From: Baxley, Robin L.
To: Bielarski, Edward J
Subject: FW: Commission-Sanctioned Limits to GREC Purchase Information, Discussion and Debate
Date: Wednesday, February 22, 2017 5:38:57 PM

Just doing my weekly browse through the commissioner's emails and saw this. FYI only.

Robin Baxley
Office Coordinator
General Manager's Office
Gainesville Regional Utilities
352-393-1032

From: Ray Washington [mailto:raywashingtonlaw@gmail.com]
Sent: Tuesday, February 21, 2017 12:52 AM
To: citycomm
Subject: Commission-Sanctioned Limits to GREC Purchase Information, Discussion and Debate

Commissioners (particularly Commissioner Chase):
On Sunday, January 22, 2017, I had published in the print version of *The Gainesville Sun* an article entitled *"Gauging the cost of the biomass plant,"* communicating to the public that serious negotiations about the City of Gainesville buying down the GREC electricity generation contract and purchasing the GREC generating plant were underway. My central purpose in writing the article was to encourage an informed public dialog surrounding this central question:
"How much, if anything, will the Gainesville City Commission, be willing to pay the GREC speculators to go away?"
In the month since that article was published, *The Sun* has published multiple articles, op-Ed opinion pieces, editorials and letters to the editor touching on this issue from differing perspectives.
In yesterday's print edition, alone, *The Sun*, published:

1. A lead editorial entitled *Community must vet plant purchase,*

whose avowed purpose was "to start that community conversation . . . and more debate . . ."

2. An opinion piece by GRU General Manager Ed Bielarski, Jr., entitled *Biomass buyout will be prudently considered*, pledging that "any possible deal will be contingent upon review by the Utility Advisory Board and acceptance by the City Commission after public vetting and disclosure. That process begins today."

3. A column by UAB member David Denslow, entitled *Room to negotiate on biomass plant*, advising "Critical to bargaining is patience, even willingness to walk away and come back another year . . . Let's be patient."

Community conversation. Public vetting and disclosure. Patience.

All laudable goals, and all congruent with part of what I have advocated in written communication and oral comments at three City Commission meetings (one of them a joint Commission/UAB meeting) in the weeks since my original *Sun* article was published.

Unfortunately – unfortunate for the community and for GRU customers, in my view, but not unfortunate for GREC's energy speculators – there has not been any expression of interest by the majority of members of this Commission about the other part of the message that I brought to those meetings, that I included in my written communication to you on January 16, 2017 and that I have restated several times thereafter. Specifically:

It is not possible to do adequate due diligence to arrive at a

fair price and terms for buying down the GREC contract and acquiring the GREC plant without first fully and fairly investigating the prima facie case of fraud in PPA inducement and fraud in PPA implementation (proof of which would adjust substantially downward the supposed present value of the contract) and without obtaining full construction, operation and maintenance information (understanding of which would adjust substantially upward the supposed present value of risk).

I have drafted, but have not yet delivered to you, "Indicia of GREC Fraud White Papers" laying out evidence suggesting GREC's fraud-in-the-inducement and fraud-in-the-execution, which have the potential to allow acquisition of the GREC plant for hundreds of millions of dollars less than otherwise may be possible while still allowing GREC's owners the full benefit of the bargain of the binding proposal to the City on whose basis they were chosen.

My reluctance to formally bring forth these so-called "white papers" (to the benefit of GRU, unlike the so-called "white papers" produced by former GRU Energy Supply Officer John Stanton) has been based in part on prior instances in which the City Attorney's Office actively discouraged exploration of clear indicia of GREC fraud, resulting in the fraud statute of limitations putting apparent fraud beyond legal recourse.

My reluctance, more recently, has been based in part on the lack of interest by a majority of commissioners, combined with recent efforts to limit the scope of Mr. Bielarski's authority (and the Utility Advisory Board's Authority) and to speciously call into question Mr. Bielarski's job performance. Although I trust Mr. Bielarski's demonstrated willingness to pursue all avenues of investigation and negotiation directed or allowed by this

Commission to the benefit of GRU customers, I am not comfortable that some members of this Commission would be willing to authorize exploration of indicia of fraud that could lead to greater scrutiny of past commissioner actions.

I came to the Commission meeting Thursday evening because I understood that earlier in the meeting three commissioners had expressed an interest in evaluating indicia of GREC fraud in the context of negotiations related to buying down the GREC contract and acquiring the GREC plant. It appears I misunderstood. The unwelcome reception I received from the Mayor Pro Tem and Commissioner Chase when I attempted to address the Commission Thursday brought to mind the unwelcome reception I experienced when I attempted for the first time to address a former Commission on May 19, 2011, at a time when it was still possible to avoid the GREC fiasco.

This evening I was able to look at the close captioning of the part of the Thursday meeting during which three commissioners had supposedly expressed interest in evaluating indicia of GREC fraud. I was disheartened to discover that while Commissioners Goston and Carter had indeed had expressed a willingness to receive and consider such information, the third Commissioner that I understood had expressed interest, Commissioner Chase, in fact had expressed interest in receiving such information for the purpose of debunking it.

This was especially demoralizing. Commissioner Chase once had been almost alone on the Commission in his expressed willingness to explore GREC information with an open mind, particularly after he appeared to understand that he had been receiving misleading information from former GM Bob Hunzinger, who had not been acting in the best interests of GRU. Much later, even after Commissioner Chase finally

appeared to understand that GRU Assistant General Manager John Stanton also had not been acting in the best interests of GRU, Commissioner Chase has expressed less willingness to explore GREC-related information, and has demonstrated an unwillingness to consider legal options beyond those suggested by the City Attorney. He has in recent times belittled the concerns of citizens in a manner similar to those commissioners with whom he served in 2011.

Commissioner Chase, I apologize if I have misjudged you here. If you write that you are willing to vote for the commission to explore still actionable (until the statute of limitations runs this fall) indicia of GREC fraud , I will immediately complete and circulate the "Indicia of GREC Fraud White Papers."

Otherwise, I think I'd prefer to wait to see how the March 14 city elections turn out.