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MINUTES

CITY OF FORT LAUDERDALE VIRTUAL CIVIL SERVICE BOARD MEETING

Friday July 24, 2020 - 10:00 AM

**CITY HALL IS CLOSED TO THE PUBLIC
MEETING CAN BE ACCESSED AT THE LINK BELOW:**
<https://www.fortlauderdale.gov/government/CIVIL>

<u>Board Member</u>	<u>Attendance</u>	Cumulative Attendance	
		<u>Present</u>	<u>Absent</u>
Lori Adelson, Chair	P	2	0
Shelley Gialluca	P	2	0
Robert Baldwin	P	2	0

Call to Order

Ms. Adelson called the meeting to order at 10:00 AM.

Roll Call

Staff Present:

Jerome Post – Deputy Director of Human Resources
Kerry Arthurs - Administrative Supervisor and Board Clerk

Other Attendees:

Mimi Turin, Esquire – Board Counsel
Kenneth Miller, Esquire – Outside Counsel for the City of Fort Lauderdale
Denise J. Bleau, Esquire – Counsel for John Madden, Appellant
John Madden – Appellant
John Travers – Building Official, Department of Sustainable Development
John Dougherty – Senior Building Inspector, Department of Sustainable Development
George Oliva - Chief Building Compliance Inspector, Department of Sustainable Development
Andre Cross - Business Assistance Coordinator, Department of Sustainable Development
Alfred G. Battle, Jr. – Deputy Director, Department of Sustainable Development

Attachment

Transcript of Proceedings – Prototype Inc.

Meeting Adjournment

the meeting was adjourned at 6:30 PM.

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CITY OF FORT LAUDERDALE
CIVIL SERVICE BOARD HEARING

TRANSCRIPT OF PROCEEDINGS

APPEAL OF TERMINATION OF EMPLOYMENT – JOHN MADDEN

DATE HELD: FRIDAY, JULY 24, 2020

TIME: 10:00 a.m. – 6:30 p.m.

PLACE: Via Zoom

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APPEARANCES BY

BOARD MEMBERS:

LORI ADELSON

SHELLEY GIALLUCA

ROBERT BALDWIN

STAFF:

JEREMY POST, Deputy Director of Human Resources

KERRY ARTHURS, Administrative Administrator

COUNSEL:

KENNETH MILLER, ESQUIRE

Haliczer, Pettis & Schwamm

Outside Counsel for the City of Fort Lauderdale

One Financial Plaza, Seventh Floor

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Fort Lauderdale, FL 33394-0015

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DENISE J. BLEAU, ESQUIRE

Ward, Damon, Posner, Pheterson and Bleau

Counsel for John Madden, Former Employee

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MIMI TURIN, ESQUIRE

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Board Counsel

11352 West State Road 84, Suite 58

Davie, FL 33325-4007

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HEARING

July 24, 2020

[COMMENCING AT 10:00 a.m.]

MR. POST: Good Morning. Thank you for joining the City of Fort Lauderdale for today's Civil Service Board meeting. This meeting is being conducted using Zoom video conferencing in order to maintain proper social distancing during Covid-19. This meeting is open to the public and is being recorded. A live-stream of this meeting may be available, but I do not believe it is running today. Is that correct, Kerry?

Any member of the public who would like to speak or to participate in today's meeting, please visit the Board's website at www.fortlauderdale.gov/government/civil and complete the brief speaker form. Once completed, you will be granted access to the meeting and you will be called upon at the appropriate time. If you're having trouble signing up, please email virtualmeetingsadmin@fortlauderdale.gov. To help ensure we follow the same protocols that we do during in-person meetings and to ensure on-line security, we ask that you please abide by the following guidelines: One - This meeting is to

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conduct official business for the City of Fort Lauderdale. Any behavior that is disruptive, distracting, profane, or inhibits the meeting in any way, is prohibited. Two - while you are on the phone or on your conference waiting for your opportunity to speak, please mute any other broadcasting devices you may have running simultaneously to avoid the known delay in the broadcast. Three - the City of Fort Lauderdale will be controlling your ability to speak during this virtual meeting. You have automatically been added to a listen-only mode. You will be granted access to speak when recognized.

I would like to remind board members, presenters and participating members of the public to please remember to mute yourself if you are not speaking, and to silence all electronic devices to limit the amount of interference. Regarding the process for today's meeting, for each of today's main agenda items, I will abide by the following protocol: The protocols will be followed as they are in the regular in-person meetings. The Board Chair will follow the agenda and announce each item as they come up. I will now turn it over to the Board Chair to the meeting. Ms. Adelson.

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CHAIR ADELSON: Good morning everyone and welcome to the new world.

MS. GIALLUCA: Good morning.

MR. BALDWIN: Good morning.

CHAIR ADELSON: Thank you for all being here and participating in the hearing. It will be a little unusual, obviously. We did do a run-through, so it will probably go smoothly. I am going to first start with calling the meeting to order and then basically we'll do roll call. So, I'm going to start with Shelley to my right - my virtual right. If everyone could just announce their names and who they are here for and what their focus is.

MS. GIALLUCA: Shelley Gialluca, Civil Service Board.

MR. BALDWIN: Robert Baldwin, Civil Service Board Member.

MS. TURIN: Mimi Turin, Board Attorney.

CHAIR ADELSON: Some people are on mute. Take yourself off mute, it would be great for this part.

MR. POST: Thank you. Sorry about that. Jerome Post, City Liaison and Deputy Director of Human Resources.

CHAIR ADELSON: Kerry?

MS. ARTHURS: Kerry Arthurs, City Staff, Human

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Resources.

MR. MILLER: You want us to announce as well?
Is that what you're asking for?

CHAIR ADELSON: Yes, sir.

MR. MILLER: I'm Kenneth Miller, attorney for
the City of Fort Lauderdale in this matter.

CHAIR ADELSON: And Mr. Travers, John.

MR. TRAVERS: John Travers, Representing City of
Fort Lauderdale.

CHAIR ADELSON: And Denice.

MS. BLEU: Denise Bleau, representing John
Madden.

CHAIR ADELSON: Mr. Madden, please take yourself
off mute.

MR. MADDEN: John Madden.

CHAIR ADELSON: Okay, thank you. So that's all
present. At this time, before we end up calling in
witnesses, if you need to review and approve the
meeting minutes from the prior two Board hearings on
February 17, 2020, and March 6, 2020.

Does anyone have any comments from the Board
about the minutes? [Unintelligible] No comments?

MS. GIALLUCA: No comments from Miss Shelley?

CHAIR ADELSON: And no corrections?

MR. BALDWIN: No comments.

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MS. GIALLUCA: Nope, no corrections.

CHAIR ADELSON: So that being said, I move to approve the meeting minutes from February 17, 2020 and March 6, 2020. Do I have a second?

MR. BALDWIN: Second.

CHAIR ADELSON: All in favor?

MR. BALDWIN: Aye.

MS. GIALLUCA: Aye.

CHAIR ADELSON: Both minutes are approved.

So, obviously we're in a little bit of an unusual circumstance doing this hearing on Zoom. I am going to just impress upon everything that it's sometimes difficult to recognize if someone has finished speaking. You've got to wait a second or two after the person who is highlighted in yellow has spoken so that we can be courteous to each other and not speak over each other. We also are being recorded by a court reporter. Did the court reporter announce herself?

MS. OPPERLEE: Pardon me, I can't understand you very well.

CHAIR ADELSON: I just want to make sure you were here and that you would just announce yourself.

MS. OPPERLEE: Yes. Jamie Opperlee, Recording Secretary.

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CHAIR ADELSON: So are you having difficulty understanding me clearly?

MS. OPPERLEE: Just you, yes. You're a little muddled.

CHAIR ADELSON: I understand, so I'm putting on a headset, so bear with me a second.

MS. OPPERLEE: All right. Thank you.

CHAIR ADELSON: Yes, of course. Please confirm that that is a better connection.

MS. OPPERLEE: Okay. Speak again, hopefully it's better.

CHAIR ADELSON: All right. So can you hear me better?

MS. OPPERLEE: I think it's a little better, yes.

CHAIR ADELSON: Great.

MS. OPPERLEE: Thanks.

CHAIR ADELSON: No, of course, we thought that might happen. So I'll have a headset on for the duration of the hearing.

Did you miss anything that I had said with the roll call or the review and approval of the meeting minutes?

MS. OPPERLEE: No, no, it's okay. Thank you.

CHAIR ADELSON: Excellent. Thank you, Jamie.

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So, as I was saying, I've asked that everybody be mindful. It's an unusual setting. Let the person speaking finish before you start speaking next. It's going to be a challenging environment, but I think if we do it in a discussion format, it should work pretty smoothly. So, at this point I'm going to - I have to recall where we were last. So, Mimi, do you recall where we were at the last hearing?

MR. POST: Chair Adelson, this is Jerome. By my agenda, we do have one item prior to the appeal hearing for Mr. Madden. We do have the proposed personnel rule change if we may.

CHAIR ADELSON: Yes, of course. Thank you.

MR. POST: I can proceed if you like?

CHAIR ADELSON: Yes, if you would, that would that would be great.

MR. POST: Board members, good morning. Each of you should have received a copy of a proposed change to one of our general personnel policies and provisions, Section 3, Vacation Leave, in specificity. You may not be aware, but the City Charter does require that the Civil Service Board approve any changes to the personnel policies - general personnel policies, anyway.

And we encountered a little bit of a problem

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with our vacation accrual policy when we encountered all of the emergency situations that we had earlier this year with all the sewer and water main breaks, as well now with the Covid pandemic issues we're experiencing. There are many employees who are at the maximum amount of accrual of their vacation and are not able to accrue any more, but yet because of all of the emergency conditions, they have not been able to take any vacation time either.

So, we have decided to propose a change that eliminates the maximum accrual of vacation temporarily and we believe that this will expire within a couple of months actually, and will probably be before you at that time to change this back at that time.

The union members are governed, of course, by their collective bargaining agreements and we have memos of understanding drafted for each one of them to proceed as well. And, if they are approved by the unions - we have no reason to believe they will not be - they will be going in front of the City Commission for ratification, we hope, in August.

So, the only change that is proposed is this red font strike-out language for your consideration and we simply need a vote by the Board to approve or disapprove that proposed change. Do we have any

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questions?

MS. GIALLUCA: I have a question. How does that affect other policies with the number of vacation days, etc., like payout and stuff?

MR. POST: We are not increasing the change in terms of payout upon retirement or departure or termination from the City. It's just the amount of time that the person can accrue.

MS. GIALLUCA: So, they're limited right now to just two years' worth of vacation time?

MR. POST: Correct, and let me clarify that the longer amount of service an employee has with the City, a higher accrual amount they get. So those that have just started with the City within the past year or two, aren't in danger of reaching the maximum amounts anytime soon.

MS. GIALLUCA: Okay. Right, yeah.

MR. POST: These are employees who have long term service with us that are -

MS. GIALLUCA: Right. Okay, and the [inaudible] name and the background behind it, that's the only background, not for any pending investigations, future issues, or appeals by an employee?

MR. POST: No, it's solely because of the unique conditions we are in right now and that employees are

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not able to take the vacation time because of the emergency situations we had.

MS. GIALLUCA: Okay. Thank you.

MR. POST: You're welcome.

CHAIR ADELSON: So, I have a question. Did I hear that this will expire at some point, or how are you intending to, if necessary, revert back to this old policy?

MR. POST: Because of the uncertainty we are experiencing, I can't say definitively how long it will be in play or that we'll take this cap off. We don't anticipate that it would be past the end of this year, but we expect that it will probably be within a few months.

CHAIR ADELSON: Is there a way to indicate that this is going to be set forth as a temporary policy pending the changes and the outcome with - obviously, with the uncertainty of Covid?

MR. POST: What we could do is have the Board propose a modification or an edit to the proposed language strike and have you vote on it with - I believe, and Mimi, maybe you might want to give your opinion as to whether we can do that. I believe we can just have the Board edit the language and approve it as amended.

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MS. TURIN: The Board could do that because - I think I understand where the Chair is going with this. First of all, we don't know what the future is going to hold, but I do have a question in terms of - is the rule saying that the maximum is lifted temporarily, but then the same maximum would be imposed whenever the rules change back? Because what happens to the rules during that time?

CHAIR ADELSON: That's why I'm trying to get some sort of timeframe on it.

MS. TURIN: Let's say they accrue another one hundred hours. I'm just pulling that number out. So, when the rule returns, is it with the additional one hundred hours? Would you clarify that, Jerome?

MR. POST: I believe the intent was that when the rule returns, we would not require employees to forfeit any of that additional time. I believe the intent was to propose a new language change that would allow a certain amount of time for those additional hours, or extra hours, over the cap, to be used up.

CHAIR ADELSON: Like a grandfather-type of clause where you keep those in a bank and they get to keep those. So this rule, although I am absolutely in favor of some sort of modification to adjust for the circumstances, I think that just by striking that

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language leaves a lot of ambiguity.

So, I'm open to taking a few minutes to try to modify it and then vote on it, so that we can get it done today. I just think that we need to either have it as a temporary policy, up and through and can be renewed upon further review, and that also would make it clear that the hours that are accrued aren't forfeited or lost, but that they don't necessarily get an additional accrual. That's just what happens when it ends. There's a hundred more hours than that's in their bank and they get to use it according to the ordinary policy -- something of that nature.

I am also okay, if necessary, Jerome, for allowing for time for you guys rework the language and address it before we end today.

MR. POST: Okay, so we could table this particular agenda item, pending some side work during the course of the day and bring it back before you adjourn. Is that what you're saying?

CHAIR ADELSON: Absolutely. Absolutely, I think it's critical. I think it's important and I do think we should vote on it. I just think the language needs to be, you know, adjusted, so that there's no loose ends or ambiguities in it as to procedures and that it is temporary. Shelley?

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MS. GIALLUCA: Actually, when I read this and I thought the background and the explanation was going to be that it was redundant - that sentence was redundant for the remaining parts in the paragraphs. Because the remaining parts of the document state that the maximum accrual for two years. Well, I'm a little confused about just striking that sentence when it seems like the rest of it, the rest of the paragraphs actually state the same thing that that one sentence does.

CHAIR ADELSON: Well, I actually agree with you. I think that's why this needs to be modified. It needs to be adjusted to say that is a temporary policy to allow additional accrual past two years, based on the current circumstances for which there will an end date of "X," pending further extension.

MS. GIALLUCA: Uh-huh [affirmative].

CHAIR ADELSON: And that would work out to give that benefit, I think it's important. I obviously think it's much too [inaudible]. So, if we could do some revising and reworking and come back to it and table it to later this afternoon, I'd be happy to then go ahead and take the vote on the amended language.

MS. GIALLUCA: Okay, perfect. I agree with that, then.

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CHAIR ADELSON: Bob?

MR. BALDWIN: I agree.

CHAIR ADELSON: I had to find you. You're down at the bottom of the screen.

MR. BALDWIN: I'm hiding down here.

CHAIR ADELSON: So, I'm going to take a screen shot --

MR. BALDWIN: Can I ask a question, Madam Chairman? One question?

CHAIR ADELSON: Of course.

MR. BALDWIN: When this is coming to us, is that a staff recommendation to the Board? Is the City Manager recommending this language to the Board?

MR. POST: Yes, sir.

MR. BALDWIN: Okay. Thank you.

CHAIR ADELSON: Okay, so we'll table it for later, Jerome, and we'll be happy to address it. Let's give, you know, a set time we're done. We're supposed to be done at 4:00. So, let's look to revisit it at, let's say, 3:00?

MR. POST: Okay.

CHAIR ADELSON: That way we have time to look it and also address any pending remaining matters for the hearing.

MR. BALDWIN: Do you need a motion, or - So

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moved.

CHAIR ADELSON: To table it? Sure, a motion to table this to the latter part of the day at the hearing, at 3:00.

MR. BALDWIN: Okay.

CHAIR ADELSON: All in favor?

MR. BALDWIN: Aye.

MS. GIALLUCA: Aye.

MS. TURIN: Gialluca seconded?

MS. GIALLUCA: I second.

CHAIR ADELSON: All right. Got to get those formalities back even in this somewhat informal environment. Thanks, Mimi. I want to thank you for reminding me. I do see it on the agenda, and I skipped right over it. So, I'm glad we addressed that. So, anything else that we need to address before we call back the first witness, which is where I was actually heading? I'm just trying to catch up in my notes where we were.

MS. GIALLUCA: I have a question. Just as a follow-up to a couple of requests. A couple of different times, and maybe there's a different procedure that I need to follow, but the Progressive Discipline Policy - the City was going to provide that. And also the employee group that Mr. Madden was

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in during the different time frames, the history of his demotion, etc.

CHAIR ADELSON: I know we got a few documents. They look like more like the public record requests. I don't see that we have received the documents you previously requested.

MS. GIALLUCA: No, I guess as a Board member, from what I read, that we have the right to compel a document, so whatever the procedure is to get those documents that I may not be aware of, I'd like to at least be able to look at those and that information.

CHAIR ADELSON: Kerry, where were we on that request, I suppose is the question?

MS. ARTHURS: I know -- Jerome? I'm sorry -

MR. POST: I was just going to speak up.

MS. ARTHURS: Oh, okay.

MR. POST: I do have some information to share with the Board regarding the question about Section 18 of the personnel rules. The question was how did the section read prior to the change that was made on January 23, 2018; and my research showed that there was no language prior to that date. There just wasn't any language that existed at the time of Mr. Madden's termination that related.

MS. GIALLUCA: I'm sorry, which section are you

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talking about? I'm kinda lost. Section 18 of what?

MR. POST: The personnel rules. Mimi, you'd have to remind me what that was pertaining to.

MS. TURIN: They were drafting the language for the - gosh, I had the policy that we're dealing with.

MR. POST: I think it had to do with the eligibility to go before.

MS. GIALLUCA: That had to do with demotion. That's kind of not really my question because I think that was Section 8 to Rule 12, or something. My question was, because when Janine Richards said there is a progressive discipline policy and I assume because it's not in the personnel rules, or maybe it is, and if there is or seems to be a conflict there as well, but if it was maybe in the policy and standards manual?

And then the other thing was we were questioning what employee group Mr. Madden belonged to when he got demoted. Was he put back? Was he covered by a union contract or just a regular employee? Those are the things that we were going to clarify.

MS. ARTHURS: If it's okay with you, I pulled up the section from the Minutes - the previous Minutes, if you want me to read it?

CHAIR ADELSON: Yes, please. That would be

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great.

MS. ARTHURS: Actually, it was Shelley that said
- let me go back a little.

CHAIR ADELSON: Uh-huh [affirmative].

MS. ARTHURS: Let me go back a little bit.

Madam Chair, you said, "So, do you have a specific or specific document that you're speaking because at this junction?" and Ms. Blue said, "Yes," and Madam Chair, you said, "Maybe if you could identify them, this way you don't have to stay in suspense and we might know if they will be presenting them." And, Shelley said, "Okay, so the document that I would like to see, and it may be from the City, and I know that Janine Richard would probably have been the appropriate person to ask this question, but she's gone. I would like a copy of the Progressive Discipline Policy, which I believe comes from the PSM, not the personnel rules. And I would like - and I would still like to see the previous version of the Private Provider's document --"

CHAIR ADELSON: That was it.

MS. ARTHURS: "-- prior to 7/14 revision."

MS. GIALLUCA: And there was also still the question of which employee group Mr. Madden belonged to during the different stages of the progression of

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his being a building official, being demoted also.

MS. BLEU: Right, if Ms. Arthurs continued to read - I can put it up on the screen if you all would like to see it, but Ms. Gialluca does go on and talk about, for clarification purposes and review of the documents, "it appears at one time that Mr. Madden was a member of the Bargaining Unit, the Teamsters, and then when he got promoted to Building Official, he became part of management that's covered by the Civil Service Board Rules." And then my question is, "When he got demoted and then Anthony Fajardo's letter regarding the request for his investigation, in the first paragraph, Anthony states that his bargaining unit is the Management Union." And that's my question to confirm. Was he actually covered by the Bargaining Unit and the Management Contract as opposed to the Personnel Rules? And as to the private provider document, I think that that is the information that Chair Adelson was referring to earlier. I provided our public records request that we had submitted to the City and I provided the response that I received from the City. So that request, I believe, has been satisfied.

MS. GIALLUCA: That's correct, because I got that in an email from Kerry at some point months ago.

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CHAIR ADELSON: No, thank you. We needed to get back - we needed to get caught up to where we needed to be. So, I think that was what Jerome - is that what you were saying? You went back and reviewed and there was nothing that proceeded with regard to the Private Provider language? Is that what I was hearing? Is he gone?

[Unknown]: He's muted.

CHAIR ADELSON: Oh, there you are.

MR. POST: Sorry. That's correct, yes.

CHAIR ADELSON: So the clarification is that there was no language previous the timeframe or the document which was presented for the CRA.

MS. GIALLUCA: Okay, so the question is, what about the Progressive Disciplinary Policy?

CHAIR ADELSON: That's still outstanding.

MS. GIALLUCA: Okay, and also the employee groups, the steps of the employee groups. Those were my two questions. I probably wasn't very clear. I apologize. Both those are the two things I've been asking for.

MR. BALDWIN: I remember your request. That's exactly what you requested.

MS. GIALLUCA: Yeah, and I have a couple of emails directly from Kerry throughout this. So, she

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was going to check with Jerome, so maybe it just got overlooked and that's okay. We have time, I think.

MR. POST: My apologies. I thought they were already answered, but I will take care of that today before the end of the day.

MS. GIALLUCA: Thank you.

CHAIR ADELSON: All right. Thank you. So, good. So, we took care of some housekeeping issues, we have the answer to the Private Provider question, you're waiting for the Progressive Discipline, documentation, and the status, and I think that's it for now. And these are things Jerome has indicated he will endeavor to get to us before the close of this hearing. Anything else?

All right, so, whose witness are we on?

MR. MILLER: We are still on the City's case.

CHAIR ADELSON: Yes.

MR. MILLER: And the next witness was going to be Mr. John Dougherty.

CHAIR ADELSON: So, absent there being any other housekeeping issues, we are going to proceed with the City's case and get the City's witness out of the void.

MR. BAQUERO: John Dougherty, bringing him in.

CHAIR ADELSON: In the meantime, Kerry, your

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hand's up. Is there something you wanted to ask?

Okay, thank you. Just checking.

MS. ARTHURS: I'm sorry. He was trying to read the portion from the minutes.

