okay. Do you recall what was said about the
16 City Commission meeting in May 2008, when the city was
17 authorized to start the negotiations with Nacogdoches?

18 A. Do I recall what, please?

19 Q. Do you recall what was said about the meeting?

20 A. By whom?

21 Q. By Gainesville Citizen members about the meeting
22 that night.

23 A. Well, I'm sure everyone was very unhappy, but I
24 don't recall specifically, or whether there was public
25 comment. I think the City Commission records would

1 indicate what the response was. I can't recall.

2 Q. Right. But I'm just asking about in these
3 meetings that you've had with other members of
4 Gainesville Citizens or other people where you've talked
5 about the biomass, do you recall anything anyone said
6 about the meeting in May 2008, when Mr. Hunzinger was
7 authorized to negotiate the Power Purchase Agreement?

8 A. I'm sorry, I don't recall.

9 Q. Okay. Do you ever take notes of any of these
10 meetings or discussions that you have with anyone?

11 A. I have not taken notes.

12 Q. Okay. Do you know whether anyone else has?

13 A. I don't think so.

14 Q. Okay.

15 A. I'm sure other people have, but I don't recall
16 taking notes.

17 Q. Okay. Because I know sometimes whenever like --

18 A. I took notes on a couple of points when we were
19 visiting the commissioners, but I didn't retain them.

20 Q. Okay. Well, let me ask you this, because
21 generally whenever a board meets, someone will keep
22 minutes of the meetings. Does anyone in Gainesville
23 Citizens keep minutes of those meetings?

24 A. I assume they do. I don't know. I can't answer
25 that question.

1 Q. Do you know who I might ask if they had kept
2 notes?

3 A. Well, I assume that the principal spokesperson is
4 Mrs. Beaty. She's here, you can ask her. She may have
5 a more acute memory than I have.

6 Q. Okay. But you don't know?

7 A. No, I don't know.

8 Q. Now, you stated earlier that there were some
9 occasions that you had met with city commissioners on
10 the biomass issue?

11 A. Yes.

12 Q. What city commissioners did you meet with?

13 A. We met with all five -- or we attempted to meet
14 with all five.

15 Q. Because I think there's actually seven now.

16 A. Was it five or seven?

17 Q. Well, can you go on your own recollection? Did
18 you go to all those meetings?

19 A. Yes, I did.

20 Q. Do you recall which commissioners you met with?

21 A. I met with Susan Bottcher.

22 Q. Did you meet with Mayor Lowe?

23 A. We attempted to meet with Mayor Lowe.

24 Q. Does that mean that you didn't get to meet with
25 him?

1 A. I don't remember having a direct discussion about
2 this with Mayor Lowe.

3 Q. Okay. About when did these meetings take place?

4 A. Two years ago maybe. I don't know.

5 Q. Did they take place before you filed the lawsuit?

6 A. Yes, I'm sure.

7 Q. Okay.

8 A. Because the issue -- one of the issues was the
9 failure to have a backout clause.

10 Q. Okay.

11 A. And the lack of transparency in the decisions and
12 the peculiar nature of the backout clause not having
13 been made -- included in the contract that was finally
14 made public.

15 Q. Okay. Tell me about that backout clause and
16 what the issue is with the backout clause as far as
17 Gainesville Citizens issue is.

18 A. I don't know what the legal implications of that
19 would be. That's beyond my competence.

20 Q. Okay. Well, was that one of the things that --
21 whenever you attended these meetings with the
22 commissioners, were you alone or was there someone else
23 with you?

24 A. No, I was not alone, usually Mrs. Beaty.

25 Q. Anyone else that would go with you?

1 A. I don't think so.

2 Q. Okay. Did you do most of the talking or did Ms.
3 Beaty?

4 A. Did I do most of the talking? We mostly listened
5 to the commissioners.

6 Q. Okay. Was this backout -- is the backout clause
7 that you're talking about the same thing that's referred
8 to as the termination for convenience clause in the
9 complaint you just read?

10 A. I don't know about the legal definition of
11 whether they're identical issues or not.

12 Q. Okay.

13 A. I'm not a lawyer.

14 Q. That's fine. That's fine.

15 A. It may not be.

16 Q. Tell me what it was that you talked to the
17 commissioners about as far as the backout clause and
18 what the problems were with that, what you were talking
19 with them about.

20 A. Well, I think we were complaining about the
21 absence of transparency, the failure -- it seems that
22 I recall that there was -- that Jack Donovan had
23 specifically directed that there be a backout clause in
24 the agreement, and it wasn't there when it was finally
25 revealed. I may be wrong about that, but I think I'm

1 right about that. I don't know.

2 Q. Okay. And that's what you recall being discussed
3 in these meetings with the commissioners?

4 A. We were talking about the whole procedure and the
5 city's response, and it was in most instances a fairly
6 contentious meeting.

