From:	Ray Washington
To:	Citycomm; DI_utility Advisory Board; Bielarski, Edward J; Locke, Justin M; Brown, Thomas R; Holt, Carlos L; Andrew Caplan
Subject:	Choosing sides in the GREC negotiations
Date:	Friday, March 03, 2017 11:23:59 AM

Commissioners,

As I wrote to each City Commissioner yesterday, city attorney Nicolle Shalley has taken the extraordinary step of agreeing to keep secret from her client, the city commission of the City of Gainesville, representing the citizens of Gainesville, information provided to her by her client's legal adversary, GREC.

Inasmuch as you were aware of this fact -- not only through the document that I provided you prior to the public discussion of the GREC MOU yesterday (segment of which I have pasted below), but also because you clearly explained by former Gainesville mayor Dr. Mark Goldstein on the record, at yesterday's meeting-- it may be inferred that the city commission as representative of the people of Gainesville has in effect waived Ms. Shalley's ethical responsibilities to you, as you have the legal right to do.

I don't believe most residents of the City of Gainesville, or GRU customers, would approve of what you have allowed to stand, if they understood what you have done, though you have the authority to waive these rights as you have waived other rights.

The common sense citizen I suspect believes that although you are willing to waive their rights vis-à-vis GREC, you would not be so willing and certainly not eager to waive your own legal rights.

Can you blame them?

Imagine that you in your private life signed a service contract under which you were to receive weekly deliveries of bottled water for 30 years. Suppose you had to pay $79.15 monthly for the right to receive the water and $43 for actually receiving the water if it was delivered. Suppose sometimes you received the water you wanted deliver and sometimes you didn't, but nonetheless you were expected to pay the full amount of water that under some standard "could have been delivered." Suppose that you lived up to your part of the bargain but that the water supplier claimed you owed even more than you had paid. Suppose you hired an attorney -- call her Shalley Winters -- to protect your interests in the interest of your family under the water supply contract. Suppose the water supplier hired an attorney to sue you to force extra payments Beyond what you thought you had agreed to pay, and also to sue you for $10,000 for claimed tortious interference with the delivery suppliers' ability to borrow money on his business (because you had as your contract required informed the water supplier's lenders that you were in a legal dispute with the water supplier.) Suppose Attorney Shalley Winters informed you that she was advising that you enter into mediation with the water supplier in order to attempt to resolve your differences. Suppose those differences were not resolved. Suppose one day you learned that Shalley Winters had signed a confidentiality agreement with the water supplier under which she had agreed that any information she learned in private discussions with the water supplier or information she obtained from any other person privy to private discussions with the water supplier would be kept secret from you not only in the period leading up to the resolution of your dispute, but forever. Suppose a firm of other attorneys that you had hired to work on your behalf -- but over home Shalley Winters had assumed a supervisory role -- say the firm of Marlboro Strange, lead attorney Polly Houndstooth -- had not signed the confidentiality agreement because of bar ethical rules prohibiting such conflict of interest?

What would happen in your personal business dealings when you learned that Shalley Winters such a nondisclosure and confidentiality agreement?

Suppose member of your family brought this conflict of interest to the attention of Shalley Winters and she lectured you that you simply did not understand her role. Her role, suppose she said, was just to give you legal advice about your case, not to share information with you about facts related to your

case or about the opinions of your opponent about the case. "Let me take care of the big girl stuff. Go play in your own sandbox."

Would you agree to allow this sort of representation to continue? Would you fire your attorney? Or if your wife and other members of your family liked Shalley Winters and didn't want you to fire her, would you at least direct her to withdraw from the nondisclosure agreement going forward, keeping a closer eye on her in the future?

Or would you do in your private affairs what have indicated you are inclined to do in conducting public business as representatives of the people of the city of Gainesville -- that is do nothing, and chide your family members for presuming to understand grown-up matters?

You have the facts as I related them to you yesterday and as Dr. Goldstein repeated to you. They are basic and unrefuted:

"The NDA was signed by City Attorney Nicolle Shalley on 1/5/17. Ms. Shalley has thus agreed to restrictions in her ability to share negotiating information with members of the Utility Advisory Board – or even with members of the City Commission, a violation of her employment obligations and Florida Bar required ethical obligations unless all members of the City Commission agree to sign the NDA. There is indicia that GRU's outside counsel Winston & Strawn has refused to sign the NDA."

You understand the situation. You have knowingly chosen your course.

Maybe you will be able to convince the public that you are looking out for the public interest just as you would look out for your own private family interest. If this is true, the public should be very afraid, and so should your families.