CHAIR ADELSON: And folks, I will look at the panelist portion where you're all listed and if I see a "hand" up, then I will obviously address it. Obviously, if you raise your hand, I'll look as well. I'm going to be trying to, obviously, manage all the different people and making sure that we are not over speaking each other. If you use that on the right-hand side with the panelists, it says "raise hand." I will be keeping an eye on that.

Mr. Miller, is your witness in the room?

MR. MILLER: He is.

CHAIR ADELSON: Mr. Dougherty, if you can unmute, I need to swear you in. Thank you. So, do you swear to tell the truth and the whole truth?

MR. DOUGHERTY: Yes.

MR. MILLER: Good morning, everyone. John, would you introduce yourself to everyone as to who you are and who you are employed by.

MR. DOUGHERTY: John Dougherty, City of Fort Lauderdale, Building Inspector.

MR. MILLER: And, John, how long have you been

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employed with the City of Fort Lauderdale?

MR. DOUGHERTY: Little better than seven years.

MR. MILLER: And when you were first hired by the City, what was your title and position?

MR. DOUGHERTY: Inspector One.

MR. MILLER: And is your title or position different today?

MR. DOUGHERTY: Yes, I'm a Senior Inspector now. The City changed the nomenclature of some of the positions, so it gets a little confusing, but I am a Senior Inspector now.

MR. MILLER: All right. Because of the way this hearing has unfolded, I want to ask you a couple questions. I think some of this may have been covered, but I just want to regroup a little bit to bring everybody up to speed. The department that you work for is entitled what?

MR. DOUGHERTY: Department of Sustainable Development.

MR. MILLER: And for those of us that were unfamiliar with this before this case began, does that encompass what we all commonly refer to as the Building Department?

MR. DOUGHERTY: That's one of the divisions, yes.

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MR. MILLER: Okay. And within - and I'm going to call it the DSD. That's that the initials of the department, correct?

MR. DOUGHERTY: Correct.

MR. MILLER: So within the DSD there are different groupings and different departments?

MR. DOUGHERTY: yes.

MR. MILLER: So, in your role for the position you have, what department within the DSD are you in?

MR. DOUGHERTY: Building.

MR. MILLER: And within Building, let's go back to when Mr. Madden was still there. What was the hierarchy within the Building Department within the DSD?

MR. DOUGHERTY: Building Official, Assistant Building Official, and then the various Chiefs of the Disciplines, Plan Reviewers, and then Field Inspectors.

MR. MILLER: And within, you say the chief of the disciplines, just again quickly, how many different disciplines did that encompass?

MR. DOUGHERTY: We have Structural, Mechanical, Electrical, Plumbing. There would be a Zoning, Landscaping, but those are the major.

MR. MILLER: And your position fell under which

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of those?

MR. DOUGHERTY: Structural.

MR. MILLER: And in relation to your position, what was John Madden's position?

MR. DOUGHERTY: He was the Chief Structural Inspector. He was my boss.

MR. MILLER: Aside from yourself, how many other people within your department had the same position that you did?

MR. DOUGHERTY: At the time, perhaps 6, 7 of us.

MR. MILLER: And I don't want to go into a whole lot of detail, but just so we get some understanding of everyone's duties and responsibilities, what specifically did you do in your job?

MR. DOUGHERTY: What we did was, as an inspector, as we were assigned daily inspections that were called in by the permit holder and we would go into the job site and make those inspections. And view work in places, is what I should say.

MR. MILLER: If I were to characterize it this way, you were one of the people that actually went out to the job sites to look to see if things were being done appropriately?

MR. DOUGHERTY: Correct.

MR. MILLER: Okay. How did your job work with

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Mr. Madden? In other words, with him being your direct Supervisor, what interaction or interplay did you typically have with him in your position?

MR. DOUGHERTY: Typically, certainly he was there, but typically, not very much. In that it was rather routine that inspections were assigned to us and that we worked independently and went out and made the inspection, made the field inspections.

MR. MILLER: Was it the type of thing where there was any type of, you know, regular meetings that were held within your department where you all got together, or were literally all of the inspectors going every day out to job sites?

MR. DOUGHERTY: There were meetings. There weren't any scheduled meetings. They tended to be very impromptu - spur of the moment and impromptu, and usually because of an issue that came up.

MR. MILLER: When you were first hired by the City, was John Madden already in place as the Chief of your Department?

MR. DOUGHERTY: Yes.

MR. MILLER: So, up until the time that Mr. Madden was dismissed, was he your direct Supervisor that entire period of time?

MR. DOUGHERTY: Yes.

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MR. MILLER: Did there come a point in time where you began having problems with Mr. Madden? I'm going to use that term generally because I don't want to put words in your mouth. I want you to talk about this.

MR. DOUGHERTY: Yes.

MR. MILLER: Tell us when that started in your work history with the City of Fort Lauderdale.

MR. DOUGHERTY: It specifically is the 105 North Federal Highway job in January of 2016. I returned from a medical emergency and was immediately confronted with the building - with the situation that had occurred at the building. And it went on for the next ten months.

MR. MILLER: Okay. You used the term a moment ago, you said you were confronted with the situation with the building. What do you mean by that?

MR. DOUGHERTY: The whole issue is that the building was submitted and had a permit utilizing one particular type of construction method, and unbeknownst to me, there's a revision that has been submitted that changes the method of construction. I did not know that the method of construction had been submitted. I am in the field interacting with a special inspector who works for the engineer of

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record who was actually making the field inspections. I'm reviewing his results, the type of method that they were using was very, very standard. It's concrete cast in place with support columns and masonry infilled panels. That was exactly what would be expected for that type of a job versus was what originally submitted, which was a tilt-up type technique. I've never seen those plans to date, the tilt job - the tilt-type construction.

MR. MILLER: So there was an issue that had developed with the building that you were doing the inspections on. Is that fair?

MR. DOUGHERTY: Yes.

MR. MILLER: What I want to ask you about though, is in particular you said you were confronted. What did you mean when you say you were confronted?

MR. DOUGHERTY: Immediately pounced upon with "You've done this and you've done this incorrectly," etcetera.

MR. MILLER: All right. Did you find it inappropriate that your supervisor would come to you and say you did something inappropriate?

MR. DOUGHERTY: Yes, I felt it to be rather non-professional in that, quite honestly, I was

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baffled because I didn't know what I had done wrong.

MR. MILLER: What was unprofessional about it, in your opinion?

MR. DOUGHERTY: It was an attack mode. I think that it would be something that we would have a conversation about, as "Here's what we have and let's move forward with some type of resolution solution." But it became, as I just said, an attack.

MR. MILLER: You mentioned that this started sometime in January of 2016 and you said it went on for ten months. What did you mean by that?

MR. DOUGHERTY: Well it took several months for an agreement with the Building Official to come to solution. I am now pulled into the office as a Plans Examiner - so a different position, or added-to position - involving the generation of a threshold plan which is the engineer's plan to inspect the entire building from A to Z. And then there were several components that hadn't been submitted such as the glass to the - there's a curtain wall assembly that's on the front of the building - things like that, large items, roofing materials, etcetera.

MR. MILLER: What you're describing sounds

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like a plan to try to deal with the situation involving this project, correct?

MR. DOUGHERTY: There was a plan in place, yes. Mr. Madden didn't approve of the plan and resisted along the way.

MR. MILLER: Here's what I'm trying to find out. Mr. Madden, as your boss, certainly had the right to look and see what was going on and voice his opinion, correct?

MR. DOUGHERTY: Absolutely.

MR. MILLER: Are you describing something beyond that going on?

MR. DOUGHERTY: I believe so.

MR. MILLER: Tell us about that. What was different about him, the way he was interacting with you over this versus him as your boss, simply doing his job?

MR. DOUGHERTY: First of all, it's very dramatic. He wants to blame and criticize, rather than - he takes the negative path, rather than a positive solution path. And I'm held up as the culprit, rightly so, but criticized beyond - criticized and - beyond a professional standard is what I would like to say.

MR. MILLER: Did it ever come to a point where

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you felt the need to complain about Mr. Madden because of the way you felt he was treating you?

MR. DOUGHERTY: I wanted to, but I was very concerned about retaliation and getting fired and I needed to keep insurance because I mentioned a medical issue that I had going on.

MR. MILLER: Why were you concerned about retaliation?

MR. DOUGHERTY: That's his M.O. He would go after people who didn't follow the line - his line.

MR. MILLER: Did he, in fact, say anything to you that led you to believe that that was a risk for you?

MR. DOUGHERTY: His method of communication oftentimes was innuendo and intimidation through others. And so, the rumors that were in the office from the high-ups were that I was going to get fired, which really put a - very anxious -

MR. MILLER: Was there anything in specifics, though, that Mr. Madden said specifically to you that caused you to feel that way?

MR. DOUGHERTY: Not in this particular instance. There were others, I mean, there's numerous things that I can talk about in regards to confrontation.

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MR. MILLER: Okay, tell us about those.

MR. DOUGHERTY: Early on, and as I said, I became what was known as an Inspector 2, which is sort of a hybrid. You get a Plans Examiner's license and now you are beginning to learn the plans examining process and you still maintain field inspection responsibilities. So, early in this, I asked him if we could refer to him for procedural-type questions and he got right in my face and told me that he was not going to give me the answer.

MR. MILLER: And how did you respond to that?

MR. DOUGHERTY: I always maintained a professional attitude at a distance and I backed away to defuse the situation because I don't need it to escalate.

MR. MILLER: Was that the only instance where something like that occurred?

MS. BLEAU: Can I just interpose an objection here. It seems that the City is going outside the parameters of the Human Resource investigation and the basis of the termination. You're muted, Ms. Chair.

CHAIR ADELSON: I'm going to overrule the objection and continue the lines and see the extent it is too expansive. I guess at this point, I want

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to see where it's going

MR. MILLER: Let me do this. Mr. Daugherty, as part of the investigation that was done of Mr. Madden, did you, in fact, give a statement to HR?

MR. DOUGHERTY: I did.

MR. MILLER: And for the Board Members, his statement can be found in the City's notebook. It's Exhibit 16K, "K" as in "Ken." That's where his statement is.

I want to ask you about some of the things that you told the HR Department in your statement.

MR. DOUGHERTY: Okay.

MR. MILLER: One of the things that you mentioned was that there is generally stress and tension when John Madden is around.

MR. DOUGHERTY: Right.

MR. MILLER: What did you mean when you told them that?

MR. DOUGHERTY: That there was tension and stress when he was around. Everyone was very, very - they're walking on eggshells, where everybody's concerned that what's the next episode, and there's the potential for pretty violent temper tantrums.

MR. MILLER: Did you actually see Mr. Madden act in that way in dealing with people within the

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Department and yourself?

MR. DOUGHERTY: Yes.

MR. MILLER: Is that what you're referring to?

MR. DOUGHERTY: Yes.

MR. MILLER: Would he actually physically get red faced?

MR. DOUGHERTY: Oh, yes.

MR. MILLER: How often would you see that occur?

MR. DOUGHERTY: The potential was always there and it had varying degrees and when it go so - a mild case would happen perhaps once every couple of weeks and then on rare occasion there would be these unbelievable explosions.

MR. MILLER: And you witnessed those yourself?

MR. DOUGHERTY: I did. Frightening, as a matter of fact.

MR. MILLER: I'm going to ask you a hypothetical question, okay?

MR. DOUGHERTY: Sure.

MR. MILLER: I want you to assume that in the response to this investigation that Mr. Madden submitted in this case, his response included the following statement: "One thing is for sure, a two-sided and contentious environment is present

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throughout the Department." Do you agree with that statement?

MR. DOUGHERTY: Yes.

MR. MILLER: Why?

MR. DOUGHERTY: There was very obvious friction between he, the Building Official, the Assistant Building Official, and himself.

MR. MILLER: And did that friction filter down to the rest of the Department?

MR. DOUGHERTY: Absolutely.

MR. MILLER: Did it have an impact on the productivity of those in the Department.

MR. DOUGHERTY: I believe so.

MR. MILLER: Did it have an impact on you?

MR. DOUGHERTY: It certainly tempered my approach to things, yes.

MR. MILLER: I'm going to ask you the follow-up question. I want you to assume that in his response to this investigation, Mr. Madden submitted the following statement: "The stressful conditions around the office are higher than anyone should be asked to endure." Do you agree with that statement?

MR. DOUGHERTY: I would.

MR. MILLER: Why is it, then, did you not come forward to formally make a complaint if you felt

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things were that bad? Explain to the Board members why that was.

MR. DOUGHERTY: I needed to keep my job. I'm also a type of person who wants to follow through on a job to its completion. But most importantly as I feared retaliation and ultimate termination, or I may have to quit. And I cannot do that. I need to keep the health insurance in place.

MR. MILLER: Has the level of stress and tension within the Department changed since Mr. Madden left?

MR. DOUGHERTY: Dramatically.

MR. MILLER: Is it for the better?

MR. DOUGHERTY: Yes, sir.

MR. MILLER: If Mr. Madden were to be returned to his position there as Chief Building Inspector, how would that impact you?

MS. BLEAU: Objection, calls for speculation.

MR. MILLER: You're muted again, Ms. Chairman. Chairwoman, excuse me.

CHAIR ADELSON: Objection is upheld.

MR. MILLER: In your statement that you gave to HR, did you discuss with them your fears about what would happen if John Madden came back to work?

MR. DOUGHERTY: I believe I made a statement

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to the effect that I feared for my job, yes.

MR. MILLER: Are you afraid if he's given his job back that there would be retaliation against you by him?

MR. DOUGHERTY: Undoubtedly.

MS. BLEAU: Objection, leading.

MR. MILLER: There was an objection. I don't want to proceed till we get a ruling.

CHAIR ADELSON: I'm sorry. I am listening, so I apologize. I just had a bit of an emergency that I just had to deal with. Would you please repeat the question and what the objection was.

MR. MILLER: I'm not sure I can repeat the question. I'm going to do my best to come to something close.

CHAIR ADELSON: Okay. Thank you.

MR. MILLER: Do you have a fear that if John Madden is returned to his position that you will suffer retaliation?

MS. BLEAU: Objection, leading.

CHAIR ADELSON: Overruled. This is the whole part and substance of this hearing of where we're figuring out the issue of his subject matter of his termination.

MR. MILLER: You can answer, Mr. Dougherty.

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CHAIR ADELSON: Go ahead and answer.

MR. DOUGHERTY: Absolutely, I would fear for my position. Yes. He would make it unbearable. I couldn't continue. I would have to do something on my own.

MR. MILLER: We heard testimony early on in this case from Anthony Fajardo. Who is Mr. Fajardo in relation to all of this?

MR. DOUGHERTY: He is the Director of the Department.

MR. MILLER: I want you to assume Mr. Fajardo testified in this hearing that at one point there was a meeting where many employees came to him to discuss the issues surrounding Mr. Madden and his behavior. Were you a participant in that meeting?

MR. DOUGHERTY: I was, yes.

MR. MILLER: Tell me about that. What led you to participate in that meeting?

MR. DOUGHERTY: I'm hoping that we're talking about the same meeting. Anthony, Mr. Fajardo, called a group together that had made a statement to HR and discussed the potential for an upcoming hearing.

MR. MILLER: I don't think that's the meeting I was speaking of.

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MR. DOUGHERTY: Okay.

MR. MILLER: Let me re-ask the question, see if I can make it clear. Before there was any investigation initiated as to Mr. Madden, Mr. Fajardo testified that there was a meeting where several employees came to him in the conference room to talk about what was going on. Do you know if you participated in that particular meeting.

MR. DOUGHERTY: I don't believe I participated in that particular meeting, but that probably precipitated he calling me into his office in a private conversation to discuss Mr. Madden.

MR. MILLER: So at some point before you gave your HR statement, you had a conversation with Anthony about this?

MR. DOUGHERTY: Yes, sir.

MR. MILLER: And was it the same issues that you talked about here today?

MR. DOUGHERTY: Yes, but part of my - I was extremely fearful for the job at the time and I told Anthony that I would prefer not to be specific in that I did fear for the job and retaliation.

MR. MILLER: Since Mr. Madden left in 2017, you've continued on in your position?

MR. DOUGHERTY: Yes, sir.

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MR. MILLER: Who is your direct supervisor now?

MR. DOUGHERTY: Bill Kramer.

MR. MILLER: And do you have any of the issues now with Mr. Kramer that you were having with Mr. Madden as far as interactions are concerned?

MR. DOUGHERTY: No, sir.

MR. MILLER: Thank you, Mr. Dougherty. I don't have any other questions at this time. Ms. Bleau is going to have some questions, I'm sure.

MR. DOUGHERTY: Thank you.

MS. BLEAU: One or two. Good morning, Mr. Dougherty.

MR. DOUGHERTY: Good morning.

CHAIR ADELSON: If you can text or email me, that would be best.

MS. BLEAU: You don't like Mr. Madden very much, do you?

MR. DOUGHERTY: In the beginning, I did. I came to not like him, yes.

MS. BLEAU: Have you reviewed your statement that you gave to the HR interviewer before today?

MR. DOUGHERTY: Yes.

MS. BLEAU: And does it accurately reflect the statements that you gave to the investigator?

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MR. DOUGHERTY: Yes.

MS. BLEAU: According to the statement, you provided information to the investigator on the 17th of November, and then you returned to provide additional statements on the 18th, correct?

MR. DOUGHERTY: Correct.

MS. BLEAU: Your statements to the HR interviewer had very little content, mostly generalized statements based on hearsay and innuendo. Did you provide actual facts to the interviewer that didn't make it into her notes?

MR. DOUGHERTY: Yeah. I was a little disappointed when I read this that - and I read it years later, that it did not contain some of the specifics that I had discussed.

MS. BLEAU: So regarding your performance review that you mentioned in your statement, you complained about Mr. Madden as a supervisor and you said you thought he was going to give you a negative review. Is that right?

MR. DOUGHERTY: Yes.

MS. BLEAU: Isn't the truth that John Travers, you, and John Madden had already met and talked about your annual review in the summer of 2016?

MR. DOUGHERTY: I don't recall that.

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MS. BLEAU: The review had been completed -
excuse me?

MR. DOUGHERTY: I'm sorry. The review was
withheld for three months, which caused tremendous
anxiety. Because, as I mentioned earlier, I was
concerned about my position with the City and that
evaluation would have certainly had bearing on which
direction I was going in.

MS. BLEAU: Well you say it was withheld, but
Mr. Madden had completed it, it had been signed by
Mr. Travers, and Mr. Battle. You were the only one
left to sign it, and you had a meeting with Mr.
Travers and Mr. Madden about it, even though it had
not been finalized and processed, correct?

You knew it was going to be bad. It wasn't
that you were concerned about it. You knew that it
was not going to be a good evaluation.

MR. DOUGHERTY: I had no idea what the
specifics were, no.

MS. BLEAU: So you deny having the meeting
with Mr. Travers and Mr. Madden?

MR. DOUGHERTY: I don't deny it. I'm saying I
don't recall. But I would have remembered something
like that and I don't recall a specific - a meeting
for that specific purpose.

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MS. BLEAU: Was the review prepared by Mr. Madden, signed and placed in your personnel file? Do you know?

MR. DOUGHERTY: I believe it was.

MS. BLEAU: And shortly after Mr. Madden was placed on administrative leave, despite your poor review by Mr. Madden and signed off on by Mr. Travers and Mr. Battle, you were promoted, were you not, to Plans Examiner?

MR. DOUGHERTY: Yeah, perhaps. Yes, yes. I don't remember the timeline, but yes.

MS. BLEAU: And in your statement to the HR interviewer, you admitted making an error and you complained about the way Mr. Madden responded to your error, right?

MR. DOUGHERTY: Yes.

MS. BLEAU: I wasn't clear in your response to the questions from the City Attorney as to whether or not you acknowledged that you made a significant life safety error with respect to 105 North Federal Highway?

MR. DOUGHERTY: I wouldn't describe it as you have.

MS. BLEAU: So you don't think it was a significant error or a life safety matter, is that

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right?

MR. DOUGHERTY: It was not a life safety matter.

MS. BLEAU: You think that not performing inspections to make sure that the building is constructed in accordance with the actual plans that were submitted to the City is not important?

MR. DOUGHERTY: If I may, there is a special inspector who is making the actual inspections of the work in place who works directly for the engineer of record.

MS. BLEAU: You talking about the Threshold Inspector?

MR. DOUGHERTY: Yes. Yes, for this discussion, Threshold, Special Inspector. And so when I go to a field inspection, I am reviewing his notes, his field inspection notes, his logbook.

MS. BLEAU: This was not a Private Provider project. This was a project where the City was responsible for performing the inspections, correct?

MR. DOUGHERTY: Correct, but a Special Inspector was required by the Plans Examiner, and that was in place when I made field inspections.

MS. BLEAU: The approved drawings called for a tilt-up methodology for the building, but the

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contractor had substituted standard CBS wall construction without revising the plans, correct?

MR. DOUGHERTY: I don't know that. There was a revision that was submitted to the City that I did not know about that changed the method of construction.

MS. BLEAU: Right, from a tilt-up construction methodology to a standard CBS wall construction.

MR. DOUGHERTY: It's actually concrete cast and place elevated slabs with masonry infill panels. It's all supported on concrete columns.

MS. BLEAU: According to a letter that I have from Mr. Travers, not only was it a problem that the approved plans - the building was not being constructed in accordance with approved plans, but also that the City had no engineer calculations showing that the foundation would support the new method. You don't think that's important? That's not a life safety matter? Having engineer calculations, showing that the foundation would support the new method of construction?

MR. DOUGHERTY: The building is built on pilings and there were piling logs, certified by an engineer. I'm uncertain as to your question.

MS. BLEAU: You're uncertain about whether or

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not it's important that the engineer calculations - the City have the engineer calculations showing that the foundation would support the new method; or you're unclear about whether or not the City had such calculations?

MR. DOUGHERTY: I don't know that the City - I'm unclear that the City had calculations. I'm a field inspector. Again I don't know that this revision has been submitted for review. I do know that the head Plans Examiner told me that there were administrative issues only and that he would have approved the plans, so structurally, he had reviewed it.

MS. BLEAU: Wait a minute. You don't know if the plans had been submitted, so the original plans submitted were for the tilt-up construction methodology. You weren't aware of the revised plans that were submitted but not yet approved. So you go to the project site to conduct your inspection like you're supposed to. There's a completely different building being constructed than what are on the approved plans, and why is that?

MR. DOUGHERTY: I put it together in hindsight, as what I reviewed at the job site was the revised set of drawings that showed what was

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being built.

MS. BLEAU: So, isn't it your job to make sure that what you review at the job site are the approved plans?