7 Q. With the individual commissioners?

8 A. Yes.

9 Q. It was contentious?

10 A. In some instances, yes.

11 Q. Okay.

12 A. I think they had decided that they would abrogate
13 their responsibilities to GRU rather than GRU being
14 under the general direction of the commissioners.
15 That's just an impression that I had.

16 Q. Okay. Did anyone say that to you?

17 A. I think I may have said that to them.

18 Q. Okay. And what did they say back?

19 A. Obviously they resisted that notion, but I didn't
20 keep notes about our conversations. They were fairly
21 dismayed.

22 Q. Okay. Now, I know you said that you can't
23 remember whether you were at that May 12th -- is that
24 right, May 12th, 2008 meeting?

25 A. Since I have no notes and my memory is not that

1 great, I cannot say whether I was there or not.

2 Q. Did you ever go back and look at the video of
3 the meeting of May 12th, 2008, when the City Commission
4 authorized Mr. Hunzinger to negotiate it?

5 A. I looked at some videos, but I can't remember
6 whether that was one of them.

7 Q. Do you remember ever looking at a video where
8 Dian Deevey suggested to the commission that a backout
9 clause be negotiated into the contract?

10 A. I seem to recall that. I'm not certain. I know
11 Dian. I haven't seen her in a good while.

12 Q. Do you remember ever seeing her talk at a City
13 Commission meeting about that?

14 A. Oh, yes.

15 Q. Okay. Do you have any knowledge of how the
16 discussion on a backout clause or termination for
17 convenience clause ever came up? Do you know how it
18 came up?

19 A. No, but I am sure that the records of the
20 commission meetings would reflect, you know, details at
21 the time of it.

22 Q. Okay.

23 A. But I don't recall that much. And besides, I'm
24 interested in a lot of other things besides biomass.

25 Q. Okay.

1 A. I'm not a single issue person.

2 Q. Okay.

3 A. So my full-time energy was not directed at this
4 specific project.

5 Q. Okay.

6 A. My concern is very deep and abiding, but I have
7 interests in a lot of other issues.

8 Q. Okay. Have you ever -- you know, I know you
9 say the records probably are the best things as far as
10 speaking for themselves.

11 A. I would think so.

12 Q. Have you ever looked at any minutes of --

13 A. The City Commission?

14 Q. Right, of the meeting in May of 2008.

15 A. No, I don't recall.

16 Q. Okay. That's fair enough. Now, you said you
17 remember talking to Commissioner Bottcher. Did you meet
18 with Commissioner Chase?

19 A. Yes.

20 Q. Okay. What concerns did you express to
21 Commissioner Chase?

22 A. Well, the same concerns were being expressed to
23 all the commissioners. He was much more sympathetic to
24 our complaints and concerns.

25 Q. So you would have talked to him --

1 A. But I think all of that would be on the record
2 and it's much more reliable than my memory.

3 Q. Okay. Well, these were private meetings you had
4 with them, I'm assuming, right, in their office?

5 A. They were off the record in their office, yes.

6 Q. Okay. So you would have talked to Commissioner
7 Chase about the backout clause?

8 A. We talked to all the commissioners.

9 Q. About the backout clause and the transparency?

10 A. Yes.

11 Q. Okay. At the point in time that you're meeting
12 with the commissioners and talking to them, had the full
13 version of the Purchase Power Agreement been released
14 yet?

15 A. We're not sure that it was ever released, but I
16 don't know.

17 Q. Okay. You've never seen an unredacted copy of
18 the agreement?

19 A. Yes, finally, but I don't know what day I saw it.

20 Q. Okay. Do you know whether you saw that before or
21 after your meeting with the individual commissioners?

22 A. No, I don't.

23 Q. Okay. So you would have met with Bottcher and
24 Chase. You tried to meet with Lowe. Who else was on --
25 did you meet with Randy Wells?

1 A. Yes. It was a much more congenial meeting with
2 Randy than it was with some of the other people.

3 Q. Did you meet with -- was Jeanna Mastrodicasa
4 on the --

5 A. That was the most contentious of all.

6 Q. Okay. Tell me about that one.

7 A. Well, she stormed out.

8 Q. Okay.

9 A. And having supported her in the past, I will
10 probably be reconsidering my position in the future.

11 Q. So I'm trying to think who else was on the
12 commission then. Was Commissioner Henry there?

13 A. Yes.

14 Q. Was that a good meeting?

15 A. That was not very productive though.

16 Q. Okay. I'm missing someone.

17 A. But he did not storm out. He was very
18 dismissive, but he did not storm out.

19 Q. Was Commissioner Poe on the --

20 A. Yes, who was polite, as was Susan Bottcher.

21 Q. What about Commissioner Hawkins, was he someone
22 you met with?

23 A. Yes, we met with Hawkins.

24 Q. Okay. Do you recall what, if anything, any of
25 the commissioners said back to you in regard to the

1 issues that you were raising with them?

2 A. It was obvious that they were relying on the
3 judgment of the GRU administration and that was it.

4 Q. Okay. Was there something specific that you were
5 asking the commissioners to do in these meetings?

6 A. I think we were asking them to review and figure
7 out ways to terminate the project, which we thought was
8 ill-advised from the beginning.

9 Q. Okay. Did any of them discuss the consequences
10 of terminating the project?

11 A. Yes.

12 Q. What did they say?

13 A. Well, they made all these dire predictions about
14 the incredible exposure that the city would be for
15 cancelling it, that there would be -- it would be very
16 costly.

17 Q. Okay.

18 A. But I don't remember the figures.

19 Q. You know, I know that you were there to ask the
20 City Commission to hear your concerns. But did you hear
21 the concerns back from them about the consequences of
22 stopping the project?

23 A. Of course we listened to what they had to say.

24 Q. Okay. Did you carry that back to Gainesville
25 Citizens and pass that on to other members of the

1 organization as far as the consequences?

2 A. I think the comments of the commissioners was
3 communicated, yes.

4 Q. Did you communicate them?

5 A. I'm sure that I had made comments. What I said,
6 I can't recall specifically.

7 Q. Okay. Well, who do you recall talking to about
8 what it was that the commissioners had said in regard to
9 the consequences of stopping the project?

10 A. I do not remember.

11 Q. Okay. You said that you took notes?

12 A. I did not say that I took notes. I said that I
13 had taken notes of a couple of the conversations with
14 commissioners. I did not retain the notes.

15 Q. Okay. All right. That's fair enough. Was
16 Braddy on the commission then?

17 A. No, he was not.

18 Q. Okay. So he was already gone. I'm trying to
19 think if there was someone else that I could be missing.
20 Do you remember?

21 A. I don't know. I do remember we met with, among
22 others, Scherwin Henry. I think with all the people you
23 mentioned.

24 Q. Okay. But no one else that I haven't mentioned?

25 A. I don't recall.

1 Q. Okay. Have you ever talked to former
2 Commissioner Braddy about the biomass project?

3 A. No. I have never spoken with Commissioner Braddy
4 about anything.

5 Q. Okay. And I think I asked you this, but just to
6 be sure, do you recall talking to anyone about what it
7 was that happened at that May 2008 City Commission
8 meeting where the City Commission authorized Mr.
9 Hunzinger to negotiate the Purchase Power Agreement?

10 A. No, I don't remember or recall.

11 Q. Okay. I know you said you had been before the
12 City Commission to talk about anti-discrimination issues
13 and you couldn't recall anything else right now. Did
14 you ever go talk to the City Commission over the course
15 of the ten years or so when they were considering what
16 energy source to use for future purposes in Gainesville?

17 A. I'm sure I didn't.

18 Q. Okay. Do you recall a point in time where the
19 City Commission was considering building another coal
20 fired plant?

21 A. Yes, I do.

22 Q. Okay. Did you ever go talk to the City
23 Commission about its proposal at one point in time to a
24 coal fired plant?

25 A. No. I certainly didn't think it was a good idea,

1 but I don't think that I ever spoke directly to a
2 commissioner about it.

3 Q. And I guess your issue would have been with the
4 use of coal as an energy source?

5 A. Right.

6 Q. Okay. I know that there were a number of studies
7 that were done during that time, including one by Dian
8 Deevey. It's called the EPAC study or something like
9 that.

10 A. I never read it.

11 Q. Okay. And you weren't involved in that?

12 A. No. I know Mrs. Deevey. I have had discussions
13 about a range of things, but I don't recall whether it
14 was specifically about that.

15 Q. Okay.

16 A. We also share a physical therapist, so I
17 encountered her informally from time to time.

18 Q. Okay. Can we go on then and look at paragraph
19 six of the complaint, and if you could go ahead and read
20 that aloud into the record what paragraph six says. And
21 if you look at it, it's at the top of Page 4.

22 A. I'm getting there. "On or about May 12, 2008,
23 the City of Gainesville directed Hunzinger to ensure
24 that a" -- quote -- "back door out" -- unquote --
25 "alternatively referred to as a" -- quote --

1 "termination for convenience clause" -- end of quote --
2 "be negotiated into the agreement. The termination for
3 convenience clause would have allowed GRU to cancel the
4 agreement up until a point after the site certification,
5 before the commencement of construction."

6 Q. Okay. Do you have any personal knowledge
7 regarding what you just read into the record?

8 A. Personal knowledge in what way?

9 Q. Okay. Personal knowledge means that you were
10 either there and you saw it or you watched it on a
11 video.

12 A. I don't recall whether I was there at that
13 meeting or not.

14 Q. Okay. You don't know whether you were at the
15 meeting or not; right?

16 A. No, I don't.

17 Q. And you don't know whether or not you ever
18 watched a video of that meeting?

19 A. I may or -- I can't recall. I have watched some
20 videos.

21 Q. Okay. Do you know how it was that the discussion
22 of the back door out or the termination for convenience
23 clause came up?