MR. DOUGHERTY: Yeah, that is the mistake that I made. However, I was deceived, because there were stamps there of signatures of the disciplines of the Plan Reviewers, and so we're fine with that and I moved onto the nuts and the bolts of the project, and setting up protocol for the Special Inspector and what we expect, etcetera and so on.

MS. BLEAU: So, according to Mr. Travers' email, you also did not - the City did not have verification regarding wind load and structural integrity. Do you recall that?

MR. DOUGHERTY: No.

MS. BLEAU: Would you acknowledge that if the City lacked that information, that that was important life safety - implicating life safety issues?

MR. DOUGHERTY: That would have all been part of the revision package.

MS. BLEAU: That had not yet been approved when you were allowing the construction to proceed, correct?

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MR. DOUGHERTY: Okay, yes.

MS. BLEAU: Now, in the situation where the building is being constructed not in accordance with the approved plans that had been submitted to the City, 105.6.2 is implicated. Is that right?

MR. DOUGHERTY: Yes, but please understand that I don't know that the method of the construction has been changed. I've never seen this tilt-up that was originally permitted. And I'm led to believe that the plans that are on the job site are the approved drawings. I admit that's my mistake. That I - but again, the Plans Examiner says, "Hey, plans are good, structurally it's good." I'm just missing some administrative dotting the "i's" and "t's." DeRose Engineering is overseeing all of the inspections as responsible for the structural components of the building.

MS. BLEAU: I'm just a little confused. Are you saying that there were other inspectors that we should be looking to here for this project -

MR. DOUGHERTY: Yes.

MS. BLEAU: -- or weren't you the Inspector?

MR. DOUGHERTY: No, no, no, no. I'm reviewing Special Inspector reports.

MS. BLEAU: So the Special Inspector is

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responsible for reviewing the entire project and you're just reviewing their reports? That's your testimony?

MR. DOUGHERTY: In essence, for the structural components, and that's where we were with this job.

MS. BLEAU: So you were a structural inspector, but you were not responsible for inspecting to make sure that the building was constructed in accordance with the approved plans? That was not your job?

MR. DOUGHERTY: That's not what I said, no.

MS. BLEAU: Well, I think that's what you said. Was that your job, or was that not your job?

MR. DOUGHERTY: Yes, it is.

MS. BLEAU: Okay. And you didn't do that, correct?

MR. DOUGHERTY: Correct.

MS. BLEAU: And when a building is constructed not in accordance with approved plans, 105.6.2 says "It shall be the duty of the Building Official to notify the contractor or owner, of his or her agent, in writing that the permit is suspended." Correct?

MR. DOUGHERTY: Yes.

MS. BLEAU: You had actually been out and made several job site visits to that property during

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construction and issued approvals, even though the permitted plans were entirely different from what was being constructed. Correct?

MR. DOUGHERTY: Correct. I was there for the entire structure that through the duration was more or less six months.

MS. BLEAU: In fact, Mr. Madden actually reported this to the Board of Rules and Appeals, this failure on your part to carry out your duties, didn't he?

MR. DOUGHERTY: Yes.

MS. BLEAU: You didn't mention this matter at all in your first interview, but in your second interview with the Human Resource interviewer, you raised this issue as a complaint against Mr. Madden, correct?

MR. DOUGHERTY: Yeah, that was the following day.

MS. BLEAU: Why did you go back a second time?

MR. DOUGHERTY: I go home in the evening and I said, "You know, if I'm gonna talk, I need to say more."

MS. BLEAU: Okay. In your interview, you actually - with the Human Resource interviewer - you complained about what you heard about what Mr.

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Madden said about your failures to carry out your duties. You didn't mention at all anything that was said directly to you? Correct?

MR. DOUGHERTY: In that statement?

MS. BLEAU: Yes. You told the investigator that you heard that John Madden had launched into a tirade about you and that an employee had said to you that it was one of the worst he's heard. Right?

MR. DOUGHERTY: That's true, that's true, yes.

MS. BLEAU: Contrary to your testimony today, four years later, where you're saying that you specifically were the one that was pounced on, I think was your word, by John Madden, right?

MR. DOUGHERTY: Yes, but there's two different incidents.

MS. BLEAU: Only one of which you told the investigator about four years ago, which is the one that you had heard -

MR. DOUGHERTY: I gave a very - an overview to the - and I didn't know there was an investigation at the time. I was very general in my statement to the HR person.

MS. BLEAU: In your discussions regarding the meeting that you heard what Mr. Madden said, are you aware that those meetings where this issue was

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discussed were recorded by Mr. Madden?

MR. DOUGHERTY: No.

MS. BLEAU: So you've never listened to the recording of the meeting where you are absent?

MR. DOUGHERTY: No.

MS. BLEAU: 1721 SE 17th Street, the 400 Broadview Apartment project, was another project where Mr. Madden had raised concerns about your job performance regarding several inspections you'd conducted, correct?

MR. DOUGHERTY: Yes.

MS. BLEAU: The PT post-tension drawings are critical to the support of a building, are they not?

MR. DOUGHERTY: Absolutely.

MS. BLEAU: And the Threshold project, this particular Threshold project, did not have approved submitted shoring plan as required by the Code, correct?

MR. DOUGHERTY: Technically, no. There were drawings that were submitted with an electronic signature and the electronic signature was not accepted.

MS. BLEAU: The spot survey had not been approved for this project, correct?

MR. DOUGHERTY: That I don't recall, but I

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don't recall that being an issue.

MS. BLEAU: The elevation certificate had not been approved?

MR. DOUGHERTY: Again, I don't know that - I don't recall.

MS. BLEAU: Who is Burt Ford?

MR. DOUGHERTY: Burt Ford currently is the Zoning Chief.

MS. BLEAU: On March 14, 2016, Mr. Ford entered these comments: "Why does the survey show foundation when inspections have been done for multiple floors? Spot surveys are required prior to the first tie beam or first floor tilt-up."

MR. MILLER: Let me object. I don't know what counsel's referring to - if it's a document that's before this Board or if this is just pure hearsay.

MS. BLEAU: Sure, it's a document right here.

CHAIR ADELSON: Let me just address the objection. So, is the document in evidence?

MS. BLEAU: It's not - and it's on the screen now.

CHAIR ADELSON: So -

MS. BLEAU: It's not in evidence yet. That's correct. I mean, it will be now. We will add it.

CHAIR ADELSON: Mr. Miller, is your objection

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to the question or the document that's not in evidence?

MR. MILLER: My objection was to the question. She's asking about something that somebody else said in an out-of-court matter, who's not a witness or has not been part of the case to this point that I'm aware of. So that's my objection.

CHAIR ADELSON: So, I'm going to overrule the objection. Obviously, we have this issue with the ordinary rules of evidence not really playing a role here. But, of course, I'm going to listen to the line of questioning and make sure that it's part and parcel of the matter before us.

MS. BLEAU: Mr. Dougherty, you recognize this document - this type of document?

MR. DOUGHERTY: Yeah, yeah. It comes from C-plus.

MS. BLEAU: And, this particular document reflects a comment by Burt Ford. Do you see the comment, which is what I read to you a minute ago?

MR. DOUGHERTY: Yeah, and I don't have dates and so on in front of me, but this is a very, very large apartment complex to the tune of 400 plus apartments and it's being done in phases, and so we may have - construction activity varies throughout

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the site. The spot survey couldn't - we only would have had a piece of the spot survey. It's moving around, so I can't read it.

MS. BLEAU: I'm sorry. This was the part that I had read to you. Based on Mr. Ford's comments that he put here, and the other items that were missing on the project, the stop work order actually was issued on this project, wasn't it?

MR. DOUGHERTY: For your prior question in regards to shoring and the post-tension cabling drawings, engineering drawings, yes. For a short period the whole stop work was, I believe, a week.

MS. BLEAU: But again, this was a project that you had provided inspections for -

MR. DOUGHERTY: Yes.

MS. BLEAU: -- despite the fact that these critical items were missing?

MR. DOUGHERTY: In this particular case, the drawings for - okay, yes.

MS. BLEAU: You told the investigator that you thought Mr. Madden was insubordinate because he disagreed with the Building Official's interpretation regarding the Private Provider Program, correct?

MR. DOUGHERTY: Yes.

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MS. BLEAU: And this was before your interview with the Human Resource interviewer was before the Board of Rules of Appeals had determined that the Chiefs, not Building Official, are the authority having jurisdiction, the final say-so when it comes to enforcing the building codes in their discipline, right?

MR. DOUGHERTY: I'm unaware of that decision that you just were discussing.

MS. BLEAU: As you sit here today, you are unaware that that decision was rendered two years ago.

MR. DOUGHERTY: That the Chief - one more time, please.

MS. BLEAU: Sure. The Board of Rules and Appeals determine that the Building Chiefs, not the Building Official, are the authority having jurisdiction with respect to interpretations of the Building Code. So, electrical as to electrical issues, structural as to structural, etcetera. You're now aware of that today?

MR. DOUGHERTY: No. I believed that the Building Official had the ultimate, and certainly utilizing his chiefs for consultation. But that was my belief, yes.

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MS. BLEAU: In speaking with the Human Resource interviewer, as you're giving your statement, you made a number of unsubstantiated insinuations and then you repeated some here today about Mr. Madden being dangerous or potentially violent. But you admitted the Human Resource interviewer that you had actually never seen Mr. Madden be violent, correct?

MR. DOUGHERTY: Correct.

MS. BLEAU: And you said you once saw Mr. Madden yelling at Bobby Masula and Barry Fine years ago, and you saw Madden and Luis Hernandez "argue pretty good one time." And those were the extent of all of the specifics that you provided to the Human Resource interviewer?

MR. DOUGHERTY: I wasn't asked for specifics.

MS. BLEAU: You weren't asked for specifics?

MR. DOUGHERTY: Correct.

MS. BLEAU: So you just were able to say, "I think he's got a potential for violence," and she didn't say, "Could you give me any reason why you might think that?" Is that right? Mr. Dougherty?

MR. DOUGHERTY: Yes. Hello?

MS. BLEAU: Can you hear me?

MR. DOUGHERTY: Yeah, I lost you for a second.

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MS. BLEAU: Okay. Sorry, did it freeze on you?

MR. DOUGHERTY: Yeah.

MS. BLEAU: My question was, when you were being interviewed by the person from the Human Resource Department for the City, you were able to say that you believe Mr. Madden was potentially violent and she didn't follow up and ask you for any specifics as to why you believe that. Is that your testimony?

MR. DOUGHERTY: Yes.

MS. BLEAU: You worked with Mr. Madden for three and a half years at the time of your interview, and those were the only examples that you gave her. Would you agree with me that it's more likely than not that you would have given her the examples - the best examples that you could come up with?

MR. DOUGHERTY: Yes, but I'm working on recollection now and I don't recall. I made the statement earlier that as my statement was transcribed, it didn't contain everything that we discussed.

MS. BLEAU: So you think the interviewer accurately recorded your example about Mr. Madden

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yelling at Bobby Masula and Barry Fine years ago, and I guess that would have been before his heart attack, correct?

MR. DOUGHERTY: Yes.

MS. BLEAU: And then one time when you saw Mr. Hernandez and Mr. Madden in an argument?

MR. DOUGHERTY: Yes.

MS. BLEAU: You think maybe she neglected to record your relaying some other, maybe more serious examples of Mr. Madden's behavior? Is that your testimony?

MR. DOUGHERTY: I'm unsure. We're going back four years. It's quite honestly something that I've tried to block out and forget.

MS. BLEAU: So, you made similar comments today - let me see if I can pull up your notes - in questions from the City attorney regarding your concerns about Mr. Madden's potential for violence. Tell me what specifically a "potential for pretty violent temper tantrums," as you described it. Describe the most violent thing that you ever witnessed from Mr. Madden. And I'd like to know who was there, and specifically what you recall being said, and what the topic was.

MR. DOUGHERTY: Staff meeting - this is when I

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had first come on board, so we're going back seven years now. And it was Bobby Masula was the target. I believe the subject matter was some building roofs. That was the time of the incident and he just red-faced screaming at Bobby Masula over the - I don't remember the subject, to tell you the truth, other than it was, I believe, roofing issues and something perhaps that Bobby Masula had neglected.

MS. BLEAU: Okay, and this would have been, I guess, before Mr. Madden's heart attack then, correct?

MR. DOUGHERTY: Yeah.

MS. BLEAU: And his demeanor changed after his heart attack, didn't it?

MR. DOUGHERTY: For a short period.

MS. BLEAU: Give me an example of something you specifically recall after his heart attack.

MR. DOUGHERTY: I can't do that, but I can tell you that the old John Madden ramped up soon thereafter.

MS. BLEAU: Well, with all due respect, you know, if you can't give me any specifics, those generalized innuendos just are not sufficient. What specifically, how specifically did he ramp up, in your opinion? Give me an example of his behavior,

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not your opinion, please.

MR. DOUGHERTY: The same, it was - my description is like a volcano. It starts to rumble and then it just - the intensity gets stronger and then he blows.

MS. BLEAU: And when he blows, he gets red faced and raises his voice?

MR. DOUGHERTY: Correct.

MS. BLEAU: And that leads you to believe that he is potentially violent?

MR. DOUGHERTY: The extent of his red faced and violent voice certainly does lead me to believe that, and I can make that statement based on experience in life. I've got many years of seeing people upset and angry and so on. And with John Madden, it's always questionable as to what's next, because this is right on the edge of violent.

MS. BLEAU: You ever watch baseball?

MR. DOUGHERTY: Yeah.

MS. BLEAU: You ever see a baseball umpire and say a coach get nose to nose, face to face, screaming at each other, kicking dirt on their shoes?

MR. DOUGHERTY: Yes.

MS. BLEAU: Has Mr. Madden ever done anything

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that mirrors that at all in the context of the City?

MR. DOUGHERTY: Yes.

MS. BLEAU: Really? Whose face did he get in?

MR. DOUGHERTY: Well he did it to me.

MS. BLEAU: Got into your face?

MR. DOUGHERTY: Right.

MS. BLEAU: And when did that happen?

MR. DOUGHERTY: Well I spoke to - I asked about a procedural question in regards to plan review. And when I say procedural questions, I mean, what is the procedure in the City for just general -- where does this go and how are we going to treat that? And he got in my face and told me that he wasn't going to give me any answers.

MS. BLEAU: Yeah, you testified about that under the City Attorney's questioning. That was right after you were hired, you said, right?

MR. DOUGHERTY: No, that was right after - that was perhaps two, two and a half years into my employment. It was right after I became an Inspector Two, so that would have been two plus years.

MS. BLEAU: And Mr. Madden hired you for the City?

MR. DOUGHERTY: He was one on the board, yes. The interview board, I meant.

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MS. BLEAU: Anything else? I've given you many opportunities, Mr. Dougherty, to provide any actual specifics of your conclusions and insinuations here today. Do you have anything else to offer the Board?

MR. DOUGHERTY: In regards to intimidation and inhibiting me from doing my job, and just being - how would I say - in trying to frustrate me enough that I want to quit, is that again as I turned into a Two, which I say is a hybrid, where you still have field responsibilities as well as plan review responsibilities, he took my car away from me and still I had field inspections to take care of. So, now it is up to me to find a loaner car. Cars were short in those days, short in supply. And so, often I would use my own car to go out and make field inspections and I believe it was a set-up just to see if I could fail and how I'm going to deal with it. Another obstacle to see how he's going to deal with it.

MS. BLEAU: And you think that - why do you think that?

MR. DOUGHERTY: Pardon?

MS. BLEAU: You're testifying about what you believe Mr. Madden thought or considered or

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something. I'm asking what you're basing that on?

MR. DOUGHERTY: He enjoys watching people struggle.

MS. BLEAU: Again, what are you basing that on?

MR. DOUGHERTY: Myself.

MS. BLEAU: Would you say that you're a good employee?

MR. DOUGHERTY: Yeah.

MS. BLEAU: Now, you realize - never mind. I'm not going to get into it.

Let me share my screen with you for a minute.

MR. DOUGHERTY: If I may - if I may.

MS. BLEAU: Actually, there is no question pending, sir.

MR. MILLER: Is it responsive to the prior question?

MS. BLEAU: He answered the prior question, I believe.

Mr. Dougherty, do you recognize this? 500 East Broward Boulevard Project? I believe these are your comments here?

MR. DOUGHERTY: I understand what my notes say, but the job doesn't pop into my mind.

MS. BLEAU: You don't recall that this -

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MR. DOUGHERTY: Not when we're on a 19th floor of, obviously, a high rise building.

MS. BLEAU: This doesn't ring a bell? This is the Jets Mart matter. Does that ring a bell?

MR. DOUGHERTY: No. Jet? J-E-T?

MS. BLEAU: Jets Mart. Yes. Jets Mart.

MR. DOUGHERTY: No.

MS. BLEAU: So you don't recall that this was - these comments regarding life safety concerns were regarding a MTCI Private Provider job?

MR. DOUGHERTY: Oh, okay.

MS. BLEAU: Do you recall that? And does that refresh your recollection?

MR. DOUGHERTY: I'm foggy, but somewhat, yeah.

MS. BLEAU: The contractor was working outside the scope of the permit. Do you recall that?

MR. DOUGHERTY: No, I don't recall that.

MS. BLEAU: You had said that the on-site logs reflected that no inspections had been formed in this area as the date of your inspection, correct?

MR. DOUGHERTY: That's what it says, yes.

MS. BLEAU: Did you recall visiting that site with Luis Hernandez? Is that ringing a bell?

MR. DOUGHERTY: No, it doesn't.

MS. BLEAU: Okay. Can I just have a minute

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here, Madam Chair?

Could we just go back? Just for the record, I'll put these in - these emails regarding the other project that we had been talking about. This is an email from Mr. Madden to you saying, "I see that you have approved inspections on 3/2/16 and have inspections scheduled today. How are you able to make inspections for this project where there are four revisions that seem to relate to the inspections you're currently performing that have not been approved. Have you been in contact with the structural plans examiner? If there is a failed plan review for shoring and re-shoring, what plans are on site? Please let John Travers, Barry Fine and I know what is the outcome of today's scheduled inspections." Did I read that accurately?

MR. DOUGHERTY: Yeah. I don't know which job this refers to.

MS. BLEAU: This is the 1721 that we had discussed, where you were missing various items.

MR. DOUGHERTY: 1721, is it 17th Street?

MS. BLEAU: Yes.

MR. DOUGHERTY: Okay. Yeah, this is in regards to what we discussed earlier.

MS. BLEAU: Yeah, the Broadview project. Is

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this the one that you said Mr. Madden pounced on you about?

MR. DOUGHERTY: No.

MS. BLEAU: That was the other project that you were reviewing without them?

MR. DOUGHERTY: You're bringing up something that I - this is long ago.

MS. BLEAU: Can we take a five minute break, Madam Chair?

CHAIR ADELSON: Yes, and actually if you wouldn't mind, let's make it ten. There's a matter that I need to address. So, it's 11:37, so let's be back at 11:48 to 11:50. Okay?

MS. BLEAU: Great, thanks.

[Recess called from 11:37 to 11:55 a.m.]

CHAIR ADELSON: Ms. Bleau, you were going to determine if you have any more questions for him.

MS. BLEAU: Yes, just a few. I'm going to share my screen again. Mr. Dougherty, this is the email from Mr. Travers. I don't know if maybe this will refresh your recollection. Mr. Travers, regarding the 105 North Federal Highway Project, in February of 2016 - how long had you been with the City by this time?

MR. DOUGHERTY: Two plus years.

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MS. BLEAU: And according to Mr. Travers' writing to Lee Feldman and Jenni Morejon, with a copy to Christopher Lagerbloom, that the owner had originally designed the building with a particular tenant in mind, the tenant backed out, and the owner decided to value engineer the installation without revising their approved plans. The approved drawings called for a tilt-up construction methodology, but the contractor substituted standard CBS wall construction instead. Do you see that?

MR. DOUGHERTY: I do.

MS. BLEAU: And do you recall that that's what I was asking you about -

MR. DOUGHERTY: I do, but I've never seen this before. I don't know of this conversation.

MS. BLEAU: Okay. According to Mr. Travers' investigation, a stop work order on the site was placed when they discovered the variation in the approved methodology because the City needed revised drawings, engineered calculations showing that the foundation will support the new method, as well as the wind load and structural integrity verification. Do you see that?

MR. DOUGHERTY: I read it, yes.

MS. BLEAU: Since the work was completed

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without approved plans, it was necessary to issue a stop work order and he cites 105.6.2. And this was in response to a request by Lee Feldman to Ms. Morejon about this construction project. Is any of this refreshing your recollection?

MR. DOUGHERTY: No, I've never seen any of this conversation.

MS. BLEAU: So you weren't aware that both the City Manager, the Assistant City Manager - who's Jenni Morejon?

MR. DOUGHERTY: She was the former Director.

MS. BLEAU: Of?

MR. DOUGHERTY: DSD, Department -

MS. BLEAU: Yeah. And you weren't aware and then the Building Official - you weren't aware that all of these individuals were involved in this project which you had conducted numerous -

MR. DOUGHERTY: No.

MS. BLEAU: -- site inspections on?

MR. DOUGHERTY: No.

MS. BLEAU: Okay. And, Madam Chair, for housekeeping purposes, we discussed 128 in the notebook, and I believe your notebook goes to 130. And so 131 to 134 have been added here today and I'll make sure that everybody gets a copy of them.

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And I have no further questions.

CHAIR ADELSON: Mr. Miller, do you have any rebuttal or further questions?

MR. MILLER: Yes, I just have a couple.

[Speaking off the record]

MR. MILLER: Mr. Dougherty, just a couple of follow-up questions. Counsel asked you in great detail about some of the projects that were involved, the 105 Project on 17th Street. You answered her questions on that. Do you recall that?

MR. DOUGHERTY: Yes.

MR. MILLER: Here's my questions for you. As far as what your position was at the time this was going on, who within the Department was responsible for actually training you?

MR. DOUGHERTY: John Madden.

MR. MILLER: Okay, so as far as what you knew as to how to go about doing your job, what you were supposed to be doing, what you actually were supposed to be inspecting, did you take direction on that from Mr. Madden?

MR. DOUGHERTY: Yes, yes. Ultimately, yes.

MR. MILLER: Okay, and in response to my questions when started, you told this Board about the fact that there had been an issue on the 105

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Project when you thought you made a mistake, correct?

MR. DOUGHERTY: Yes. But, may I say something? We've got a structure that's three stories tall, that's been ongoing for six months and no one said anything to me. On U.S.1 -- high profile.