24 A. Well, I think that was included in a directive
25 of a resolution from Jack Donovan very early in this

1 process. I may be wrong about that, but I seem to
2 recall that.

3 Q. Where does that knowledge come from?

4 A. Because I read newspapers and I talk to people,
5 but I don't always retain the source. I can't attribute
6 everything I know or that I've heard.

7 Q. Okay. But you believe that would have either
8 come from reading something in the newspaper or talking
9 to someone else about it?

10 A. Yes. It would have to be one or the other.

11 Q. Okay. That's fine. Can you go on to number
12 seven then, which is the paragraph underneath that, and
13 if you could read that aloud into the record.

14 A. "Contrary to the City of Gainesville's direction
15 that Hunzinger negotiate the agreement, Hunzinger
16 instead appointed an advisory committee, headed by GRU
17 Assistant General Managers Ed Regan and John Stanton,
18 and delegated to the committee the task of negotiating
19 and recommending the agreement to Hunzinger."

20 Q. Okay. Do you have any knowledge yourself that
21 Hunzinger appointed an advisory committee?

22 A. I would have no way of knowing what he did. I
23 wasn't part of the committee.

24 Q. Okay. And you don't know what he did or did not
25 do in those negotiations?

1 A. No. I assume that he might be a good source of
2 information about that, I'm not.

3 Q. Okay. Have you ever made a public records
4 request to the city asking for records --

5 A. Yes.

6 Q. (Continuing) -- in regard to biomass?

7 A. Yes.

8 Q. Okay. What kind of records have you requested?

9 A. We were requesting videos of commission meetings.

10 Q. Okay. Just videos or was there ever anything
11 else?

12 A. I don't recall anything else, but there may have
13 been.

14 Q. Okay. Now, you say you personally may have
15 watched some videos before?

16 A. Yes. But I've already told you that I don't
17 remember what videos.

18 Q. Sure. Do you remember ever reading e-mails or
19 anything that was produced in response to a public
20 records request?

21 A. I don't recall that either.

22 Q. Okay. That's fair. Have you ever discussed with
23 anyone at GRU about how it was that the Purchase Power
24 Agreement was negotiated?

25 A. I have not directly communicated or interviewed

1 anybody in the GRU management.

2 Q. Okay. Now, whenever you say directly, that makes
3 me think that maybe there's an indirect or something in
4 your life. Is there?

5 A. What I might read in the paper or hear from
6 other people, which would be secondhand, but I have no
7 recollection about that. But I have not had any direct
8 conversations with the management of GRU.

9 Q. Have you talked to other members of Gainesville
10 Citizens as to whether they've talked directly with
11 anyone at GRU about the negotiations?

12 A. I do not know whether I have or not. I don't
13 recall.

14 Q. Okay. Can you go on to number 14, which would
15 appear on Page 5 of that agreement, and could you read
16 into the record the first sentence of paragraph number
17 14.

18 A. You want me to read all of 14 or --

19 Q. Just the first sentence for now. Okay?

20 A. The first sentence?

21 Q. Uh-huh.

22 A. "The agreement that was ultimately presented to
23 Hunzinger for his signature on behalf of the City of
24 Gainesville contained substantial changes from the
25 binding proposal."

1 Q. Okay. Did you ever read the binding proposal?

2 A. I think I did, but I can't swear to that either.

3 Q. Okay. Did you ever read the final agreement?

4 A. I saw the final agreement that did not include
5 the termination clause.

6 Q. Okay. Did you read the agreement?

7 A. I don't know if I read it in its entirety or not,
8 but I was interested in that specific portion of it.

9 Q. Okay.

10 A. I think the rest of it was the same as the
11 previously released agreement. This was just
12 supplemental, I believe.

13 Q. Okay. Now, in there it says that there were
14 substantial changes in the final agreement from the
15 binding proposal. What substantial changes are you
16 aware of in regard to that?

17 A. I'm sorry, I don't really -- I really don't know.
18 I think the termination clause and the exposure of the
19 city was probably altered, but I don't know.

20 Q. Okay. Did you attend the May 7th, 2009 City
21 Commission meeting when Mr. Hunzinger presented to the
22 City Commission the results of the negotiations and what
23 they were able to negotiate?

24 A. No. I think I watched it on TV that night.

25 Q. Okay. So you didn't comment to the City

1 Commission about the agreement?

2 A. I don't think that was a meeting at which I
3 commented.

4 Q. Okay. Did you see anyone from Gainesville
5 Citizens at that meeting?

6 A. I'm sure there were, but I don't recall.

7 Q. Okay. Have you ever had any discussions with Ray
8 Washington about the Power Purchase Agreement and any of
9 the provisions of the Purchase Power Agreement?

10 MS. LAHART: Objection, calls for attorney/client
11 communication. Don't answer the question, Mr. Price.

12 BY MS. WARATUKE:

13 Q. Is Mr. Washington the attorney of Gainesville
14 Care?

15 A. He's been involved in the issue. I don't know
16 whether he was specifically our attorney or not. But I
17 think as a citizen he was very interested in this issue.