MR. MILLER: Were you finished? I'm not sure if you [inaudible].

MR. DOUGHERTY: Yes, sir. Sorry.

MR. MILLER: All right. My only question was, does the fact that you made a mistake -- and you've talked about it at length -- in your mind, justify the way you were treated as a result of it?

MR. DOUGHERTY: No. I believe that we could have sat down and come up with a solution -- which ultimately happened because of the Building Official, Mr. Travers -- without all of the intimidation and drama that preceded getting to that solution.

MR. MILLER: That's it, sir. I don't have any other questions. Thank you very much for your time today.

CHAIR ADELSON: Ms. Bleau?

MS. BLEAU: No, thank you.

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CHAIR ADELSON: Mr. Dougherty?

MR. DOUGHERTY: Yes.

CHAIR ADELSON: You are dismissed.

MR. DOUGHERTY: Thank you.

CHAIR ADELSON: Thank you.

MR. MILLER: Next will be - we will call Mr. George Oliva, who I believe is somewhere in the queue.

MR. BAQUERO: George Oliva is now in the room.

CHAIR ADELSON: Mr. Oliva, can you unmute yourself please.

MS. BLEAU: Unmute myself?

CHAIR ADELSON: No, Mr. Oliva.

MR. OLIVA: I'm here all right. Sorry.

CHAIR ADELSON: Here we go. All right, thank you. Mr. Oliva, we're going to swear you in. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

MR. OLIVA: So help me, God.

CHAIR ADELSON: All right, you may proceed.

MR. MILLER: Thank you. Good afternoon, sir. Would you introduce yourself to the members of the Board, as to who you are, and who you work for.

MR. OLIVA: Sorry, I'm having difficulty listening to what you're saying. Can you repeat?

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CHAIR ADELSON: Sure, let me start again and see if this is any better. Would you just introduce yourself to the Board, who you are, and who do you work for.

MR. OLIVA: My name is George Oliva. I'm the Chief, Building and Construction Enforcement Division, City of Fort Lauderdale.

MR. MILLER: And how long have you been employed with the City of Fort Lauderdale, sir?

MR. OLIVA: Two-oh-seven.

MR. MILLER: So now we're going on twelve years or so about now?

MR. OLIVA: Yes, sir.

MR. MILLER: When you were first hired by the City, what was your position?

MR. OLIVA: I was hired as a Co-Officer Building Inspector. I was assigned for construction violations.

MR. MILLER: We've heard already a little bit about the setup within the DSD. I want to ask you just a couple of questions, and in particular, I want to direct you to the time period of 2016, okay? That's what I want to ask you about.

MR. OLIVA: Okay.

MR. MILLER: In 2016, what was your title and

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position?

MR. OLIVA: I was promoted to Chief Building and Construction Enforcement.

MR. MILLER: As I understand it, within DSD, there are different departments with Enforcement being one of them, correct?

MR. OLIVA: Yes, sir.

MR. MILLER: In addition to Enforcement, we have Electrical, Plumbing, Mechanical, and Building, correct?

MR. OLIVA: Yes, we have five disciplines all total.

MR. MILLER: In 2006, you were the Chief in the Enforcement discipline, correct?

MR. OLIVA: Yes, sir.

MR. MILLER: So, in the hierarchy of the Department, were you and John Madden essentially on the same level in 2016?

MR. OLIVA: Yes, I was. He was the Chief Structural and I was the Chief Enforcement.

MR. MILLER: So, in your position, did you have any situation where you ever had to report directly to Mr. Madden?

MR. OLIVA: No, sir. I was reporting to the Building Official and the Assistant Building

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Official.

MR. MILLER: And that was Mr. Hernandez and Mr. Travers at the time, correct?

MR. OLIVA: At that time, that was Mr. Travers and Mr. Hernandez. And before them, I was reporting to the previous one.

MR. MILLER: Can you give me a little bit of an understanding of how the disciplines work? In other words, does your group interact with the other disciplines, or do you operate independently of them? If you could explain that a little bit for us.

MR. OLIVA: I would say both way. My division is a complete total from the other disciplines, but what we do, what really is the enforcement part of the Florida Building Code, under Chapter One, and this has to do with Broward County Board Rules and Appeals Chapter. And most of the time, we use Section 105. And, also the City Ordinance.

MR. MILLER: So, in your day-to-day role in 2016, when you held that position, how often did your job responsibilities require you to interact with John Madden?

MR. OLIVA: Really never because he does his thing and I was doing my thing. But mostly every

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morning I see all the inspectors chat together, I would say hi to him.

MR. MILLER: Was it the Department's structure that, for example, you would have any types of regular meetings with all the other Chiefs, or was that not typically done?

MR. OLIVA: There were meetings with the Chiefs and there were meetings with the Inspectors. Sometimes I was invited to Inspector meetings with John Madden. Part of my team we used to [inaudible].

MR. MILLER: Did you come to learn at some point in October of 2016 that there was an investigation being done of Mr. Madden by HR?

MR. OLIVA: On 2016, I filed a complaint and, I guess, the investigation came after. I wasn't aware of any investigation at that time about anything within the City of Fort Lauderdale.

MR. MILLER: I'm trying to do this, and I know the dates may not mean anything, so I'm going to try to go over this. In October, middle of October, Anthony Fajardo sent a letter to HR asking for an investigation of Mr. Madden. Were you even aware of that taking place?

MR. OLIVA: No, I was in a previous meeting

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that I provide Anthony Fajardo [inaudible] and Travis, and I believe some of the Chiefs were in there, and I provide a letter filing a formal complaint against Mr. Madden, because he filed a complaint against me with BORA and the Inspector General.

MR. MILLER: So let's talk about that for just a brief moment. You said Mr. Madden had actually filed a complaint against you with BORA?

MR. OLIVA: Yes, sir. He filed a complaint and I received a call from Bill Dumbaugh from BORA and I have to explain myself. And after that [inaudible] came and talked to me a few times. I went to hearings where we were presenting cases and then I have to go and see the Inspector General on University Drive, and then he came four times to the City on different times and dates to have meetings with me. They ask me a whole bunch of questions of what we're doing, why we were doing it, and other kind of investigation that went through.

MR. MILLER: What happened as a result of that?

MR. OLIVA: BORA found I was not in violation with the Florida Building Code Section 104 and Inspector General also agreed that I wasn't doing

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anything illegal, that everything I was doing was under the scope of my license and the scope of my position as a co-officer for the City of Fort Lauderdale.

MR. MILLER: And what was it, if you know, that prompted Mr. Madden to make this claim against you? Had there been some ongoing issue with the two of you?

MR. OLIVA: Yeah, there has been a few issues. That's why I filed the letter that I filed and if you want I can go through the letter.

MR. MILLER: Yeah, I'm going to get to that in a minute.

MR. OLIVA: But then I found a lot of issues with him, and a couple of times he became very aggressive when we were talking in front of the inspectors and I felt threatened.

MR. MILLER: So, you wound up eventually putting some of your complaints in a letter, correct?

MR. OLIVA: Yes, sir, a three-page letter.

MR. MILLER: For the Board's consideration, this is Exhibit Number 7 in the City's notebook, is the letter from Mr. Oliva that we're discussing. Mr. Oliva, do you have a copy of the letter there in

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front of you?

MR. OLIVA: Yes, sir, I have my copy.

MR. MILLER: So, the letter appears to be dated October 4, 2016, correct?

MR. OLIVA: Yes, sir.

CHAIR ADELSON: Can you identify where we are in our books, because we're having to find these documents as well.

MR. MILLER: Yes, it's Exhibit number 7.

CHAIR ADELSON: Thank you.

MR. MILLER: You're welcome. Tell us, first of all, who is this letter written to?

MR. OLIVA: I made it almost general to the administration and the Building Official because I went to have a meeting with Anthony Fajardo about him and John Travers at that time after we had the issue in front of all the Inspectors.

MR. MILLER: And what was it that led you to decide to actually put this into writing in a letter as opposed to just verbally going to talk to somebody?

MR. OLIVA: I tried that venue a few times. It never went anywhere and after the last time and the statement he made to me in front of the Inspectors that nobody was going to work with me and

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nobody was going to help me if I was going to keep doing whatever I was doing it, which I wasn't doing anything illegal, because it got approved by BORA and Inspector General. But the accusation really got into me, and that's when I decide to go to a formal complaint.

MR. MILLER: If we take a look at the letter, you start by stating that "we are facing some serious issues within the Building Division. A hostile atmosphere has been created between Inspectors, Chiefs, the Assistant Building Official, and the Building Official, and Chief Building Inspector John Madden." What are you referring to at the outset with this letter?

MR. OLIVA: Well, the first really issue that I saw coming from him was when we met with the Assistant City Manager at the time, which is the City Manager right now, at City Hall regarding Mr. Maycell's [phonetic] building and we had an issue that the building was deemed to be unsafe. The permits were expired, the building was completely wide open, and also was getting emails from the Fire Marshall, Jeff Lucas, at that time, asking me to take a look to the building, because that building was being [inaudible] by the fire people, which they

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happened to be across the street. And also we had a lot of people in the street that they were using the building as living facilities. So I sent two of my inspectors over. I sent Frank Arrigoni and Jose Abin to check the building and the condition the building was, and that's when we made a decision to deem it unsafe.

MR. MILLER: So, what happened as a result of that meeting that you're referencing with this letter?

MR. OLIVA: Okay, when we met in City Hall in the office of Lee Feldman, at that time City Manager, we came into agreement that we were going to request an engineer letter, as per the Florida Building Code, Section 110.4.8.2, on page 41 of Chapter 1, which required that the [inaudible] or the inspectors should provide a letter for the supporting jacks on the beams, that they were exposed and they were not being supported at the time. So that was the agreement and Mercedes went to see the engineer and he got the report and a shop drawing with the location of the jacks, and he came to submit it to the Building Department and it happened that I was with Luis, the ABO, Victor Hernandez. In the fishbowl, we were helping

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somebody else with a set of drawings and a permit that he was liking to submit, and at that moment, after we finished with Mr. Mercedes in the lobby, and he approached us, telling us that it's {inaudible}. I got my drawings and I got the letter from the engineer and I'm ready to submit it, and that's when Mr. Madden came into the lobby and he took it with Luis and he start asking Luis, what was the reason that Luis was asking for the letter when he had never asked for any letter or anything. Like I say in my letter, I let the Assistant Building Official explain the situation and his request.

MR. MILLER: So what happened during this meeting as far as Mr. Madden's involvement?

MR. OLIVA: So he got very out loud in the middle of the lobby, talking to Luis and like putting Luis down that he doesn't know what the heck he was doing, or whatever. At this moment, really, I got so upset that I didn't want to be part of that conversation, so I want time to walk away. I don't like to have confrontation when all the neighbors are looking, you know. That should have been in a private office in the back and I would have stayed there all the time, but the way that he carried on

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with the Assistant Building Official - who happens to be my boss and his boss for that time - was completely out of place.

MR. MILLER: You wrote, as far as this letter, after describing that, "He," - meaning Mr. Madden - "was also out of order with me and the BAC, and not respecting the chain of command of the Building Division."

MR. OLIVA: Right.

MR. MILLER: "I won't go into full detail," - you then said, "I won't go into full details at this time." What other details are there about this that you did not list in that letter?

MR. OLIVA: There were a few things back on four - this is when happened at the same time that the Permit by Affidavit was taking place, and a situation was created that there were two sides. The Building Department got split into two. Who's in favor and who's not in favor, and that's a situation that nobody can work when you have people keeping a look at what you're doing, or asking why you doing this or doing that when you have a supervisor, which happens to be the Building Official, John Travers, and another supervisor, which happened to be Luis Hernandez, the Assistant

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Building Official. I don't see why we have to keep asking questions or answering questions to nobody else, as long as we're working within the scope of the Florida Building Code and the chain of command of the Building Department.

MR. MILLER: So, is that what you were referring to up at the beginning of your letter when you said that there was a hostile atmosphere created between the inspectors, the Chiefs, the ABO, and the Building Official?

MR. OLIVA: Yes, sir, because apparently what was friends were turning into enemies inside the Building Department, because some people were taking one side.

MR. MILLER: [Inaudible]

MR. OLIVA: Sir, you break down?

MR. MILLER: Go ahead.

CHAIR ADELSON: Ken, you're cutting in and out a little bit.

MR. MILLER: I am?

MR. OLIVA: You're breaking down.

[Inaudible, many speaking at once]

MR. MILLER: Maybe it's me. Sorry. Was the issue that had been created in the Department one that was affecting the job performance of everybody

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in carrying out the business of the Department?

MR. OLIVA: Yes. That was affecting everything.

MR. MILLER: Give us an example of how.

MR. OLIVA: Well, let's go back to the Mercedes building. I asked the inspector, Jose Abin, to go over there and take a look and he went with another Inspector that was his senior, Frank Arrigoni, and they both came with the same agreement, that the building had been unsafe for a long time. But, Jose Abin - I was impressed about Jose Abin's testimony that John Madden approached him after and he asked him why [inaudible] worked without permit, going around in the construction buildings in the City of Fort Lauderdale, that they don't have permits. He was referring to the Permits by Affidavit at the time, I guess. And Jose Abin really got very upset after he met with Madden, when Madden came to see him, and it got to a point that he complained that to me and I had to push the complaint letter up the chain of command.

MR. MILLER: Okay. You describe another incident in the letter having to do with a project at 1425 Northwest 62nd Street.

MR. OLIVA: That was the BSO building that was

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being built and they had a Permit by Affidavit issue and Mr. Madden came to the area where the building inspectors are and he referred to one my inspectors, Mr. Frank Arrigoni, which he was my Senior Inspector at the time, and asked Frank to go and issue a stop work order, because they had no permits.

At that time, I say, "Hold on, John. Let's wait till John Travers or Luis Hernandez gets here, because it could be that they have a permit issued by affidavit," since C-plus, which is the system where we kept the records, wasn't showing at that time the Permit by Affidavit in the computer. So, I told John, "Let's wait till Travers gets here." It was about a quarter to eight at that time, and Travers gets to the office about 8:30. So, we wait, waiting only 45 minutes at the most for Travers to get in the office. He turned around to Frank and he said, "Frank, I order you to go and issue a stop work order." And at that time, once again, I asked John, "I'm Frank's supervisor. I'm the one who's going to tell Frank where to go and he's not going anywhere until I talk to Travers or Luis, one of them, to let me know if they have a permit issued or they don't have a permit issued."

So, he say that he made a few statements, if I

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keep doing what I'm doing, that everybody is going to turn their back on me, and his volume keeps going up and up and up when he was talking. And it got to a point that I didn't want to go into another debate like we did in the lobby, so I turned around and went back into my office and I waited for Travers to get in the office, and I asked Travers about the permit and he said that he had a permit, but I asked Travers that I was going to send an Inspector over to make sure that what was in the scope of the issued permit. And I asked Bobby Masula to go to the BSO building and check to see what was going on. He went there, he checked everything and he found the two garage doors, they were removed and the opening they were blocking a window and a door instead of having the garage door in the opening. And we issued a stop work order for that violation and we asked the contractor to make a revision to the drawing, which they did. They got the permit. They kept working after the permit was issued.

MR. MILLER: At the top of page 2 of the letter when you're describing the events around this project, you wrote the following: "When I said that to him," referring to Mr. Madden, "he became super agitated and started shouting loudly to Inspector

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Frank Arrigoni." What do you remember about Mr. Madden's behavior regarding the situation, as opposed to just what he was saying?

MR. OLIVA: Well, like I said, he got very out loud, and I really wanted to stop the confrontation and I told Frank to sit back on his desk, and I left. And that's why I didn't send Frank over to the BSO building because Frank asked me not to send him because he didn't want to be in between the back and forth that was going through with this building. So that's when I made the decision to send Bobby Masula out.

MR. MILLER: Looking at page 3 of your letter, the second paragraph in, now you wrote about a problem with regard to the building permits that were closed by building inspectors without checking that the CO was required. And then you go on to comment about that. What was the reason that you included this paragraph in the letter itself?

MR. OLIVA: This is an issue that has been going on for a while within the building department and all these complainers. They're coming from Broward County Property Appraiser's Office. And I getting direct emails from the Deputy Director asking me why the City of Fort Lauderdale close

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these permits without having the CO issued; or why there's people living inside the property, and they don't have a CO on record.

So, I decide to make a room in the computer and I ask Charlie to give me a list of the missing CO's with permits that were issued and closed. And Charlie came up with 21 permits that were closed and they were missing the CO, which that is a violation in itself, from the Florida Building Code Section 111.1.

So, I went to see the Building Official and make him aware of what's going on with the missing CO and I spoke with the Assistant City Attorney, Miss Hasan, and she advised me to send a letter to let the people residing on the property, the owner, or tenant or whoever was in the property, that that was illegal to be occupied, that they need to apply for a TCO or a CO, if the work was completed.

So, I had to go and send notification to everybody and give them a warning that they don't have a CO after the due process was over, and the property was going to have to be vacated. So, that creates a lot of stress when you're a property owner and you think that you have completely finished with your construction and all of a sudden you get a

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letter from me telling them, "Hey, you are in violation, you are missing a CO."

You know, so that makes the whole department look bad. Not only me or John or whoever, it's the City, the way that we're conducting our business. And that's what really got me to the point where I spoke to a couple of people and I even had a lady that she came in crying that she doesn't know what to do and now she has to vacate her property, she thought that her addition was completed, and, you know, it's stressful. It's stressful when you put people through this.

MR. MILLER: The specific language you put in the letter was, "there are other permits that are being closed with missing inspections and open sub-permits. These errors are showing a lack of training by their supervisors." What were you referring to particularly with that sentence?

MR. OLIVA: We had a whole bunch of new Inspectors that came in and I don't believe they had the full training as per Board of Regulations on Chapter 1, Section 110, regarding the procedure of the inspection and how you are supposed to follow the inspection. I think that's where the issue was.

I remember going to BORA, and BORA was giving

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a class on how to conduct the inspections, and I got like a booklet that BORA made for that aspect. And what I did, I started giving those booklets to the inspectors so they could follow the guidelines from BORA and the steps required, so that way they can close a permit and make sure that the sub-permits are close, make sure that there's nothing missing, there's no inspection missing, there's not a elevation certificate missing, or anything like that.

MR. MILLER: Should that have been your responsibility to have to do that with those Inspectors?

MR. OLIVA: No, it wasn't my responsibility, but I feel bad for the people who that I have to notify that you were missing CO. So that prompt me into call BORA. I spoke with Bill Dumbaugh and asked Mr. Dumbaugh for a copy of that brochure and that way I could print it and give it to the people.

Also, BORA believed when we had the continuing education classes that they also provided the book to the Inspectors. But at that time, I asked for a copy and I got it from BORA, so that way I could give it to the inspectors.

MR. MILLER: When you mentioned the lack of

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training by their supervisor, who were you referring to?

MR. OLIVA: To the Chief Building, which is the one that they're under.

MR. MILLER: And that's who?

MR. OLIVA: That would be Mr. Madden, yes.

MR. MILLER: Going back for a second to page 2 of your letter, in the middle paragraph, you said, "We have been accused by him of breaking the law. The allegations coming from Mr. John Madden, in reference to the Permits by Affidavit, and the accusations are getting to me and affecting my daily work routine and private life. Some of my inspectors have been affected by Mr. Madden's disrespect as well." Please explain to us what you're referring to with those sentences.

MR. OLIVA: Well, when everything started going on, and I find out from Bill Dumbaugh from BORA that Mr. Madden filed a complaint against me, because the qualifications that I was showing was referring to Chief Building Inspector, without the Construction Enforcement part, and Mr. Madden got upset and he asked me if I had a letter from the City Manager when I was given that position? And I said, "Yes, I have a copy," and I give it to him,

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and which the copy say that I'm a Building Chief Inspector.

Mr. Madden is a Chief Building Structural at that time, and I was the Building Chief Construction Enforcement, two different branch. But I guess he thought I was making some type of shot on him, so I asked Bill to give me a couple of days and I was going to talk to the Building Official and have my title changed to Building and Construction Enforcement Division Chief, instead of just Building Inspector Chief, which was at the beginning the way it was addressed.

Also, he said that I made plans review, that I don't - I don't know how many things he accused me, it's a whole letter that I got from the Inspector General of BORA. But, anyhow, to cut to the chase, he accused me of doing plan exam and I wasn't doing any plan exam.

I was following a direct order from my supervisor, Mr. Travers. He had asked me to copy and paste what the discipline put in the plans review of the Tiffany house apartment, from the regular apartment into the Permit by Affidavit, and I copy and paste.

I even put a note every time that I

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transferred that, I was doing this by a direct order of the Building Official, Mr. Travers. And I showed that to BORA, I showed that to the Inspector General, and they both agreed that I wasn't doing anything illegal, that I was doing critical work.

The same thing that he said I avoid permits and I do this and I do that, everything that I do, just a clerk can do it. And when we open cases and we send people for electrical work, we send people for plumbing work, or we send people for air condition stuff, all those are on the Section 105.1 of the Florida Building Code, Chapter 1, of BORA.

And even John Madden, when he started working for the City back in 2007, he used to have cases, the same way that I was doing my cases. And I took them to BORA and I showed it to BORA and Inspector General since -

You know Ms. Smith? - and I'm talking now way back into the late 90's - was the Building Official, the procedure was that any inspector that would start working for the City had to go through Code first. They had to go through Code Enforcement, Building Construction law, and then become a regular Building Inspector. Everybody was trained that way. Nobody was trained otherwise, including Chris

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Augustine, when he was the Building Official.

Before Chris, all the way down to John Smith. Every single inspector that was hired by the City, they came through Code before they went to Building.

MR. MILLER: Did Mr. Madden ever talk to you about why it was he accused you of breaking the law?

MR. OLIVA: No. At that time, he was going completely - I don't know how to put it. He was acting in a way that I really didn't want to talk to him anymore. I find out a few things, like somebody broke into my office and that person took all files that I have copies saved for requests to shut power off on houses that they were vacant and deemed unsafe, and I was going to have it demolished, and I spoke to the Chief and Chief Electrical ask me, "You can send it. I will give you the authorization to do it under me."

And also that I was working under the Building Official, too, and the Building Official is the authority in the City of Fort Lauderdale, that can make this type of decision besides the Chief Electrical or the Fire Marshall. And I was working under the three of them. I was working under the Fire Marshall, I was working under the Building Official, and I was working with an approval from

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the Chief Electrical.

Anyhow, these houses that were vacant, most of the time there was not even power there, but in order for me to get the permit issued to have a demolition, I have to have the affidavit from Florida Power and Light that the power was cut off. So, that's why Scott Dry, the Chief Electrical, asked me, "Go ahead. I will sign it with you and you can send that to them."

So that's what I did. I was saving all the copies in the folder in case if Mr. Scott Dry wants to see them for whatever reason, and that folder disappeared from my file cabinet. And the last time that I saw it, it was a BORA position, with copies with the Inspector General, of the requests that I had to cut the power off. So, at that time I end everything with him. I didn't want to talk to him anymore.

MR. MILLER: You mentioned in the letter at one point during the discussion that involved Frank Arrigoni that he said to you and what you put as, "No one is going to help you or work with you if you keep taking their side." Do you know what he was talking about with you when he said that to you?

MR. OLIVA: To be honest, that happened the

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day of the BSO, when he asked Frank to go and issue a stop work order, and I asked Frank to wait until I talked to the Building Official. And the way that he expressed that to me, is like everybody was going to jump the back away from me, that nobody would want to work with me.

I don't really know what he meant with that, because he goes, he goes, and he really goes really wild sometimes. Like I said, I didn't want to confront him at that moment. I just made my statement that Travers was my supervisor and I was Frank Arrigoni's supervisor, not him.

And I'm the one that was going to make the decision who to send and when to send, after I spoke to the Building Official. And I turned around and I left. He remained there, whatever he was doing, but I didn't pay attention to him.

MR. MILLER: You concluded your letter in the last paragraph by writing the following: "We need to provide better training to all of our Building Inspectors, and stop driving around the City accusing everyone of wrongdoings." What did you mean when you wrote "stop driving around the City accusing everyone of wrongdoings?"

MR. OLIVA: I was referring to John Madden,

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that he keeps going to all the construction sites, pointing at little details to inspectors, telling them, "Oh you did this right, you did this wrong," but you're supposed to do that in the privacy of the office. Not in front of everybody. Not to put people down. That's one thing that I would never do to no one. And that's what I was referring there.

That was the atmosphere that he created inside the Department. And I keep saying about the chain of command because the Building Official is the authority. The Assistant Building Official is the second authority. The Chief is the third authority.

Even the young man that is the one that had the structure, he still has to follow the Building Official decision, like I do, like Luis does, like Scott Dry does, like Henry, he's the Plumbing Chief, does now, like every one of those, we all follow the chain of command.

That's what you're supposed to do. You're not supposed to jump guns and go behind people, go around the City arguing about everything that somebody makes a decision that has most certification and more experience than you do. And that's why I really don't appreciate working with this type of people.

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MR. MILLER: You concluded by saying, "The Division needs to be turn back to a friendly and professional working environment so we can provide the best quality and effective services to the neighbors of the City of Fort Lauderdale."

MR. OLIVA: Yes.

MR. MILLER: Since Mr. Madden has left, has that, in fact, occurred.

MR. OLIVA: Ys, sir. We are a very friendly group of people. We all help each other. You can go into any Chief's office, talk to the person, ask for help. "Help me get this permit out of here because we have an issue. There's a closing going on and they need to take care of violations. Can you have this permission for me, please."

You know, we try to help the people of the City of Fort Lauderdale, the neighbors, how we call them, instead of pushing them down into a hole on a spinning situation that your permits been there for three months and nothing gets done, or you keep going back and forth.

That's the way I feel - that we are here to help the people that come through that door. Not to go against anybody. In the Building Department, all sides [inaudible], and that's what we have now. We

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have a very friendly working habitat if I can say that. Everybody helps everybody. We all get along. There's no backstabbing. There's nobody going around nobody or anything like that.

MR. MILLER: So the hostile atmosphere that you described in your letter that existing back in October of 2016, does that exist anymore?

MR. OLIVA: No, sir. This is a new department.

MR. MILLER: Those are all the questions I have, sir. Thank you very much. Mr. Madden's lawyer probably has some questions for you.

MR. OLIVA: Thank you, sir. I'm ready for her.

CHAIR ADELSON: Ms. Bleau, Denise, you're hidden. Oh, there you are.

MS. BLEAU: Hi.

CHAIR ADELSON: You're off in cyberspace somewhere.

MS. BLEAU: Are you okay with me to proceed.

CHAIR ADELSON: Yes, proceed. Well let me ask, a great question. Does anyone need - and I mean, a five minute break before she starts questioning, because we might be here for a little while. It's 12:45, if anyone needs me to take a

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lunch break now.

MS. GIALLUCA: I think a five minute or fifteen minute lunch break might be good.

CHAIR ADELSON: So why don't we do a fifteen minute lunch break, come back at 1:00. Thank you for suggesting that.

MS. GIALLUCA: You're welcome.

CHAIR ADELSON: Okay?

MS. GIALLUCA: Thank you.

CHAIR ADELSON: See everyone in a few minutes.

MR. MILLER: All right, George, we'll see you back in 15 minutes.

MR. OLIVA: No problem.

[Recess called from 12:45 to 1:00 p.m.]

CHAIR ADELMAN: Sorry about that. I didn't even end up taking a lunch. But, that being said, I think we have one housekeeping matter that I need to address. Shelley, you had asked for a document and I believe I have it. Kerry, this is not the one that you recalled, right? The [unintelligible] action policy?

MS. ARTHURS: I am so sorry. I know, I'm trying to get my Outlook back open. The one that I recalled - so you should have the PSM, PSM 6.71, which addresses the Progressive Disciplinary Policy.

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That was sent to all.

CHAIR ADELSON: So, I'm going to screen share just to be clear that everyone has seen this document. This, I believe, is the one that Shelley was asking for, bear with me one second.

MS. GIALLUCA: So Kerry and Madam Chair, I did get it in my email and at the same time I found it in the book provided by Ms. Bleau, dated February 25, 2016. So, I guess my confusion was, this is a brand new document, correct? As of 2016?

CHAIR ADELSON: Who are you asking that question of?

MS. GIALLUCA: I guess, HR staff.

MR. POST: Let me address that if I can. I checked with other HR staff members, since I hadn't been here that long, and they assured me that this is the policy that was in place at the time of Mr. Madden's termination. It was effective October of 2016.

MS. GIALLUCA: October of 2016, okay. So I guess, because I was getting confused, because in the Personnel Rules there is Rule 10, 11, 12 that had separation and disciplinary action, which existed way back in 2013, so this one in the PSM is from 2016. Okay, I think that clears up some of my

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confusion of these documents. Okay, thank you.

MS. BLEAU: Mr. Madden was placed on leave in October 2016, right? So this would have been in effect at that time.

MS. GIALLUCA: Yeah.

MR. POST: He was still employed, correct?

MS. BLEAU: Yeah, I think so.

MS. GIALLUCA: Yeah, they just have different signature dates by the City Manager. That's what was confusing me also.

MS. BLEAU: It wasn't signed until October 11th.

MS. GIALLUCA: But there's one that he signed in February also, so I guess this is the latest one. We'll go with this, the latest one.

CHAIR ADELSON: I'm going to swipe to another screen.

MS. GIALLUCA: Okay, I'll look at that later. Thank you.

MR. POST: Chair Adelson if I may? There is also a housekeeping issue with the question about the employee group Mr. Madden was applied to. As I'm reading the document that was provided to me from others here. Mr. Madden was originally hired into a position that was represented by the

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Teamsters. He was promoted to the Chief Building Inspector position which is a non-union or management position. He was temporarily assigned to a higher level as Building Official, and then when he went back to being the Chief Building Inspector that was still a management position.

MS. GIALLUCA: So, it wasn't like this supervisory management position under the Federation contract?

MR. POST: No, Ma'am.

MR. BALDWIN: So he was hired as part of a collective bargaining agreement, and then he was promoted into the classified or the classified service, and then he was temporarily assigned to - it was still a position in the classified service?

MR. POST: Well how are you defining classified service?

MR. BALDWIN: Well, the Charter provides that unclassified is several different people - the manager, assistant manager, etcetera, and in addition, anybody in the collective bargaining unit.

MR. POST: No, you're correct in your definition, sir.

MS. GIALLUCA: So, his employee group number at the time he was Chief Building Inspector was

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what? Maybe you might not have that.

MR. POST: Yeah, I can't tell what the code is.

MS. GIALLUCA: Because the employee group will clearly clear it up, yeah.

MR. POST: It's not represented by a union.

MS. GIALLUCA: Okay, so he's not employee group 8 or 9, is what you're saying?

MR. POST: I don't have that in front of me, which you do.

MS. GIALLUCA: Yeah, that was my question that would clear it up.

MR. BALDWIN: So as long as he -- if he was not in a collective bargaining agreement and I presume his temporary promotion was not Management Category 1, or do you know that?

MR. POST: I don't know that for sure.

MR. BALDWIN: Because that is not part of the classified service. So, I'm just concerned with anything he did or any action that took place between the time he was with the collective bargaining agreement and he was put in the classified service. Right? I mean, that's what we're here to make a decision on, as a Civil Service Board. His issues that are in the classified

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service.

MR. POST: Correct.

MR. BALDWIN: So just from my perspective - and maybe I haven't done enough research in all the documents because you all have certainly provided a lot - but I've always been unclear as to what he did, when he did it, and was it during a time when he was in the classified service, and was the disciplinary action taken while he was in the classified service.

MR. POST: I would have to double check that in order to confirm it. But, as I understand it, there should be a history of his employment and assignments in your packet already. But if not, I'll check with Janine Richard. She is the one that provided it all -

MS. GIALLUCA: That would be great, because that would hopefully show the employee group, which will clear up a whole lot of stuff.

MR. POST: Besides the employee group, when we say employee group, we're talking about a particular union they might be represented by versus not being represented at all.

MS. GIALLUCA: Yeah, well, not represented at all would be like Employee Group 1, would be your

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upper management.

MR. POST: But that's separate from what Mr. Baldwin was talking about classified versus non-classified service.

MS. GIALLUCA: Yeah, and at that point I don't think that would matter at all. It still could be considered a management group. But, yeah, if you could get that, that would be great. Thank you.

MR. POST: I'll give Ms. Richard a call while we're working through this.

MS. GIALLUCA: Okay, thank you.

CHAIR ADELSON: Where is our witness? Are we still in the void?

MS. BLEAU: No, he's here.

CHAIR ADELSON: Oh, there you are. Hi, George. Sorry about that. He's on the far left and before he was on the far right.

So, you're still under oath. You may proceed.

MS. BLEAU: Thank you. Mr. Oliva, when did you start working for the City?

MR. OLIVA: November 5, 2007.

MS. BLEAU: And what was your job title at the time?

MR. OLIVA: I was assigned to Code Enforcement as a Building Inspector. Wayne Strong was the

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supervisor at that time.

MS. BLEAU: Just to be clear, you were a Building Inspector 4, assigned to Code Enforcement. Is that right?

MR. OLIVA: Right. That was the division that I was being to in the City of Fort Lauderdale.

MS. BLEAU: And did your job title change at any time?

MR. OLIVA: I became Senior City Inspector on 2010, after Wayne Strong retired, and after that, I became the - I took the position for the Chief.

MS. BLEAU: And the position that you're currently in, what's the title?

MR. OLIVA: The title is Chief Building and Construction Enforcement, long name.

MS. BLEAU: Chief Building and Construction Enforcement what?

MR. OLIVA: Division.

MS. BLEAU: That's your title?

MR. OLIVA: Yes, it's a very long title. Tell me about it.

MS. BLEAU: And, you've mentioned BORA, you know what the Board of Rules and Appeals is, correct?

MR. OLIVA: Well, there's a whole chapter

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about them, but I guess you're referring to Section 104?

MS. BLEAU: Do you understand that they're an arm of the government responsible for writing, modifying, interpreting the Building Codes applicable in Broward County?

MR. OLIVA: Yes. That's Broward County Board of Rules and Appeals, and the Building Official is the one that has the jurisdiction in the City.

MS. BLEAU: And in Broward County, certain individuals have to be certified by BORA in order to work in Broward County, correct?

MR. OLIVA: Yes, ma'am.

MS. BLEAU: And are you currently certified by BORA?

MR. OLIVA: Yes, ma'am.

MS. BLEAU: As what?

MR. OLIVA: I'm certified as a Building Inspector and as a Planning Examiner.

MS. BLEAU: And when did you receive your certifications?

MR. OLIVA: 2008, I got the Building Inspector in 2008, and then I got the Provisional Plans Examiner in 2011, and then I had family issues and I had to stop going and trying to take the test for a

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while. And then I went and took the test and I passed as a Plans Examiner.

MS. BLEAU: I'm not sure I caught all that. In 2008 you were certified as a Building Inspector. When did you become certified as a Plans Examiner?

MR. OLIVA: I would say about a year ago.

MS. BLEAU: About a year ago, 2019?

MR. OLIVA: I say it was 2019. I don't have the papers on me right now, but you can check the Professional Regulation and you will see the date of the license.

MS. BLEAU: Do you understand, I'm asking when you became certified by BORA as a Plans Examiner?

MR. OLIVA: Yeah, that's what I'm saying. I say that I became certified last year by the - it was before October, I believe. But I don't quite remember. If you want, I can look for the date, but -

MS. BLEAU: Okay, but you think it was somewhere shortly before October of 2019?

MR. OLIVA: Yeah, in that neighborhood, more or less.

MS. BLEAU: You are not certified by BORA as a Chief in any discipline, correct?

MR. OLIVA: No, I spoke with the BORA members

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and the work that I do for the City of Fort Lauderdale - which is the Code Enforcement part - doesn't require to be certified by BORA. And I don't do plans review structurally, and I don't do examinations that the Chief will do. Other than that, is specification. What I do is enforce the Florida Building Code and the City Ordinance which, according to the members of BORA when we met a few times, they say that was not a requirement, to do City Ordinance and Chapter 1 of the Florida Building Code.

MS. BLEAU: So I think you said, you do not do any plans review. Is that Right?

MR. OLIVA: Not to approve or structurally do a high-rise. My division doesn't do that part. That is only the Chief Structural.

MS. BLEAU: You wouldn't be somebody that would sign the plans review?

MR. OLIVA: I have the license to do it, but no, I don't do that part of the job.

MS. BLEAU: But before 2019, sometime toward the end of 2019, you didn't have the license to do that, right?

MR. OLIVA: No, I had a provisional by the State of Florida, but like I say, I let it expire

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because I was having a lot of family issue with my wife back then.

MS. BLEAU: When did it expire - the provisional license?

MR. OLIVA: It was issued in 2011. I would say, in the State of Florida it's 18 months, tops. Broward County, it's only 12. So, I would say by the mid-2011. By the mid-2012, I'm sorry.

MS. BLEAU: Mid-2012, okay. So, my question was, and I'm not sure you exactly answered it, you are not certified by BORA as a Chief in any discipline, correct?

MR. OLIVA: No, ma'am.

MS. BLEAU: And in March of 2016, BORA advised you and Mr. Travers that it would not be proper for you to use a designation, "Chief Building Inspector" - those three words, Chief-Building-Inspector, correct?

MR. OLIVA: Right. That's what I said. I spoke with Mr. Bill Dumbaugh. We changed the name so that way it won't reflect that I was doing any structural decision, which the Chief was the one doing at that time.

MS. BLEAU: Right, Chief Building Inspector is a title reserved for individuals in Broward County

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who have been certified by BORA to interpret and enforce the Building Code, correct?

MR. OLIVA: A hundred percent.

MS. BLEAU: And you had a discussion with John Travers about BORA's determination that you could not use the Chief Building Inspector title, right?

MR. OLIVA: A hundred percent correct, and what we did, we changed the name of the division of the position, and Bill Dumbaugh approved it, and that was the end of it.

MS. BLEAU: According to an email in April of 2016, from Bill Dumbaugh, the day after he notified you that you could not use the title Chief Building Inspector, you emailed him back telling him that your title had been changed to Chief Code Compliance Inspector. Do you remember that?

MR. OLIVA: Yes, I remember the email.

MS. BLEAU: And did you tell Mr. Dumbaugh the day after he spoke with you about using the Chief Building Inspector title that you had changed the title to Chief Code Compliance Inspector?

MR. OLIVA: I remember sending him an email and I told him that we were going to change the division name into another name; and there were a few back and forth emails and names, until we came

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out with a final name.

MS. BLEAU: Let me just share my screen here if I can see it. Okay, Mr. Oliva, I'm not clear on your answer, so I thought it might be better just to pull up the email dated April 8, 2016, from Mr. Dumbaugh to Mr. Madden and Mr. Travers and others, telling him that the day after he notified you about using the Chief Building Inspector title, he received an email from you stating that the title had been changed. Do you see that?

MR. OLIVA: Yeah, and then I didn't do anything about that, but I wasn't quite right on the date or the proper name.

MS. BLEAU: So you did tell Mr. Dumbaugh this, as he's reporting here?

MR. OLIVA: Yes.

MS. BLEAU: And was your statement truthful?

MR. OLIVA: I call him on the phone and I explained to him what was going on and I told him that we were going to change the name of the division.

MS. BLEAU: Did you stop using the Chief Building Inspector title, as instructed by BORA?

MR. OLIVA: Yes, ma'am.

MS. BLEAU: I want to you show you this

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picture which is - do you recognize that?

MR. OLIVA: Yeah, that's my badge. John Madden took a picture of it, and yes, that was the old title, and that was before we changed the [unintelligible].

MS. BLEAU: Well, the email we just looked at was in April of 2016 and this email is in June - this badge was issued to you in June of 2016, still containing the Chief Building Inspector title, correct?

MR. OLIVA: In the badge, yes. It says Chief Building Inspector.

MS. BLEAU: Okay, and you also continued to use business cards with that designation, correct?

MR. OLIVA: No, I had all my business cards replaced.

MS. BLEAU: Okay.

MR. OLIVA: I, myself, did the work request for this - a request to have them replaced.

MS. BLEAU: You requested to have them replaced? Did you continue to testify before the City's Code Enforcement Board using the title Chief Building Inspector?

MR. OLIVA: I testified in front of the Board and even with BORA supervision, because they went to

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a few of the hearings to see how we were doing it. And I always testified [unintelligible]. After that date, as the Chief Building and Construction Enforcement Division.

MS. BLEAU: Here's a sample of Code Enforcement Board Minutes in May, which would have been after the April date, and still reflecting you as the Chief Building Inspector, correct?

MR. OLIVA: Yes, ma'am.

MS. BLEAU: Can you explain that?

MR. OLIVA: I don't have any other explanation than that was a clerical mistake that they didn't have changed it in the computer. I don't make those reports. I don't see those reports.

MS. BLEAU: So you aren't testifying under oath that you were the Chief Building Inspector?

MR. OLIVA: No. I was testifying as the Chief of the Building and Construction Enforcement Division Chief.

MS. BLEAU: Can you explain why in Ms. Richard's report regarding Mr. Madden, she designated you as Chief Building Inspector?

MR. MILLER: Objection, [inaudible] why someone else did something.

MS. BLEAU: You can answer.

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MR. MILLER: Well, did she rule on my objection?

MS. BLEAU: Sorry.

CHAIR ADELSON: Repeat your objection, Kenneth, please. I think I'm hearing you again.

MS. BLEAU: That's okay, I asked if he could explain why Ms. Richard's in her report, listed him as the Chief Building Inspector.

MR. MILLER: And my objection was, how could speculate as to why someone else wrote something.

CHAIR ADELSON: Objection upheld.

MS. BLEAU: Upheld? Okay.

CHAIR ADELSON: I suggest maybe reword.

MS. BLEAU: Understood. I will. Thank you.

Mr. Oliva, did you tell Ms. Richards or the HR investigator who interviewed you regarding Mr. Madden that you were the Chief Building Inspector?

MR. OLIVA: No, ma'am.

MS. BLEAU: No?

MR. OLIVA: I don't, like I say, when I go to the hearings, the Clerk is the one that made the notations. I don't make any notations.

MS. BLEAU: I'm not asking you now about the Code Enforcement Hearing. I've moved on from that.

MR. OLIVA: Where are we now?

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MS. BLEAU: I'm now asking you about the City's own report - let me see, pull it up here. Okay, Mr. Oliva, looking at City exhibits, which would be page 7 in the notebook, in the City's notebook, where Ms. Richard discusses the interview of you, she labels you as Chief Building Inspector and she says that you are the Chief Building Inspector over Enforcement. Did you tell her that or did she just make that up?

MR. OLIVA: No, she just typed it wherever she was typing. I don't have any recollection of ever talking to her or how did she make that document. Like I say one more time, it says "over Enforcement." That means I'm the Chief Building and Construction Enforcement. That the Building Inspector Structural. That was somebody else's position.

MS. BLEAU: Do you have your badge with you today?

MR. OLIVA: Not here. It's in the office. I'm not in the office right now.

MS. BLEAU: What does your badge say today?

MR. OLIVA: My Badge says Chief Building.

MS. BLEAU: Chief Building Inspector?

MR. OLIVA: I don't know about the Inspector,

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I don't have even a copy here.

MS. BLEAU: Like this?

MR. OLIVA: I think we changed it after that, but I quite don't remember. But I know that we went to HR and we had a new picture taken and a new badge made.

MS. BLEAU: So, just to be clear about your testimony here, Mr. Madden was concerned that you were using the same job title as he had which, according to BORA, you should not be using because you're not certified as a Chief Building Inspector. And BORA never told you that you could use the Chief Building Inspector title. In fact, they told you not to. So I have that accurate?

MR. OLIVA: Yeah. We went through that already when I spoke with Bill Dumbaugh.

MS. BLEAU: Right, and he told you not to use the Chief Building Inspector title.

MR. OLIVA: Well, I thought we were going to change the name and everything, but I don't have any control over what a clerk would put down as she's doing the HR, but that BORA clearly would put on the testimony. That part I don't have control [inaudible]. Now when we go back into the hearing, I'm going to make sure that they use the full name

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not just the Chief Building.

MS. BLEAU: You were not happy with Mr. Madden about complaining about this, correct?

MR. OLIVA: No, not about that part, really. When he had an issue where he complained that I was not a Chief, because here before I took the position I went to see him. And I spoke to him and I said, "Look, John, I just got this position. It says Chief Building and let me tell you, I don't want to be in your position, I don't have any aspiration to become the Chief in Structure. And this is a position I'm going to be doing with Enforcement of the Building." And I spoke to him even before I got that letter from [unintelligible]. I spoke to him and Mr. Ford was present in that conversation and as was Victor Blanco. And, you know, we spoke in the hallway in front of his office, but like I say, I never had any issue with him until he went completely berserk and he started attacking everybody. I don't even know why, because we always had a good relation, a working relation.