18 Q. Okay.

19 A. I think you might direct to him questions about
20 his role.

21 Q. Okay. Did Gainesville Citizens hire an attorney
22 to represent them in this complaint?

23 A. I think Ms. LaHart is now our attorney.

24 Q. Okay. Did you sign a written piece of paper
25 hiring her as the attorney?

1 A. I did not, no.

2 Q. Okay. Did the board hire Ms. LaHart as the
3 attorney for Gainesville Citizens?

4 A. I'm sure they did.

5 Q. Okay. To your knowledge, has Mr. Washington ever
6 been hired as the attorney for Gainesville Citizens?

7 A. I don't recall, no. You might ask him about it.
8 I think his interest was as a citizen, as far as I know.

9 Q. Have you ever seen the terms of the contract that
10 was -- the agreement with Ms. LaHart to be the attorney
11 for Gainesville Citizens?

12 A. I think I probably did, but I don't recall. I
13 know that she's our attorney.

14 Q. Okay. Because there's a provision in the lawsuit
15 where you ask for the attorney's fees for the attorney.

16 A. That's right.

17 Q. Okay. And do you understand the attorney to be
18 Ms. LaHart?

19 A. Yes. She's here today.

20 Q. Okay. Are you aware of what the terms of the
21 representation are as far as compensation?

22 A. No, I do not. I assume it would be recovery of
23 costs if the suit is victorious.

24 Q. Is Gainesville Care paying her anything now?

25 A. I don't know.

1 Q. Okay. You haven't seen any indication though, as
2 far as a check or anything, that she's being paid now?

3 A. I don't know.

4 Q. In the complaint there's allegations of unlawful
5 activity on the part of the city. You read that in
6 there; right?

7 A. Yes, their failure to adhere to sunshine
8 provisions and so on, yes.

9 Q. What evidence do you have that they failed to
10 observe the sunshine law in those negotiations?

11 A. Well, I think the lack of transparency was fairly
12 obvious, but I don't have specific evidence.

13 Q. Okay. Maybe I'm just misunderstanding. What do
14 you mean by lack of transparency?

15 A. I think that its decision was made without full
16 disclosure of all the provisions and the negotiations
17 were not fully made public.

18 Q. What makes you believe that the negotiations had
19 to be public?

20 A. Because I think there are laws that say that
21 public business should be -- you know, should be
22 transacted in public -- in public view.

23 Q. Okay. Other than the laws that public business
24 shall be in the public, are you aware of any evidence
25 though that these negotiations had to be made in the

1 public? Are you aware of what went on in the
2 negotiations?

3 A. In detail, no.

4 Q. In general.

5 A. In general, I would only know what was reported
6 in the newspapers or what I heard from people second-
7 hand.

8 Q. When do you believe that you -- or when did you
9 become aware, you believe, that the city was acting
10 unlawfully? How long ago?

11 A. Well, I think that it was a matter of concern,
12 which was the reason we attempted to have conversations
13 with the commissioners.

14 Q. Okay. So it was before your meetings with the
15 commissioners?

16 A. And I've forgotten what year that was. I think
17 it was three years ago. I don't know whether that's
18 correct or not.

19 Q. I know you said earlier that you had made some
20 notes when you were with the commissioners, but you no
21 longer kept them. Do you have notes at all that you've
22 kept that relate to the biomass issue?

23 A. No, I have no notes.

24 Q. There was a point in time when the Public Service
25 Commission heard the issue of building the biomass and

1 the need for it. Were you involved in those meetings or
2 those hearings before the Public Service Commission?

3 A. No. I was aware that there were hearings.

4 Q. Okay. Did you ever go up to talk or observe the
5 Public Commission?

6 A. No.

7 Q. Okay. Now, you do have a notebook with you
8 today. Is it just for taking notes here today?

9 A. Yes. Also primarily to have the address of where
10 I was supposed to come.

11 Q. So you don't generally carry a notebook or --

12 A. I generally carry a notebook, only to get
13 people's addresses, phone numbers and so on, because my
14 memory is not so great.

15 Q. Okay. But you wouldn't use that notebook to take
16 notes of meetings that the Gainesville Care group might
17 have had?

18 A. Well, I brought this today primarily because I'm
19 going somewhere else later, and I have the address and I
20 have Marcy LaHart and her phone number on here.

21 MS. LAHART: You can have a copy of it, if you'd
22 like.

23 MS. WARATUKE: That's all right.

24 BY MS. WARATUKE:

25 Q. Have you ever talked to Pegeen Hanrahan about the

1 biomass plant and the contract?

2 A. I've had very short, informal -- she's very
3 defensive, so there was really very little discussion.
4 I don't know. She's very emotionally invested in the
5 project it would appear, but I have not had an extensive
6 conversation. I don't think she would have entertained
7 one.