MS. BLEAU: Mr. Madden had also complained about you performing plans review for Building and other disciplines when you were not certified.

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MR. OLIVA: Well, the only plans review that I did -

MS. BLEAU: Mr. Oliva, you got to let me finish my question and then if you'll answer the question that I'm asking, I would appreciate it, okay?

MR. OLIVA: Go for it.

MS. BLEAU: And if we talk over each other, the court reporter is not going to be able to get the record accurate, okay?

MR. OLIVA: It's hard to listen because the voice keeps breaking. I don't know if you remember when I was giving testimony, so I'm trying to listen and look at your mouth at the same time to see when you stopped talking. But I apologize.

MS. BLEAU: It's okay. So my question is, Mr. Madden also complained about you performing Plans Review for Building and other disciplines when you were not certified by BORA or the State of Florida to perform those Plans Reviews, correct?

MR. OLIVA: No, it wasn't correct because I wasn't doing any review. I was following a direct order from my supervisor to transfer the notes of the Plans Review from one permit into another permit.

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MS. BLEAU: Did Mr. Madden speak with you about your failure to follow the law with respect to Joe Feinberg?

MR. OLIVA: Yeah, he sent me an email -- he sent me an email and I went to see him in his office, and I explained to him what I did. And he took it another way, that's his problem. But what I did was not illegal. It was proved to Inspector General and I provided it to BORA.

MS. BLEAU: Did Mr. Madden speak to you about your failure to follow the law with respect to Joe Feinberg and Allied Home Improvements?

MR. OLIVA: To who?

MS. BLEAU: Joe Feinberg and Allied Home Improvements.

MR. OLIVA: No, I don't recall that.

MS. BLEAU: The contractor was working without a contractor's license, correct?

MR. OLIVA: Work where? You need to refresh my mind, that part really I don't -

MS. BLEAU: The City of Fort Lauderdale received an anonymous complaint and Mr. Madden put some of the permits on hold. You don't remember the Allied project?

MR. OLIVA: No, ma'am. At this moment, I

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really - I don't have any recollection of that.

MS. BLEAU: Allied Kitchen?

MR. OLIVA: Allied Kitchen? I know Allied Kitchen, Joe and his brother Bill. But I don't remember anything about - you say that they were working without a license?

MS. BLEAU: Yes. The contractor was working without a contractor's license. Do you recall that?

MR. OLIVA: No, ma'am. I really don't remember.

If I quite remember, and this is going back to a few years ago, Allied Kitchen they had an expired permits. And what I did, I put a hold on them obtaining permit. But I don't remember anything about them not having a license, because they [unintelligible] and since they have a county license.

MS. BLEAU: See if I can pull it up.

MR. OLIVA: But to be honest with you, I never spoke to Joe Feinberg about that. That came to me because one of my inspector, Frank Arrigoni, he's the one that came to see me and showed me the expired permit. There were, I believe, about ten or fifteen expired permits. And we called an

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electrician, I believe I spoke with Bill, and explained to Bill that his license was on hold until he makes sure that those permits were taken care of. From there on, I don't remember about taking to Joe Feinberg about anything.

MS. BLEAU: So my understanding, you do recall that there was - the contractor did not have a license?

MR. OLIVA: No, I didn't say that - he had expired permits.

MS. BLEAU: Yeah, I don't think it was - it's not that he didn't have a license. He didn't have a license to build the project that he was building. You recall that?

MR. OLIVA: No, ma'am. I don't have any recollection of that. The only recollection that I got is about is his expired permits and I put a hold on expired permits, and I called him and I told him to either take care of those expired permits or he's not going to get another permit in the City.

MS. BLEAU: And after Mr. Travers got involved, you closed the Code Enforcement action and closed the building permit without requiring the revisions noted in the failed inspection.

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Correct?

MR. OLIVA: What are we talking about now, because -

MS. BLEAU: Allied Kitchen -

MR. OLIVA: With Allied, I never did that. I don't remember that part. The only thing that I remember is that we were calling Allied Kitchen and they were coming to renew their permits.

MS. BLEAU: So the answer to my question is that you did not close the Code Enforcement action and the building permit without requiring the revisions noted in the failed inspection.

MR. OLIVA: I don't even know what you're talking about, to be honest with you. I don't want to be in a contradiction, but I don't have any recollection of that. I'm sorry.

MS. BLEAU: Would there be a justified reason to close a Code Enforcement action and the building permit without collecting the fees and making sure that the failed inspection revisions were corrected?

MR. OLIVA: No, they - oh, back in 2016 -- no, they were not collecting fees due to the Q-19 virus.

MS. BLEAU: Right. Not talking about now.

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I'm talking about back in 2016.

MR. OLIVA: We always request a permit fee to be - the renewal fee to be paid.

MS. BLEAU: Talking about fees for violations, right? Not renewal fees.

MR. OLIVA: I don't have any recollection about any violation fee because there was a case open for an expired permit and he didn't comply with the expired permit. And the inspector that was doing the case, that was Mr. Frank Arrigoni. I don't believe that he closed the case with the full compliance.

MS. BLEAU: Are you qualified to close a building permit without requiring the corrections to be made in a failed inspection? Were you properly --

MR. OLIVA: [inaudible, talking over one another] because I don't have any slight idea which permit you're talking. I cannot give you an answer, if you don't provide me with some type of information besides saying Allied Kitchen, because Allied Kitchen is Allied Kitchen, and they got 300 permits in the computer. So you need to say to me which one I did or one that I did or whatever because I don't have any recollection or anything

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else.

MS. BLEAU: My question is, in 2016, based on your certifications through BORA -

MR. OLIVA: I don't have any recollection on 2016, on closing any permits from Allied Kitchen that had nothing to do with [unintelligible].

MS. BLEAU: [inaudible, talking over one another]

MR. OLIVA: If it's a limited permit, I can close it after fine.

MS. BLEAU: Not my question. If you would let me finish my question, please.

MR. OLIVA: I will let you finish your question, but you going around the bushes and I don't have any idea or recollection of what we're talking about. So how do you want me to say yes or no to a question that I don't know anything?

MS. BLEAU: First listen to my question. That will be a big start, okay?

MR. OLIVA: Go for it again.

MS. BLEAU: And then if you can't answer it, you say you can't answer it? In 2016, based on the certifications that you had from BORA at the time, were you legally allowed to close building permits without requiring the failed inspection notes to be

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corrected?

MR. OLIVA: Once again, I don't know which permit I did, but I'm allowed to close a permit when other criteria for the permit has been met.

MS. BLEAU: Okay, can you answer -

MR. OLIVA: I'm sorry - are you there?

MS. BLEAU: Yep, sorry.

MS. OLIVA: Sorry, I thought it was me.

MS. BLEAU: My question is, Mr. Miller asked you - maybe it wasn't you - but let me ask you a hypothetical. Would you have the - hypothetically, based on your certifications, are you legally allowed to close a permit without requiring the revisions noted in a failed inspection? Yes or no?

MR. OLIVA: No, because I -

MS. BLEAU: I'm not asking did you, I'm asking were you legally allowed to?

MR. OLIVA: And I'm going to answer.

Legally, I'm not going to answer because I don't know what we're talking about. But if I feel that the criteria or the scope of the permit has been met and everything under the commentation [sic] is there to have it closed, I will close it. But no, I'm not going to close a building permit missing an elevation certificate or something.

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MS. BLEAU: So, I'm not sure you answered my question. If the --

MR. OLIVA: I don't understand your question. We can go back and forth the whole day, but -

MS. BLEAU: We can.

MR. OLIVA: If you don't make me something more specific that I can answer for you, it will be my pleasure to answer it.

MS. BLEAU: I understand your answer to be, if the violations are corrected, you have the authority to close the building permit. Did I understand that correctly?

MR. OLIVA: Yes, ma'am.

MS. BLEAU: My question is, if the violations have not been corrected, are you legally allowed to close the building permit?

MR. OLIVA: Like I say, if the scope of the permit has not been met, you should not close a permit unless you get an engineer letter telling that everything was built, and made with material the Florida Building Code accepts at the time that the permit was issued. That's the best I can do for you right now.

MS. BLEAU: Okay, well, that's helpful. Let's move on from there. As the Code Enforcement

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person, who's not certified as a Building Inspector Chief for BORA in 2016, could you overrule the Certified Building Chief Inspector or the Building Inspectors that reported to him regarding whether or not violations -- whether or not things needed to be revised or fixed on a project?

MR. OLIVA: I don't believe nobody has that authority. But I don't know what you are referring to either, so I can't say yes or no again. You keep tossing a lot of questions in the air, but I don't know what you want land them with. But to be honest with you, I don't believe that we can close a permit if we don't have proof that we can close it. We are the local [unintelligible].

MS. BLEAU: Well, but - that's okay. I think you answered my question. You do not have that authority to overrule people in the Building Department regarding their inspections, right?

MR. OLIVA: Like I say, nobody should do that, an engineer or any other inspector without making sure that all the criteria has been met.

MS. BLEAU: You don't ever recall, though, Mr. Madden challenging you or questioning you about doing things like that?

MR. OLIVA: No. I don't remember him at all

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coming to me asking me why a permit was closed. That's something new that this is the first time, and I am not prepared to defend myself here, because I don't have any proof one way or the other.

MS. BLEAU: Other than, you know, a court of law, obviously, is there any other authority that can overrule BORA's interpretations of the Florida Building Code?

MR. OLIVA: BORA? BORA overrules? Not that I'm aware of. Probably, legally, you can go to the State and they can overrule the County or BORA, but I haven't been in a situation like that before.

MS. BLEAU: Is the City Building Official, like John Travers, he's subject to the decisions of BORA, correct?

MR. OLIVA: John Travers, as the Building Official, he has the authority to rule or oversee the Florida Building Code in the City of Fort Lauderdale. That's a given authority by BORA and the State of Florida also, gives that authority to the Building Official.

MS. BLEAU: Does John Travers, as the Building Official, have the authority to overrule decisions of the Board of Rules and Appeals?

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MR. OLIVA: I have never been in a situation like that, about Building Officials. He can challenge it. He can go in front of the Board and challenge it. Everybody has that right. Even me as an inspector can go. But, like I say, I have never been in that situation. I'm not aware of that situation, and I believe Mr. Travers won't do that, either.

MS. BLEAU: Okay, so you don't know the answer to my question whether or not he can overrule the Board's decision - not go to the Board and challenge it, but overrule their decision? You don't know the answer?

MR. OLIVA: No. I have to be honest with you. I don't want to be a hard person, but I cannot give you an answer that I'm not a hundred percent sure.

MR. MILLER: [inaudible]

MS. BLEAU: If you don't know, that's fine. Do you know what an authority having jurisdiction is?

MR. OLIVA: Yeah. That is the authority that has jurisdiction in the area that he's located, to oversee a Florida Building Code. In this case, it's the City of Fort Lauderdale and the Building

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Officials that I [unintelligible].

MS. BLEAU: So as between John Travers certified in Electrical, and John Madden certified in structural, do you know who BORA says is the authority having jurisdiction regarding building issues?

MR. OLIVA: Always the Building Official - the ultimate jurisdiction. But according to BORA, of the Section 104, is discipline the Chief when the Building Official doesn't have the license. It should be the Chief advising the Building Official of the Florida Building Code. I do say discipline; they say electrical, structural, or whatever. It should be the Chief, but, then, again, that's an interpretation of the Florida Building Code, Section 104.

MS. BLEAU: So if Mr. Travers is certified in electrical and Mr. Madden is certified in structural, and there's a disagreement regarding the interpretation of a structural issue, whose interpretation prevails, as far as you understand?

MR. OLIVA: The Building Official has the authority to rule and he can go in front of BORA and ask for a formal interpretation, and see who's [unintelligible], either John Madden in this case,

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as you mentioned, or John Travers, as the Building Official. But there has to be a formal interpretation by BORA.

MS. BLEAU: Right. If there's no formal interpretation, it would be Mr. Madden's interpretation. If there's no challenge with BORA by Mr. Travers, it would be Mr. Madden's interpretation that prevails, correct?

MR. OLIVA: That would be up to the Building Official to take the Chief's advice on that. It's not my decision to make.

MS. BLEAU: Okay, I'm just asking you what you know about - if they disagree, are you saying -

MR. OLIVA: The only thing I can tell you is that [unintelligible] the Building Official is the authority, having the limitations. The Chief -- if the Building Official is not licensed under that discipline, the Chief should advise the Building Official on decisions concerning the discipline that he's licensed and the Building Official's not. But the last, I would say, the outcome should be the Building Official or he should take it to BORA for a formal interpretation. I'm sorry, I got carried away.

MS. BLEAU: So he should - the Building

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Official should comply with what the Chief thinks in an area that the Building Official is not certified in or take the issue to BORA.

MR. OLIVA: I would say the Building Official doesn't have to comply. I said the Building Official can ask for a formal interpretation from BORA, but the Building Official overrules the Chief in the discipline that he's licensed. And if he's not licensed in that discipline, the Chief can advise the Building Official what to do, and the Building Official can ask a formal interpretation with BORA.

MS. BLEAU: Are you aware -

MR. OLIVA: That's the way that I understand all my life.

MS. BLEAU: That's the way you understand it. I understand that. Do you know that BORA has -- in BORA's hearing involving John Madden that they came to a different conclusion?

MR. OLIVA: I was never present in any of those hearings, ma'am. I don't have any recollection on what happened or what didn't happen. No. I understand he went in front of BORA but I don't even know what happened, because, really, I didn't follow him. I didn't want to have

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nothing to do with anything.

MS. BLEAU: Do you understand that while Mr. Madden was still employed with the City of Fort Lauderdale, Mr. Madden was being - was charged with, by BORA, failing to overrule the Building Official's interpretation regarding the floodplain issues?

MR. OLIVA: I don't. I don't think that John Madden had anything to do with that. That was, if I quite remember, it was the Building Official at that time, Chris Augustin, that went in front of the State and BORA and then [unintelligible], but I don't remember John Madden being involved. Because I would remain in the City all that time, I never had anything to do with that, if I quite remember. But like I say, I'm not aware of anything. I didn't follow those.

MS. BLEAU: Yeah, I think you're right. Chris Augustin and Glenn Osborne were the two that were found guilty of misconduct by the Office of Inspector General.

MR. OLIVA: If I quite remember at that time, Madden was doing elevation certificates, because I used to come to him for elevation certificate questions. But I don't believe that he was

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involved with it.

MS. BLEAU: Right. Well, he wasn't subject to the OIG investigation, and you weren't aware that after the OIG investigation that BORA filed malfeasance charges against Mr. Madden for failing to overrule the Building Official. You didn't know that?

MR. OLIVA: Honestly, no, ma'am.

MS. BLEAU: Okay.

MR. OLIVA: Like I say, I started going to BORA meeting all that long time ago, back in 2012, I believe.

MS. BLEAU: So back when you were working with Mr. Madden, you felt that the Building Official had the authority to overrule Mr. Madden's interpretations? And if Mr. Madden challenged that, he was being insubordinate, right?

MR. OLIVA: It should be in front of BORA requesting a formal interpretation of the call that was the question about it. But like I say, I worked under Curtis Gray, he was a Building Official, when Madden and I, we both were hired in 2007. And after that Chris Augustin became -- we work under the Chief of Structure, John [unintelligible] and there was a guideline all the

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time that we had in the Building Department.

That's something that has been very [unintelligible] by BORA, very [unintelligible] by the Florida Building Code [unintelligible] The Building Official - the Chief goes to the Building Official, the inspector goes to the Chief. That would be the chain of command that we kept all the time. And to me, it always has been the Building Official, the one with last answer or rule, whatever you want to call it.

MS. BLEAU: Right, that's your understanding. That was my question, is what your understanding was.

MR. OLIVA: Yeah, I don't want to go against nobody is the way that we've been conducted inside the Building Department since I was hired - even before I was hired. That been the chain of command, [unintelligible].

MS. BLEAU: Understood. How many meetings did you have with Richard Mercedes regarding his project?

MR. OLIVA: Oh, boy. I helped him as much as I could to try to get everything done. When I got the email from Jeff Lucas, the Fire Marshal, to check that building next to the fire station that

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he feels that that building was unsafe, and I sent my inspector. I met with him once there. After that I met at the Building Department one more time that he was trying to get his permits renewed. And then I met at the office of the City Manager with him and the Assistant Building Official, Andrew Cross. I think that's it. We worked for [unintelligible] plus him.

MS. BLEAU: Now you were aware that Mr. Madden had met with Mr. Oliva and that they had -

MR. OLIVA: I'm Mr. Oliva. But that's okay, it's a long day.

MS. BLEAU: You were aware that Mr. Madden had already with Mr. Mercedes and Mr. Mercedes was waiting to hear from his engineer regarding a solution that he and Mr. Madden had discussed, right? You weren't aware that -

MR. OLIVA: I wasn't aware - now, I'm aware, but not at that time I wasn't aware that Mr. - but he never mentioned it to me. He had a permit that he showed to me for the stucco work outside the building and he had nothing else issued. And then when we went to the building - when my Inspector went to meet Frank Arrigoni and Jose Abin, they both found that the interior was completely gutted

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and supporting members were revoked by him, or whoever was doing the job. And that's why we request for the beam of the supporting members to the building to be supported by J-jack and that's why you need the engineer to provide the letter so that way we know that they using the right [unintelligible] support on that beam and that beam won't collapse.

MS. BLEAU: Okay, the answer to my question is you did or did not know that the solutions had -

MR. OLIVA: Oh, no, I say I wasn't aware that -

MS. BLEAU: At the time you were not aware -

MR. OLIVA: -- John Madden was involved with him at that time.

MS. BLEAU: Right. How come you were meeting with Mr. Mercedes without Mr. Madden's involvement?

MR. OLIVA: Because - which other meeting, the first time? We talking about expired permits and violations and the building being wide open and that had to do the Section 18 of the City Ordinance. It had nothing to do with John Madden.

MS. BLEAU: The building was --

MR. OLIVA: We were trying to do was to board up the building, or deem it unsafe and move to a

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hearing to have it demolished.

MS. BLEAU: The building wasn't completely surrounded by a fence?

MR. OLIVA: No, at that time that we went, it was open. You could walk from the street. Maybe they had a fence and somebody removed it. There's a lot of people living in the street in that area. And that's really -- but when we there and we took pictures, everything was wide open. There were electrical wire hanging all over the place, there was power inside the building. And, like I say, very unsafe.

MS. BLEAU: Do you know why you heard from Jeff Lucas instead of Mr. Madden being notified, since -

MR. OLIVA: Well, now that you have to ask Mr. Jeff Lucas where he got the - but he sent me an email, he's the Fire Marshal, City of Fort Lauderdale.

MS. BLEAU: You meeting with Mr. Mercedes were telling him that he needed a shoring permit, right?

MR. OLIVA: Not me. That was asked by -

MS. BLEAU: Or was that Mr. Hernandez?

MR. OLIVA: The ABO, Mr. Hernandez, because

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you have to have an engineer to prescribe the location, what you going to do with the support of the beams. You just don't come and just put it wherever you feel like it, or even the span or openings where they have to go. That's why you need the engineer to prescribe -

MS. BLEAU: You didn't know that Mr. Madden had already spoken with Mr. Mercedes about -

MR. OLIVA: No, Mr. Mercedes never mentioned anything to me when they meeting or to the ABO anything that he was getting an engineer as recommended by Mr. Madden. The only thing that I know was the one when Luis ask him about it.

CHAIR ADELSON: Folks, I'm just going to stop for a second. You are over-talking each other. I know it's because of the connection, I got it. But it's making it difficult for us to follow. So, Mr. Oliva, if you just give it like three seconds after Ms. Bleau stops. That was we can tell that she's absolutely done and then answer. It will be helpful for both the Board Members and I believe the Court Reporter as well. I just want to slow it, kind of stop for a second and just acknowledge that. Okay?

MR. OLIVA: No, that's all right, because I

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don't know if you see me time to go like that or time to go like this, because it's very hard to - We are jumping on top of each other.

CHAIR ADELSON: If you just give her like a count of 1, 2, and you'll see that she's done speaking and then respond, I think it will be helpful. Okay? Thank you.

MR. OLIVA: I promise.

CHAIR ADELSON: On both sides.

MS. BLEAU: Thank you.

MR. OLIVA: No, she's all right. The ladies are always are right.

Ms. BLEAU: According to your written complaint about Mr. Madden, Mr. Madden wanted a stop work order on 1415 - I think it's misstated in your letter that you wrote as 1425 - but the Northwest 62nd Street Project, correct? The Goldstein Project?

MR. OLIVA: Well, we know that project as the BSO Building. I think it would be easy to refer to it like that so that way we know what we talking.

Yes, he ask one of my inspector to go and issue a stop work order and at that time I replied to him, "let's wait until the Building Official to arrive, or Luis Hernandez, the ABO," because we

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were having issue with the computer and we can't tell if there was a permit or not issued for that building at that time. So I ask him to wait to 9:00 and then we would take it from there. And that's what happened. At 9:00 when I spoke to Travers, I sent an inspector out.

MS. BLEAU: You're saying that you didn't know whether or not there was a permit, but the reason Mr. Madden wanted the inspector to go out there and issue a stop work order was because there was work being done without the proper permit, right?

MR. OLIVA: No. I don't know his reason why, to be honest with you. Because there was permit issued at that time.

MS. BLEAU: The permit -

MR. OLIVA: You go first. I'm sorry.

MS. BLEAU: The permit that was issued was not for the work that was being done, correct?

MR. OLIVA: Not according to my inspector when he went there. The only thing that he found was a two-garage door that there were removed and the opening was being filled with block and they were placing a window and a door in there. The rest, according to Inspector Masula, everything was

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in the scope of the permit that was there.

MS. BLEAU: Okay. Well, maybe this will refresh your recollection. You see this document, Mr. Oliva? This email on the screen? Yes?

MR. OLIVA: Yeah, I'm reading. I'm sorry.

MS. BLEAU: That's okay.

MR. OLIVA: This is an email from John Madden and follow-up with [unintelligible], and as you see it. That's why I say, cite it as you see, I asked Bobby to go there and even if he needs a detective to get involved, if he believed that an NTA was required for work, our own licensed work, to call Detective Maura. He never called the detective and he called me back and he say everything was within the scope of the permit besides the garage door that were removed and the opening was being filled.

MS. BLEAU: Let's look at what Mr. - this is a letter, looks like to the City Attorney, but also addressed to you, right?

MR. OLIVA: Yes.

MR. BLEAU: "A brief preliminary report of my findings" - let's go down here and see who this is from. This if from Bobby Masula, correct?

MR. OLIVA: Right.

MS. BLEAU: Okay. And this is regarding that

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same project, 1415 -

MR. OLIVA: Wait, you're going so fast I can't read.

MS. BLEAU: Okay, 1415 Northwest 62nd Street. Right?

MR. OLIVA: Right, the BSO building.

MS. BLEAU: I see that, okay. According to Mr. Masula, there was - he said, in his opinion - "My opinion, the owner, the contractors, and related parties have blatantly and deceitfully exceeded the scope of work of what was originally permitted by the demo permit and the bathrooms-only remodel permit in the two issued early-start certificates." Right?

MR. OLIVA: He never - he never proceed with anything from there. He never said to me what he found and said that the bathroom - but like I say, he's the one that went there and he's the one that saw whatever violation was according to him, but I don't believe that he pursue anything. Because he found that the only two things that were left to require permit was those two openings from the garage door.

MS. BLEAU: I'm not clear. I'm understanding you're saying you never saw this letter from Mr.

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Masula?

MR. OLIVA: No, I saw the letter, but he never pursued with any investigation when he went further -- the cite for the two garage doors. Nothing else came after that.

MS. BLEAU: Did you as a Code Enforcement Chief pursue - have anybody in your division pursue Code Enforcement issues regarding the contractor deliberately circumventing the requirements of the Florida Building Code, and blatantly proceeding to complete the project of their own free will without the requirements being met?

MR. OLIVA: At that moment, when he went there, the only thing that he cited, and he told me, was the two garage doors. He made that whole list there, but he never pursued the case, he never went further down the road that, what you see right there, that you know that he made. He had an open case and he's the one that had to work his case, whatever which way he thinks it needs to be done. I don't look over his shoulder on decisions that he makes because I believe he's a professional and he should know what needs to be done. And if he says that the demo permit all under the address of so and so, and he [inaudible] the bathroom were being

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remodeled, he should have cited and issue the stop work order for that. If he didn't, he'd be caught then later on when he found that reason wasn't on the permit. Because at that time he was very confused, the work with the affidavit, we were not getting the right notes in the computer for the City program, due to the fact that the C-plus won't recognize permit by affidavit. So, he never came to me to say anything else.

MS. BLEAU: So this was - you said this was a permit by Affidavit project, right? MTCI was the Private Provider on the project?

MR. OLIVA: Yeah, that's what I find out the day that John Madden came to us, to issue a stop work order. I went to find out we had or we didn't had a permit by affidavit [inaudible].

MS. BLEAU: Right, so as I understand it, somebody complained to Mr. Madden, and so he went out to the project, said that they were doing construction outside of the permit, asked you to send your Code Enforcement Officer. Your initial reaction eight minutes after receiving the email from Mr. Madden, you see 5:51, he sent it on 09/02, and on 09/02 at 5:59 your initial reaction was to get Detective Maura involved, potentially do a

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Notice to Appear, and to have the matter investigated by Bobby Masula. And that was you telling Mr. Masula to do that. Right?

MR. OLIVA: Right.

MS. BLEAU: Okay. And so I'm not exactly clear on what you're saying about Mr. Masula not following up - you keep saying all they talked about was the doors -

MR. OLIVA: Yeah -

MS. BLEAU: They actually removed doors and closed up that side of the building all without - and did construction on the inside - all without a permit, right?

MR. OLIVA: Well, that was his opinion, he stated in the email. And besides, he never went forward with anything over there. So, if he never went forward with any violation or any investigation, but that was his deal, not my deal.

MS. BLEAU: So here's the document regarding the same project, right?

MR. OLIVA: Yeah.

MS. BLEAU: Mr. Masula says on May 20, '17 that he is told by upper management not to get involved with this case and not to follow-up because the matter was being addressed by the

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Building Official and Management. Do you see that?

MR. OLIVA: And who is the upper management? Because I don't remember telling him anything about it.

MS. BLEAU: Okay.

MR. OLIVA: I never had say to any of my inspectors not to work the case. And he put right here, both violations complied. So I don't know why he's going back and forth with -

MS. BLEAU: Right, Mr. -

MR. OLIVA: It was under the understanding from him that the only violation that he found was the two garage doors that were removed.

MS. BLEAU: And, what's your point with that? I mean, it's a violation. You keep saying, "the only violation" like it's not a violation because it's the only violation. But -

MR. OLIVA: That was the other things that he found.

MR. MILLER: Hold on, George. George, stop. Let me interpose an objection at this point. I've kind of sat quietly. We are so far afield of anything that is before this Board right now. This is completely irrelevant. We're talking about interactions with people who are not testifying,

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are not before this Board, and I don't even know why we're going into this at this point. So I'm objecting to the relevance at this point to this line.

MS. BLEAU: Well, Mr. Miller maybe hasn't been in all the hearings or read the transcripts, but 1415, the Private Provider project and the dealings with that project and involvement with Mr. Madden's concerns about the involvement of the Building Official in directing that code case in violation be closed, is exactly part of the relevance of this case. And actually -

MR. MILLER: To this witness it's not. And you can do that with your own client in your case.

MS. BLEAU: I think I'm allowed to explore what this witness knows about this.

MR. MILLER: We've been at that now for an hour, we've gone over the ad nauseam.

MS. BLEAU: Well, honestly, it's been hard because he's not actually answering my questions so I have to ask them multiple ways. If he would just listen to my questions and answer them, I would have been done already.

CHAIR ADELSON: So I -

MR. OLIVA: Can I make a statement?

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CHAIR ADELSON: No, please.

MR. MILLER: Don't say anything yet, George.

CHAIR ADELSON: This is between the attorneys and me at this point. I do understand Mr. Miller's objection. There seems to be trailing off of the issues, the reasons for which Mr. Madden was terminated. I am going to ask Ms. Bleau to try to pull this back in with regard to the basis for his termination and wrap up this final questioning if she can. With regard to how the witness is answering, these are his answers. So I just think that we need to move forward and try to see if we can pull this together, specifically in terms of the bases for the termination and why we're all here today.

MS. BLEAU: Mr. Oliva, October 4th, which is a few days after Mr. Masula reopened this project, is when you submitted your written complaint about Mr. Madden, correct?

MR. OLIVA: I don't see where he's opening October 4. I don't see any day with Mr. Masula there.

MS. BLEAU: Okay, here is 09/29/16 -

MR. OLIVA: Right.

MS. BLEAU: Reinspection. I have reopened

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the code case. Do you see that?

MR. OLIVA: He is saying that he wants to see the inspections under Section 110. That's what he's saying. That he opened the case because he wants to see other final inspections done. That doesn't mean that there's any violation.

MS. BLEAU: Okay, well, you've already said there were violations. So that's not my question.

MR. OLIVA: The two garage doors, that's the only thing that I said. But are you referring to that code, that's for missing inspections.

MS. BLEAU: I'm not sure I follow that. But again, since it wasn't an answer to my question, I'll just move on. My question was, this 09/29/2016 date is just a few days before your October 4, 2016, written complaint about Mr. Madden, correct?

MR. OLIVA: Let me check the date, I don't even remember the date that I sent this. But - October 4, 2016, is when I made the letter.

MS. BLEAU: So could you answer my question, yes, that is a few days after September 29, 2016?

MR. OLIVA: Yeah, but I don't see what's related to anything between my letter and what happened and Mr. Masula's notes in his case. Can

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you explain that to me so I can answer it better?

MS. BLEAU: You answered my question, that October 4 was a couple days after September 29. Are you testifying - is it your testimony that Mr. Madden's concern regarding Mr. Masula being instructed to close the code enforcement case on this MCTI Private Provider job had nothing to do with prompting your October 4, 2016, complaint about Mr. Madden?

MR. OLIVA: I don't know why he closed or he reopened the case, because he says that's by upper management. And they're the one that told him to open or close it, so I don't know why he made that note there. I had reopened the code case, so who ask him to reopen the code case? That's the person that issued that question. I don't have any recollection about telling Mr. Masula to close or open a case. I never tell him to open or close any case.

MS. BLEAU: My question to you is about your motivation in writing -

MR. OLIVA: My letter on October 4 had to do with that and many other things that Mr. Madden did. It had nothing to do directly with that statement from Mr. Masula on 09/29. And you should

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ask him who's the one that give the order to reopen the case. Because I know I am not asking to reopen any case. I know that Luis Hernandez didn't ask me anything. I know that Travers didn't ask me anything and I know that Anthony Fajardo didn't ask for anything. So who gave the order to Mr. Masula in upper management to open the case? I don't have any recollection, I don't have any idea who did.

MS. BLEAU: So somewhere in the middle of your statement I believe was the answer to my question, which was that Mr. Madden's concerns over the handling of the 1415 Goldstein property was, in fact, part of your motivation for writing the October 4, 2016, letter, correct?

MR. OLIVA: Well, it was the way that he behaved with me and the way he expressed to me and the way that he threatened me, yes. I made that letter because he told me that nobody was going to work with me -- nobody like you know, what are you going to do, turn everybody against me? Because, let me tell you, there were too many things that happened inside that Building Department that I haven't even brought forward. And there's a lot of people that are not being called as a witness on one side or the other one. But you should go

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deeper, a little bit deeper, asking questions to a lot of other people that used to work under him that they'e not any longer in the City. Or even Mr. Masula, with all the complaints that he filed against him. So don't tell me one thing or the other one. It's the way that he behaved and the way he covering up on why I made that letter. It had nothing to do with Mr. Masula saying about having to reopen the code case because of upper management asking for it. So who in upper management asked him to close it and who asked him to open it. That's what you have to figure out.

MS. BLEAU: That's actually -

MR. OLIVA: Because I don't have any idea who did that to him. So I think you better call Mr. Masula and ask him.

MS. BLEAU: Are you finished?

MR. OLIVA: Yes, ma'am, sorry.

MS. BLEAU: First of all, just for the record, it doesn't say upper management asked him to reopen it. It asks - it says, upper management asked him to close the case. But that wasn't my question. Let me move on to a different question. You held a meeting inviting anyone who ever had a beef with Mr. Madden to share their negative

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experience, even going back years. Correct?

MR. OLIVA: I asked for a meeting. But I didn't send the invitation. So whoever went to that meeting, the person that set the meeting, I believe, was either the Deputy Director or the Director - Jeremy, I believe is the one that did it. Like I say, it's been too many years and I don't have that recollection who sent the invite. But I did, in person, request that meeting to [unintelligible].

MS. BLEAU: You requested the meeting. Because I know that Charlie Nickert in his comments to the Human Resources Department said, "We had a meeting a couple of weeks ago. George Oliva called the meeting." Richard Benson said in his statement, "George Oliva gave an introduction as to why he was requesting the meeting. It felt very much like the meeting was trying to rally everyone against John Madden. I brought up the issue that John was raising questions and they are legitimate, and that didn't change their views at all." And Malik said, "They asked us, everybody who had complaints, if you have any personal complaints, let them know. Going back years, I didn't have any complaints." So you were the one that called the

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meeting and you were trying to rally support against Mr. Madden, correct?

MR. OLIVA: I called the meeting to Jeremy so I could provide him with a letter. And he asked me who should he invite. I said, "You can invite anybody that you want." That's all that I know. And, yes, I'm the one that requested the meeting, but I'm not the one that invite. So if he was left out on that, I'm not the one that sent the invites. But yes, I filed a complaint and I stand by the complaint.

MS. BLEAU: Do you know who James Goldstein is?

MR. OLIVA: I don't have any idea who that gentleman is.

MS. BLEAU: Do you know how he coincidentally wrote a letter complaining about Mr. Madden shortly after your written complaint about Mr. Madden?

MR. OLIVA: No, ma'am. I don't have any recollection on him or why he sent an email, but why don't you ask Mr. Madden? He should know the answer better than I do. He's the one that we're talking about him.

MS. BLEAU: Do you know why the contractor for this project, 1415, told Leroy Jones as he was

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failing their inspection, that someone on the job site - that Mr. Madden was not going to be working for the City much longer? Do you know why that happened?

MR. OLIVA: No. I don't have any idea of that comment with Leroy. And it happens that I know Leroy, that I know nobody said anything to me about Mr. John Madden being taken out of the City. It caught me by surprise when that happened to him to be honest.

MS. BLEAU: Leroy never told you this on September 28, that this comment had been made to him?

MR. OLIVA: No.

MS. BLEAU: Okay. You went to the City Attorney regarding who was the authority having jurisdiction, according to your written statement, correct?

MR. OLIVA: Yes. I send the City Assistant Attorney, Rhonda Hasan, the Florida statute and I ask her if what we were doing was legal or illegal, because that was the accusation going around; and also, if the Building Official is or is not yet [unintelligible]. And she replied back that John Travers was the authority having jurisdiction and

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he was the Building Official and by the State of Florida he's allowed to oversee the permits, whatever which way are processed.

MS. BLEAU: Was that in writing?

MR. OLIVA: It was in an email from [unintelligible], but I didn't save the email, to be honest with you, ma'am. I didn't save the email that I sent her, either. I just asked a question, you know, like you ask a lawyer a question. And she know she know what we do and the hearing, that's why I want her advice. I always ask for advice when I try to do something.

MS. BLEAU: And her advice was issued before - her opinion was given to you before the BORA ruling and Mr. Madden's disciplinary case, correct?

MR. OLIVA: I can't say yes or no to that part because I don't know the dates. I know that I sent that email, yes, I sent it to her. I know that she replied back to me. But I don't know when was his BORA hearing on that. At that time I wasn't even talking mood with Mr. Madden. We used to talk a lot before, but on this day I wasn't talking to him.

MS. BLEAU: Let me ask you - moving on to a different issue, should a full CO be issued when an

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entire floor of a building is not complete?

MR. OLIVA: I'm not the one that issues a CO in the City of Fort Lauderdale, ma'am. That's the Building Official, the one that issues the CO.

MS. BLEAU: So you don't know the answer to my question?

MR. OLIVA: Well, you can read Section 111 of the Florida Building Code. That would be the action - or the answer that I can give you, which says that no building is to be occupied without a CO, a DCO, or PCO.

MS. BLEAU: And if an entire floor of a building is not complete, should a CO be issued?

MR. OLIVA: Not a CO, but it can have a DCO.

MS. BLEAU: Okay. You had said, I think in response to questions from Mr. Miller, that the Inspector General and BORA agreed that you weren't doing anything wrong. My understanding is that those investigations are still open. Did you receive anything in writing from either the Inspector General or BORA telling you that you're cleared?

MR. OLIVA: There was a letter sent to the City Manager from the Inspector General with a conclusion. I never saw the letter. I don't even

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have a copy of it. But I know that was the end, and BORA also said that was the end.

MS. BLEAU: So you think that a letter was sent from BORA as well?

MR. OLIVA: I don't believe from BORA, but I believe that the Inspector General did send a letter. And I believe that - I think he even hand-deliver it to the City Manager. I believe that that happened that way, but like I say, it's been a while, really, so I don't -

MS. BLEAU: Who's your secretary today?

MR. OLIVA: Who's my secretary?

MS. BLEAU: Yes.

MR. OLIVA: What do you mean, the supporting team?

MS. BLEAU: Do you not - do you have more than one -

MR. OLIVA: You're talking - I got six of them that they work in my team. I have Tasha, I have Yvette Tora, I have Yvette Cross, I have Francine, and I have Victoria Mack and I have Karen [unintelligible].

MS. BLEAU: Did any of your secretaries back in 2016 tell you that they had given John Madden the electrical cutoffs file to copy?

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MR. OLIVA: No. I find that out from BORA, because it went missing from my file cabinet and I was wondering who the heck took that without even asking. And then I find out it was Mr. Madden that was the one that went and took it.

MS. BLEAU: What makes you say Mr. Madden went in and took it?

MR. OLIVA: Because it was given to me by BORA, on the investigation that he filed the complaint about me. So, you know, you put one and one together, you come out with two.

MS. BLEAU: Three. So if Mr. Madden made a copy of the file that your secretary gave him -

MR. OLIVA: Well, to be honest with you, she had never said anything to me that she give it to them, or to him. I only know who went there looking for it. I don't even know if it was John Madden, or if it was Joe Mauro, and Joe and Madden together. I don't know, but somebody took it from my office.

MS. BLEAU: And you just assume it was Mr. Madden because he had a copy of it that he gave to BORA.

MR. OLIVA: Well, when BORA provide me with a copy of the documents against me in my case for me

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to defend, all those papers were there.

MS. BLEAU: Right. Because BORA had a copy of the documents, you're accusing -

MR. OLIVA: Attached to Mr. Madden's complaint. That's why I say that. You know, who else is going to take it? Because they had nobody whatsoever those papers [unintelligible], seeing as I [inaudible]. And I had the copies with me that BORA provided.

MS. BLEAU: Okay. I think the answer to my question was yes. But, I don't think I have any other questions for you, Mr. Oliva. Thanks.

MR. OLIVA: No problem. And let me tell you that nothing personal here. I appreciate you. I know you're doing your work, as I do mine. And I assume we are going to see each other in the future again in cases and hearings, and let me tell you, I appreciate you.

CHAIR ADELMAN: Mr. Oliva.

MR. OLIVA: Have a great day.

CHAIR ADELSON: Do not leave. We're not done yet. So, Mr. Miller, do you have any further questions for Mr. Oliva?

MR. MILLER: Just a couple.

CHAIR ADELSON: Okay. Can you guys hear me

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all right? I had to take my headphones out.

MR. MILLER: I can hear you.

MR. OLIVA: Can he speak up a little bit?

MR. MILLER: Okay, Mr. Oliva, just a couple more questions. Number one -

MR. OLIVA: Can you speak up a little bit because you really are very far away?

MR. MILLER: I don't know that I can without yelling.

MR. OLIVA: I'm being yelled to already [laughing].

MR. MILLER: That's okay. You were asked a lot of questions about some of the BORA proceedings that took place. Do you remember those questions?

MR. OLIVA: Were you referring with BORA?

MR. MILLER: Yes.

MR. OLIVA: Yes, she asked me a few questions, but like I say, I was not involved with that. The only thing I was involved was with my own defense when I went to BORA and I defend myself.

MR. MILLER: As far as Mr. Madden is concerned, are you aware that BORA ruled on Mr. Madden well after he had already been fired by the City?

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MR. OLIVA: No. No, sir, I was not aware.

MR. MILLER: Are you aware that the City's investigation and the basis for terminating him had nothing to do with his BORA investigation?

MR. OLIVA: Well, the only thing that I'm aware is on the report that I received and that's the one that you showed to everybody here. But no, I'm not aware of anything else.

MR. MILLER: Okay.

MR. OLIVA: Like I say, I don't follow his step or whatever he do or don't do or what he's doing.

MR. MILLER: All right. So if BORA's ruling on Mr. Madden came out in October of 2018, that's two years after the investigation began in this case, correct?

MR. OLIVA: Yes, sir. I did my investigation with my letter of October 4, so that's two years.

MR. MILLER: And whatever BORA found, whatever they determined, whatever they found, that has nothing to do with you or why you filed a letter about Mr. Madden in this case, did it?

MS. BLEAU: Objection. Leading -

MR. OLIVA: It had nothing to do with - oh, I'm sorry, I didn't know that you were talking.

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MS. BLEAU: Thank you. Objection, leading.

CHAIR ADELSON: Objection overruled.

MR. MILLER: My question is this - You know what, I'm going to withdraw the question. I think I made the point. You were asked a moment ago about a statement by a Charles Nickert. Do you remember being asked that a few moments ago?

MR. OLIVA: Yes, sir.

MR. MILLER: Who was Charles Nickert?

MR. OLIVA: He was - well, he's still working for the City, I think part time. But back then he used to run the Plans Room, where all the plans are stocked and they're processed, the intake process and everything.

MR. MILLER: All right. I think you were asked if you knew what he had said as part of his statement in this case. Do you have any idea what he said?

MR. OLIVA: No, sir, because really, I didn't ask anybody anything. Everybody came out with their own opinion and everybody filed a complaint and the only thing that I can say, a hundred percent I'm sure that, yes, I'm the one that requested that meeting. I'm the one that made the letter, and I'm the one that present it to

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everybody because I asked to be the first to speak in the meeting.

MR. MILLER: All right. So if Mr. Nickert, hypothetically, said that in his opinion John Madden was trying to undermine everything that the Building Official was trying to do, do you have any knowledge of that?

MR. OLIVA: No, whatever statement he did. But I agree with what the statement that he did because that's what he was doing. He was trying to undermine everything that the Building Official was doing, from my side, or my team, or the inspectors that worked under me.

MR. MILLER: I don't have any other questions.

MS. BLEAU: No thanks.

CHAIR ADELSON: Mr. Oliva, there are no further questions, so you are dismissed.

MS. GIALLUCA: Madam Chair, I had my hand raised, I don't know if you saw or not.

CHAIR ADELSON: I'm sorry, I didn't see it, there it is. You followed protocol too. You're not excused yet. Shelley has a question.

MS. GIALLUCA: Okay, just a quick question. Mr. Oliva, I know that you spoke much about chain

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of command and others not telling staff members what to do, etcetera. I was just wondering why you felt it was important to hand out pamphlets on inspections to Mr. Madden's staff instead of going to Mr. Madden.

MR. OLIVA: Well, let me put it to you this way. That happened after I go to BCPA, and when I sit, I got all the inspectors, I got my inspectors and Mr. Madden's inspectors. When I print the [inaudible] from BORA on the steps, on procedure to do inspections, I put on top of the desk for all the inspectors to pick their papers and I told everybody there is a document from BORA regarding inspections under the Section 110, and whoever wants to go and get it can get it. And I don't believe that I did anything wrong about that. The other way around. I'm trying to help people doing the inspections and educate them on the procedure of the inspection.

MS. GIALLUCA: Yeah, I was just curious as why - you talk about the good relationship and helping each other that why you wouldn't go to John, that's all. But thank you for your answer.

MR. OLIVA: The day that I did it, I don't believe that I did - I don't even think he was

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there, it was in the morning, but I don't know - but anyhow, [unintelligible].

MS. GIALLUCA: Thank you.

CHAIR ADELSON: No further questions from any of the Board Members? No? All right, so you're relieved, Mr. Oliva. Thank you so much for your time.

MR. OLIVA: And I want to say everybody, thanks, and I appreciate everyone. Have a great day, everyone.

CHAIR ADELSON: Thank you.

MR. MILLER: Bye bye, George.

MR. OLIVA: I'm leaving the meeting. Right? I can leave the meeting?