8 Q. Okay. And where was it that you had the meeting
9 and the conversation with her?

10 A. At some luncheon somewhere.

11 Q. Okay.

12 A. It might even have been a Planned Parenthood
13 luncheon.

14 Q. Okay. Did you ever talk to her -- what do you
15 recall talking to her about in regard to the biomass and
16 the agreement?

17 A. I recall mentioning that I thought the city had
18 failed to do this with the kind of transparency and in
19 the sunshine that I would have thought the city usually
20 transacted these kinds of matters, and she of course
21 vehemently rejected that.

22 I didn't pursue it. I was in a social gathering.
23 It was not a place for me to pursue it. She was no
24 longer the mayor. But much of this was transacted
25 during the period in which she was presiding over the

1 city.

2 Q. Did you ever talk to Jack Donovan? Was he one of
3 the ones that --

4 A. I talk to Jack Donovan frequently. I talked to
5 him yesterday morning informally. He's going to do my
6 funeral.

7 Q. Well, let's hope that's not for a long time.

8 MS. LAHART: No time soon, I hope.

9 THE WITNESS: Well, I hope not too.

10 BY MS. WARATUKE:

11 Q. Have you ever talked to him about the biomass
12 plant?

13 A. Not in great detail, no.

14 Q. Have you ever talked to him at all about it?

15 A. I recall no details about it. We talk about a
16 lot of things.

17 Q. Was he one of the commissioners that was like
18 sitting on the commission that you would have gone to
19 meet with over at City Hall when you and Ms. Beaty were
20 meeting with the other commissioners?

21 A. He was no longer on the commission when we were
22 meeting with them. So he was not one of the people we
23 talked to about the city and its behavior.

24 Q. Did you ever talk to Warren Nelson about it?

25 A. No.

1 Q. What about Rick Bryant?

2 A. I don't talk to Rick Bryant.

3 Q. Tony Domenech?

4 A. I don't talk to Tony either. My politics dictate
5 to whom I communicate.

6 Q. Have you ever talked to Nathan Skop about the
7 biomass plant?

8 A. I have talked to Nathan Skop.

9 Q. You have?

10 A. Yes.

11 Q. Okay. What have you talked to Nathan Skop about
12 in regard to the biomass plant?

13 A. Well, of course he was very involved in the
14 activities with regard to the Public Utilities
15 Commission, whatever that title is.

16 Q. What specifically have you discussed with him?

17 A. I can't recall. I think that -- I think that he
18 had made a -- I can't recall exactly. But I think there
19 was a change of position on his part.

20 Q. Do you know what his position is in regard to the
21 biomass plant?

22 A. Well, ultimately he was very vehemently opposed
23 to it.

24 Q. Do you know why?

25 A. Because he thought it was an ill-advised project,

1 I'm sure. But you'd have to ask him his motivation.

2 Q. Do you know why he thought it was an ill-advised
3 project?

4 A. I think the concern is that ultimately it's going
5 to result in huge rate increases, and I think that's the
6 basis of the opposition to the project.

7 Q. Is that the basis of the opposition on the part
8 of Gainesville Citizens, is this rate increase, that
9 it's going to --

10 A. Well, I think that's certainly one of the issues
11 that would concern us.

12 Q. Well, what are the other issues then?

13 A. I'm not sure.

14 Q. Okay. For you, is the concern the rate increase
15 that's going to take place?

16 A. That is part of it, but also the feeling that the
17 city had not followed through on -- I think Donovan --
18 if I recall, Donovan's resolution had the backing of
19 the commission. So it should have been part of the
20 negotiations, the termination clause.

21 Q. Okay. Do you know whether, in fact, they tried
22 to negotiate that into the contract?

23 A. Now, how would I know that?

24 Q. Okay. I'm just asking because you said that --
25 you're making the statement that the commission told Bob

1 Hunzinger to negotiate that into the contract. Okay?

2 A. They authorized that on that May -- whatever that
3 date was.

4 Q. Okay. And all I'm saying to you is, do you know
5 whether Mr. Hunzinger tried to negotiate that into the
6 contract?

7 A. I have no way of knowing what Mr. Hunzinger tried
8 to do.

9 Q. Would you agree with me that if he, in fact,
10 tried to negotiate it into the Power Purchase Agreement,
11 then he followed the direction of the City Commission?

12 A. I'm not sure that would meet that standard or
13 not. I'm not a lawyer. I really don't know.

14 Q. Okay. Have you ever negotiated a contract
15 before?

16 A. Other than a lease for an apartment, no.

17 Q. Yeah. And there it's not like you have a whole
18 lot of negotiating power; right?

19 A. That's right.

20 Q. Because if you want to lease an apartment, they
21 say it's going to be X-number of dollars and you
22 generally pretty much have to pay that.

23 A. That's correct.

24 Q. So you don't know about the give and take that
25 necessarily goes on in big contracts?

1 A. No. I'm not a negotiator. I've had no
2 negotiation experience.

3 Q. Okay. Then as far as you know, Gainesville
4 Citizens concerns are what they perceive to be the
5 higher price for the biomass once it comes on and the
6 fact that this termination for convenience wasn't in --

7 A. Well, I can't speak for all the members of
8 Gainesville Citizens Care. I can only try to express my
9 own feeling, which you've already gone over in great
10 detail.

11 Q. Okay. Well, have you ever heard any other
12 concerns from Gainesville Citizens other than those two
13 we've discussed?

14 A. I cannot recall.

15 Q. Okay. And we're talking about you personally.
16 Okay? I just want to make sure I understand. Your
17 concern is also the rate increase; right?

18 A. That's part of it.

19 Q. Right. And the other part is the transparency
20 thing?

21 A. That's right.

22 Q. Anything else?

23 A. I think the attitude of the city during all this
24 process is a matter of some personal concern to me, but
25 that's -- I don't think that's relevant to what you're

1 trying to establish here.

2 Q. Okay. You don't think you were treated very well
3 by the City Commission; is that right?

4 A. Some with courtesy, some with great rudeness.

5 Q. Okay. Anything else?

6 A. Not that I know of.

7 Q. So I'm not hearing any concerns on your part as
8 to anything else other than those issues; right?

9 A. I don't think of anything at the moment.

10 Q. Okay.

11 A. I hadn't thought that I needed to prepare a list.

12 Q. No. I'm just asking you.

13 A. In fact, I had no idea what was going to happen
14 to me here today.

15 Q. Have you ever talked to Paula Stahmer about the
16 biomass plant?

17 A. Paula is a friend of mine, yes.

18 Q. What have you talked to Ms. Stahmer about in
19 regard to the biomass plant?

20 A. Well, obviously, as I recall, she didn't think it
21 was a great idea.

22 Q. Because of the rate increase and the --

23 A. I think she had a number of issues, but I'm not
24 authorized to speak for her and I don't think I should
25 attempt to, because I might not accurately reflect her

1 views.

2 Q. And of course we're here just to get your
3 understanding. What do you understand her concerns to
4 have been?

5 A. I think that's an unfair question what her
6 concerns are.

7 Q. Well, did you talk to her?

8 A. I have talked to Paula Stahmer about a number of
9 things, of which biomass was on occasion mentioned. I
10 cannot recall any detail.

11 MS. LAHART: We've been going for about an hour
12 and a half. Would it be a good time to take a break?

13 MS. WARATUKE: I think so. Would you like to
14 take a quick break? I don't think I have a whole lot
15 more. And then we can finish with you and perhaps
16 send you on your way.

17 THE WITNESS: Well, I'm eager to go on my way.

18 MS. WARATUKE: Can we just take a quick break?
19 Because I think I'm close to being done.

20 MS. LAHART: Okay. Five minutes?

21 MS. WARATUKE: Five minutes.

22 (Thereupon, a brief recess was taken.)

23 BY MS. WARATUKE:

24 Q. I just have a couple sort of quick follow-up
25 questions. Okay?

1 A. I'll try.

2 Q. Did you look at anything in preparation for your
3 deposition today?

4 A. I certainly did not. I had no idea where I was
5 going or why exactly.

6 Q. Okay.

7 A. I'm surprised that you didn't ask about the
8 position of the Sierra Club of which I'm a member.

9 Q. Well, I don't think that the Sierra Club has
10 taken a position on biomass, have they?

11 A. Yes, they did.

12 Q. Okay. Mr. Price, today there were a number of
13 questions that I asked you that you didn't have any
14 recollection of or you didn't know the answer to; right?

15 A. Well, my memory has not improved since you spoke
16 to me.

17 Q. Okay. Well, is there anything that you have in
18 your possession that you anticipate going back and
19 reviewing to make your memory better?

20 A. I would hope that this will be my last appearance
21 here. I don't think it's likely. And I know of nothing
22 that I could be reviewing that would prompt a fuller
23 memory of how these events transpired.

24 Q. Okay. If you don't mind my asking, how old are
25 you?

1 A. Eighty-three.

2 Q. Oh, I would have never guessed.

3 A. Well, sometimes I feel every year of it.

4 Q. Okay. Let me just ask you kind of one -- did
5 Gainesville Care Citizens, of which you're a director
6 of, ever specifically hire Ray Washington to be its
7 attorney?

8 A. I don't recall him ever being our attorney. He
9 was interested in the issue. But he had been, as I
10 recall, involved in another suit that Mrs. Deevey and
11 some other people were involved in. I don't recall any
12 overt activity other than that he was an interested
13 citizen in the issue. Now, I may be wrong about that,
14 but I don't think so.

15 Q. Did you ever have a conversation with him as your
16 attorney?

17 A. As my attorney? No.

18 Q. As your attorney as part of Gainesville Care.

19 A. No. I've had conversations with him, but if he
20 was acting in that capacity, I was unaware of it.

21 Q. Okay. So what conversations have you had with
22 him in regard to the biomass plant?

23 MS. LAHART: Again I'm going to object and direct
24 the witness not to answer the question. Just because
25 Mr. Washington is not counsel of record doesn't mean

1 that he is not an attorney that has been consulted.
2 Those communications are privileged, whether Mr.
3 Price understood him to be counsel or not.

4 MS. WARATUKE: Okay.

5 MR. DEE: Excuse me. Ms. LaHart, are you
6 saying that they're privileged even if there was no
7 attorney/client relationship?

8 MS. LAHART: No. I'm saying that any
9 conversations that Mr. Price had with Mr. Washington
10 regarding the biomass plant are privileged.

11 THE WITNESS: I also talked to him about his
12 campaign when he ran for the City Commission, very
13 unsuccessfully.

14 MR. DEE: And I guess again I'm trying to --

15 MS. LAHART: David, I don't want to argue with
16 you. If you disagree with me, we'll let the judge
17 decide. That's fine.

18 MR. DEE: No, ma'am. I'm trying to make sure
19 I understand your position. If Mr. Washington was
20 not the attorney for the association and had a
21 discussion with the witness, are you saying that
22 that communication -- any communication with Mr.
23 Washington is privileged?

24 MS. LAHART: I'm saying that any communication
25 that Mr. Price had with Mr. Washington regarding the

1 biomass plant is attorney/client privilege. That's
2 what I'm saying.

3 MR. DEE: Even if he talks to him today?

4 MS. LAHART: Yes.

5 MR. DEE: I'm sorry. Mr. Washington is still
6 counsel for the plaintiff?

7 MS. LAHART: Mr. Washington is an attorney that
8 is sometimes consulted by various members of the
9 community regarding a variety of issues, and all of
10 those conversations are subject to attorney/client
11 privilege.

12 MR. DEE: When he talks to anybody in the
13 community, those communications are privileged?

14 MS. LAHART: Mr. Dee, Mr. Price's conversations
15 with Mr. Washington regarding the biomass plant are
16 privileged. I don't know about Mr. Washington's
17 conversations with anybody else. Anybody who seeks
18 his legal advice, those communications are privileged,
19 yes.

20 MR. DEE: Okay. Are you able to tell us when
21 Mr. Washington served as counsel for the plaintiff?
22 I mean, does that relationship continue up through
23 today?

24 MS. LAHART: Yes.

25 MR. DEE: Okay. That's news to me. All right.

1 Thank you for the clarification.

2 MS. WARATUKE: I don't have anything further.

3 MR. DEE: If I could ask just a few questions of
4 the witness, please.

5 MS. LAHART: Of course.

6 CROSS EXAMINATION

7 BY MR. DEE:

8 Q. Mr. Price, are you aware of the fact that the
9 proposed biomass plant was the subject of several
10 administrative hearings that were conducted at the
11 courthouse here in Gainesville?

12 A. Was I aware of what, please?

13 Q. That there were several administrative hearings
14 conducted here at the courthouse in Gainesville to
15 discuss the environmental permits for the biomass plant?

16 A. No. I know the permit was an issue, but I was
17 not privy to any of those conversations.

18 Q. You didn't attend any of the --

19 A. No.

20 Q. (Continuing) -- hearings at the courthouse?

21 A. No.

22 Q. Did you attend the hearing at City Hall that was
23 conducted by the Public Service Commission to discuss
24 the biomass plant?

25 A. What year was that?

1 Q. It would have been 2009 or 2010.

2 A. I'm not sure. I do know that the issue was
3 before the Public Service Commission.

4 Q. Right. And I guess there was a hearing held one
5 evening here at City Hall where the Public Service
6 Commission came over and conducted a meeting.

7 A. Yeah.

8 Q. You didn't attend that?

9 A. I think I may -- I was aware that the meeting was
10 taking place, but I was not there.

11 MR. DEE: All right, sir. I have no further
12 questions. Thank you, sir.

13 MS. WARATUKE: You're free to go.

14 THE WITNESS: I'm free at last.

15 MR. DEE: Appreciate your time, sir. Thank you.

16 (Thereupon, the witness was excused and the
17 deposition was concluded at 11:00 a.m.)

18

19

20

21

22

23

24

25

CERTIFICATE OF OATH

STATE OF FLORIDA:

COUNTY OF ALACHUA:

I, the undersigned authority, certify that
the witness, LEE J. PRICE, personally appeared before me
and was duly sworn.

WITNESS my hand and official seal this 19th
day of November, 2012.

Rhonda D. Mashburn

Court Reporter/Notary Public

REPORTER'S DEPOSITION CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA:

COUNTY OF ALACHUA:

I, Rhonda D. Mashburn, Court Reporter and Notary Public, certify that I was authorized to and did stenographically report the deposition of LEE J. PRICE; that a review of the transcript was not requested; and that the transcript is a true and complete record of my stenographic notes.

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

DATED this 19th day of November, 2012.

Rhonda D. Mashburn
Court Reporter/Notary Public