CHAIR ADELSON: Yes.

MR. MILLER: You can leave.

MR. OLIVA: Okay, I'm sorry.

CHAIR ADELSON: We have about 23 minutes before we the 3:00 hour which I was going to address the City's earlier issue to review which was the amendment. And I don't know if we want to do it now, or I don't know who's next on the witness list?

MR. MILLER: I have two witnesses left. I have Andre Cross and Al Battle.

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CHAIR ADELSON: And how long do you think that it's going to take?

MR. MILLER: Again, my part, I think 20-25 minutes each. Based on the way everyone else has gone, I think we're looking at an hour and a half probably for each of them, total.

CHAIR ADELSON: Three more hours. All right.

MS. BLEAU: If he's talking about 30-35 minutes, maybe he could do his direct now and then we could pick up with the cross next time.

CHAIR ADELSON: Okay, so let me get the administrative portion out the way. And then if you prefer that we bring the witness in. I'm giving, basically, options. I do need to address the administrative issue, and I don't want it to get misplaced until next time, since we don't know when next time is. And it's a mission critical issue here. I'm actually just going to make a decision, so let's deal with it. Because as I see it. I think it should take us no more than five or ten minutes to get through it. Does everybody have it, or am I the only one who received it?

MS. GIALLUCA: I got it, but because I'm working off my cell phone, it's kind of hard to see.

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MR. BALDWIN: Madam Chair?

CHAIR ADELSON: [Unintelligible] It was done as a resolution. I think it was fabulous, great thinking.

MR. BALDWIN: I'm fine with either of the policies that were submitted.

CHAIR ADELSON: So basically, they are asking us to approve that the section that -- it's the "Whereas" clause before the "Now, therefore." It's the change that we have on accrual of vacation leave pertaining to Rule 11, Section 3, of the Personnel Rules be suspended temporarily. And that it would be effective until the 07/31/2020 wherein it would revert back to the form immediately [inaudible, talking over one another]

MS. BLEAU: Certainly showed that he's got it out for you.

CHAIR ADELSON: Yup. [inaudible] Any discussion from the Board Members?

MS. GIALLUCA: So I guess they just typed up the resolution quickly but didn't actually change -- put that statement in the policy?

CHAIR ADELSON: Correct, which I believe is more appropriate because what they are doing is with the resolution, they are temporarily amending

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the policy which will revert back on December 30, 2020.

MS. GIALLUCA: Yeah, the only problem with that is in the future when an employee goes to look at it, nobody's going to go look at the resolution.

MR. BALDWIN: That's a good point.

MS. GIALLUCA: Trust me, I've worked for the City for 32 years, I kind of know what gets lost.

MR. BALDWIN: The policy should be amended.

MR. POST: I took the liberty during this time to draft some language that might address some of this, and let me see if I can share my screen.

MS. GIALLUCA: Okay.

MR. POST: Hold on a second -

CHAIR ADELSON: [inaudible]

MS. BLEAU: I think that it's two things. There was no justification in terminating you.

MR. POST: Ms. Bleau does not seem to be muted.

CHAIR ADELSON: No.

MS. BLEAU: No, apparently I'm not. Hang on a second. My worst fear. Okay, I'm muting, sorry.

CHAIR ADELSON: No problem. We're good. We got you.

MR. MILLER: Are you okay if I step out for a

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minute?

CHAIR ADELSON: Who is that?

MR. MILLER: Mr. Miller.

CHAIR ADELSON: Yes.

MR. MILLER: Thank you.

MR. POST: Can everybody see that screen?

MS. GIALLUCA: Can you make it a little bit bigger?

MR. POST: It's a Word document, so I'll try to -

MS. GIALLUCA: I think like maybe Control up or over or something? One of those things. Let me see if I can find -

MR. POST: What I did essentially was to leave that struck-out language in, in that first sentence.

MS. GIALLUCA: Uh-huh [affirmative].

MR. POST: Was add the clarifying language in two additional sentences that just simply states the dates that we're talking about and those dates from August 23, that is the start of the first pay period after the resolution will go in front of the City Commission.

MS. GIALLUCA: Okay.

MR. POST: December 27 is the last date of

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the final pay period of the year in which the Payroll Department would not want to continue the additional accruals. And those dates fit within the guidance or direction that we were given from the City Manager's Office to implement this.

MS. GIALLUCA: I think that's good. I think that's good because it will get lost if it's just a resolution going forward.

CHAIR ADELSON: Putting the resolution forth with this amended language, I think that that's sufficient. So, I'm going to take a vote.

MR. BALDWIN: Can I ask a question please?

CHAIR ADELSON: Of course, Bob.

MR. BALDWIN: What are you doing with the collective bargaining agreement?

MR. POST: We are using the same language. We're applying the very same benefit, if you will, into some Memos of Understanding with each of the bargaining units, and we're going through our labor counsel right now to do that. Hopefully, we will get that done prior to the City Commission meeting in August, as well. So this can all go at the same time.

MS. GIALLUCA: Okay. So it will be kind of a policy straight across the board for all employees.

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MR. BALDWIN: So it's for all the employees?

MR. POST: Yes.

CHAIR ADELSON: Yes. [inaudible] are getting drafted right with regard to mimicking this, so as long as it mirrors this [inaudible]. Question? Yes.

MS. GIALLUCA: I'm good.

CHAIR ADELSON: All right then, so let's put it to a vote. The resolution that we just reviewed and I read, and these two lines to amend the Personnel Policy and Procedures regarding vacation leave from August 23, 2020, through December 26, 2020, the accrual maximum shall be lifted on December 27, 2020. Any vacation hours over [inaudible] shall be forfeited. I'm putting forth for a vote at this time to be adopted and the resolution proceed to the Commission.

MR. BALDWIN: So moved.

CHAIR ADELSON: Second?

MS. GIALLUCA: Second.

CHAIR ADELSON: All in favor?

MR. BALDWIN: Aye.

MS. GIALLUCA: Aye.

CHAIR ADELSON: Good. So it is passed and has been approved.

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MR. POST: Thank you very much, everyone.

MS. GIALLUCA: Yes, thank you.

CHAIR ADELSON: All right. I would like to take a five minute break before we proceed. And so we are at 2:44. So at 2:50, let's come back. Okay?

[Recess called from 2:44 to 2:52]

CHAIR ADELSON: So, we're back on the record. Ken, you want to call your next witness?

MR. MILLER: Yeah. Real quick, it's going to be Andre Cross.

CHAIR ADELSON: Okay.

MR. MILLER: Denise, can we agree that we're not going to get to Al Battle this afternoon?

MS. BLEAU: Definitely.

MR. MILLER: Because I'm going to let him go. He's been sitting that room all day. I'd rather let him go than make him sit another hour if that's okay.

MS. BLEAU: Yeah, I agree.

CHAIR ADELSON: I have one question -

MR. MILLER: Yes.

CHAIR ADELSON: -- before we do that, to the Board Members. Do we want to, as opposed to having to still out another City set of witness, go on for one extra hour, if there's no room availability

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unless it's a Zoom issue, because sometimes Zoom rooms get booked up too. If it's agreeable, maybe we can get to [inaudible] today. I see John Madden shaking his head. I see Denise shaking her head. I don't know if we have a Zoom room another hour or so, but if so, I was wondering if it's agreeable to going until at least five to see if we can get this job done. That means the attorneys need to be very efficient.

MS. BLEAU: Why you looking at me? [laughing]

CHAIR ADELSON: I'm looking at both of you.

MS. BLEAU: No, you're looking at me.

[laughing]

CHAIR ADELSON: I'm not.

MR. BALDWIN: I'll stay as long as you want to stay.

CHAIR ADELSON: That's one.

MS. GIALLUCA: Yeah, I'm okay, too. Yeah, because I guess it takes three weeks to schedule another one in the emails.

CHAIR ADELSON: Right. That way, if we can get to the other side's case, we can start on that portion and be done with the City's -

MS. GIALLUCA: Right.

CHAIR ADELSON: Kerry, how are we?

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KERRY ARTHURS: I'd like to have Mauricio chime in on that, because he's the one who's hosting us.

MR. BAQUERO: I can tell you that we should be good until 5:00.

CHAIR ADELSON: Let's at least stay till 5:00.

KERRY ARTHURS: Thank you.

CHAIR ADELSON: That way we can see if we can get this wrapped up from the City's side.

MS. GIALLUCA: Perfect.

CHAIR ADELSON: [unintelligible]

MR. MILLER: Okay.

MR. BAQUERO: You want me to proceed in moving the next witness?

CHAIR ADELSON: Yes, please. Thanks, Mauricio.

MR. BAQUERO: And it's going to be Andre Cross, correct?

MR. MILLER: Yes.

MR. BAQUERO: Okay. Is anyone going to let Alfred Battle know to go home, or are we still going to continue with him?

CHAIR ADELSON: He's staying.

MR. MILLER: No, he's staying.

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MR. BAQUERO: Okay, thank you.

MR. MILLER: I'm contacting him now.

MR. BAQUERO: Andre Cross, you're in the room.

CHAIR ADELSON: Welcome, Mr. Cross. I need to swear you in. Will you unmute your mic please?

MR. CROSS: Okay.

CHAIR ADELSON: Good afternoon. Do you swear to tell the truth, the whole truth, and nothing but the truth?

MR. CROSS: I do.

CHAIR ADELSON: You may proceed.

MR. MILLER: Thank you. Mr. Cross, good afternoon. Would you tell the members of the Board who you are and where do you work?

MR. CROSS: My name is Andre Cross and I work for the City of Fort Lauderdale, Department of Sustainable Development. I am the Assistant Business Coordinator, under the leadership of John Travers.

MR. MILLER: Okay. We've heard from various people within the DSD about the roles that they serve. Yours is a new title that we haven't heard from any witnesses thus far. So, could you give a little bit on an explanation without going on too

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long about what exactly your role is in the Department in conjunction with the other Departments.

MR. CROSS: Well, very simple. I'm the liaison between the Building Official, John Travers, and the neighbors. They come into the Department dealing with permit issues, new businesses, and if there are any issues, that's my job because of the Building Official being so busy with other things, it's my job to make sure I take care of things where it won't have to come to him.

MR. MILLER: Now, is that role different, for example, than what we've heard of the Chiefs of the various Departments?

MR. CROSS: Yes, sir.

MR. MILLER: Okay - do you -

MR. CROSS: I don't read plans or anything. I just make sure that the plans are moving, if it seems as if they're being stuck, and make sure that we have a smooth transaction when it comes to the review process.

MR. MILLER: Okay. How long have you actually been employed by the City of Fort Lauderdale?

MR. CROSS: March of next year will be 24

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years that I have been employed with the City of Fort Lauderdale.

MR. MILLER: All right. And when did you actually first take on the position as Assistant Business Coordinator?

MR. CROSS: That was January 4, 2016.

MR. MILLER: All right. What did you do for the City before that?

MR. CROSS: Well, I started in Public Works on the pipe gang, and then from there I went to the meter shop where we installed and repaired water meters. And from there I became a Code Enforcement Officer, which I held that position for about 13 years. And then I became the Business Assistance Coordinator, January 4, 2016.

MR. MILLER: In your prior positions with the City, were any of those under the umbrella of DSD?

MR. CROSS: Code Enforcement was, yes.

MR. MILLER: Okay. So, as working in Code Enforcement, did you have an opportunity to deal with the various Department Chiefs and Building Officials at that point, or was that not part of that job?

MR. CROSS: Every once in a while, yes, we did deal with Building, especially on projects that

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were checked on, maybe work without permits or issues that may have involved the Building Department, yes.

MR. MILLER: In your capacity while you were working in Code Enforcement, did you have any dealings with John Madden?

MR. CROSS: Rarely. Rarely had dealings with him. But I had dealt with him when I was a Code Enforcement Officer.

MR. MILLER: Okay. So you had met Mr. Madden before you took on your current position.

MR. CROSS: I did.

MR. MILLER: Okay. Had you ever had any issues between yourself and Mr. Madden that you're aware of prior to assuming your position in January of 2016?

MR. CROSS: None at all.

MR. MILLER: Okay. Tell me about the interaction, if any, that your position has, once you started in January of 2016 with - and let's just use Mr. Madden specifically, since he was one of the Chiefs - but what interaction, if any, would you have with him or someone on his equivalent level?

MR. CROSS: Well, if there was an issue, he

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was the Chief Structural Plans Examiner. So, if there was an issue with Structural, and if I received a complaint that it seems as if the review process was either taking too long or maybe there was a question that I needed, because that's one thing that I never pretended to know. So, if there was questions that I needed to ask, that's when I would go to Mr. Madden and ask either I need a permit moved or if I needed a question answered.

MR. MILLER: Okay. So the requirements of your job were such that from time to time you would have to have direct interaction with him.

MR. CROSS: Yes, sir.

MR. MILLER: All right. After you started in the position as Assistant Business Coordinator, did any issues develop that were problematic to you between yourself and Mr. Madden?

MR. CROSS: Absolutely. Yes, sir.

MR. MILLER: All right. Tell us about how any of that started, please.

MR. CROSS: Well, from day one when I took on the position as Business Assistance Coordinator, it was very hard to talk to Mr. Madden because it seemed that he was always on edge, or he didn't welcome me to come to him. Now, I must say,

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before I came to the Building Department, I thought Mr. Madden was an extremely nice guy. I've heard a lot of things, but I never witnessed them because I didn't work in Building. But when I became the Business Assistance Coordinator and had one-on-one with Mr. Madden, I started to understand why I heard what I heard. Okay?

But I was very uncomfortable, it was very uncomfortable for me to go to Mr. Madden because nine times out of ten when I went to him, there was a problem. So, I can't sit here and lie and say that when I come to work and if I have to deal with Mr. Madden, I was on eggshells, because I didn't know what was going to take place to trigger him.

MR. MILLER: And did this start from day one of your job or was there an event or an incident that you feel as though started this?

MR. CROSS: It started from day one because, honestly, I don't think he was happy that I was chosen for the position. So I just felt that everything was taking place to either have, "I quit," or just asked to go back to where I came from.

MR. MILLER: Now what types of things are you

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talking about that would make you feel that way?

MR. CROSS: Well, you know I was new in the position. As I stated, I started in January. So that was my role, if we have a developer or a contractor that had an issue and wanted to schedule meetings, that's my job, to schedule meetings with the outside, whether it's a permit runner or contractors. Like I said, if I don't have the answer, it's my job to get the answer. So if I have to go to one of the Chiefs or one of the Chief's reviewers to get the answer, that was my role. So it started from day one, the very first meeting that I scheduled, Mr. Madden, he totally went off in that meeting and even the outside contractors questioned, like "What's going on?" So that was day one.

So from then on, I spoke to my boss, John Travers, and advised that from now on, if there's a meeting that I have to schedule that involved Mr. Madden, I would rather he be in there, meaning John Travers, witness. Because he tried to belittle me, and that's all I can say at this time. So that's where it started from day one.

MR. MILLER: All right, you said in that first meeting he went off on you. Can you tell us

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what that means?

MR. CROSS: Yes. Basically what he did, he yelled at me in front of the guest, "Andre, you scheduled this meeting, so you tell me what this meeting is about. You scheduled it." So I tried to explain to him, "Listen, you know --." One of the contractors, Bob Cavanaugh, was a witness in that meeting, and he even looked at John, "Well, John, we're here for --" I can't tell you exactly what he asked, but that was from day one when Mr. Madden completely went off. And I went to Mr. Madden on good faith in his office and said, "Listen, I never pretended to pretend like I read plans, I never come to you as if I'm over you or your boss. We should work as a team." That's what I said to Mr. Madden. But that didn't help. If it wasn't his way - and one thing about it, I never belittled Mr. Madden to say that he was not intelligent on knowing, you know, the rules of Code or Building. I never challenged him on that. I never pretended. I don't read plans. But if there were questions asked of me, that was my job, that was what I was hired to do, to get the answer. And if that was scheduling meetings, that was what I do. But don't get in front of the people and yell

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at me and try and belittle because I have to hold a professional standard while I'm at work as well, you know? So that was from day one.

MR. MILLER: As part of this matter, you drafted an email to Anthony Fajardo on September 15, 2016. It is in the City's notebook as Defendant's Exhibit Number Eight. And I want to direct you to that. All right? You have it there in front of you, Mr. Cross?

MR. CROSS: Exhibit Number Eight?

MR. MILLER: Yeah, the email, the September 15th email.

MR. CROSS: Okay, yes.

MR. MILLER: Okay. So you told us that you started in January and that the issues you were having with Mr. Madden started right away. But we have this email and it doesn't appear to be drafted until September. Was there things that were happening between January and September, or did all of this really just start right before September?

MR. CROSS: Oh, it started before September. But you have to understand, I was new. I was new, I didn't understand exactly how the Building Department, you know, ran during that time. So, I mean, it was a lot of build up until it got to this

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point. So that's probably why it wasn't written until September, because I was still in the learning process.

MR. MILLER: Okay. I want to direct you to some of the things that you wrote in the email because I want to ask you about them. In the first bullet point, you make a point of talking about Mr. Madden - and I guess it's Joe DeMaio - "would make it a point to tell our meeting guests that I am the man that runs the entire Building Department and if anything goes wrong I am the person to see. As we know that's not true, but it was done deliberately to antagonize me." What is it about that statement in particular that you felt was antagonistic towards you?

MR. CROSS: Because basically that's - you know, Joe isn't here to defend it - but that was John - that was his main guy. That was like his best friend here. So, both of them would always do things to antagonize me. So, when we're in meetings, they know that I didn't run the Building Department. Yes, if there were issues, if there issues needing the permit to be moved or if it seems as if the review process is taking too long, yes, that's my job to move that along. But when we

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have these meetings and just to deliberately tell people that I'm the man in charge, I mean, that was just too - it was always something said to try and, you know, upset me.

MR. MILLER: All right. Your next bullet point you make mention that they would make comments about your dress code, "... not for complimenting reasons but, in my opinion, they did these things in an attempt to push my button." Give us an example of some of the things you're talking about.

MR. CROSS: Well, one of the main things, I would come in, they would tell me, both of them - but this is about Madden right now - Both of them would tell me that, "Oh, you're coming to work looking like a preacher. Why do you have to dress up like you're going to church?" That's the comments they made towards me. And I didn't appreciate it.

MR. MILLER: Did you ever have a discussion with them that you didn't appreciate those comments?

MR. CROSS: They knew that I didn't appreciate it, yes. Yes.

MR. MILLER: And did the comments continue

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even after you told them that you didn't appreciate the comments?

MR. CROSS: I can't say they continued, but I can tell you this, that Joe DeMaio did come to my office and get me to - and walk with me to - John's office at that time. And that's when John set me down to tell me that if he and Joe didn't like me, they wouldn't screw with me. And he made a statement that he would screw with me until Jesus comes. That's what was said to me.

MR. MILLER: Okay. And I think you put that in bullet point number three of your email. You made a comment that they went on to say in words you used there were: "They would 'burst my balls' until Jesus returns."

MR. CROSS: Yes.

MR. MILLER: Okay.

MR. CROSS: Yes.

MR. MILLER: So during this process, did you make it known to them that you didn't appreciate them talking to you like that?

MR. CROSS: I did. I did. Because that's the time when I tried my best to tell Mr. Madden, "We should be a team. We should work as a team. We shouldn't pull against each other. I'm not here

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to try to take anyone's job. I just want to do mine."

MR. MILLER: All right. Did you feel - once you had these types of conversations and you made them aware of how you felt, did you feel as though they were continuing to do this to you anyway?

MR. CROSS: Yes.

MR. MILLER: Okay. What was your feeling as to why they continued to do that to you?

MR. CROSS: Well, I feel they didn't like me being in this position and I feel that they wanted me to walk away.

MR. MILLER: Okay. In the next bullet point you talk about a story - and I don't want to read the entire paragraph, because I don't want to take that time - but you make mention to the fact that there was a discussion about Jody Blake talking to people. Who is Jody Blake?

MR. CROSS: Jody Blake is our HR. She's with Human Resources. And that conversation came up because John Madden also had Joe to get me. I don't know why Joe was his go-to person, but he had Joe get me out of my office to come and ask me why is Juan Ramos - I'm his supervisor - why am I over Juan Ramos? He wanted Juan Ramos to report to -

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he's no longer here - one of his old examiners by the name of Ralph Riles - he said he wanted Juan to report, and so he then asked me, "Who gave you -- who told you that you're over Juan?" And when I explained to him that it came from Jody Blake that I would be Juan's supervisor - and I also had someone else under me at that time. And that's when he says that, he made a statement that, "Oh, she'll get hers. All I have to do is make one phone call. She's not going to come here and run things." That's what was said.

MR. MILLER: How did you interpret that statement?

MR. CROSS: Well, I mean, I interpreted that he had an issue, first of all, with me having the job and let alone - because one of the things he said, "Everybody wants to be a supervisor." That's what he said. It had nothing to do with that. But I interpreted that statement as that he didn't want me in any kind of way to seem as if I had any type of authority.

MR. MILLER: Did you interpret his comment about Jody Blake as being a threat?

MR. CROSS: Absolutely. That was a threat. That he can make a phone call. So, if he makes

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this phone call to whomever, she'll get fired or something? That's exactly how I felt.

MR. MILLER: Okay. I want to jump ahead - because, like I said, I don't want to spend the time talking about every single line in this document, since the document is going to be in evidence - but I want to go to the last paragraph of this email on page 2. And you wrote, "In my opinion, John Madden makes the Building Department a hostile working environment. For some reason, people are afraid of him and they walk on eggshells around him. I've heard John Madden say that 'the City of Fort Lauderdale doesn't want to mess with me.' He sued the City of Pembroke Pines and won and he would do the same to the City of Fort Lauderdale." What did you include that in the email?

MR. CROSS: Because he used to say it all the time. One of his main things he used to say, "They don't want to touch me. I got something on everybody. And if they touch me, I got 'em." That was his main thing. And that's when he would bring up this Pembroke - what happened in Pembroke Pines, and he goes, he'll "do the same things to the City of Fort Lauderdale." Those were his exact words.

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Not fabricated, not made up. He used to say it all the time.

MR. MILLER: And when you use the term, "hostile working environment," how are you using that term?

MR. CROSS: Listen, if Mr. Madden didn't like something, he didn't care who was around. He would yell. You could see the expression on his face. He used to get red from his neck, his entire face red, because he gets upset when it's not his way. I mean, and I also want to go to - there was a point where when I first started, the Building Official invited me to a ribbon cutting. Okay? Someone out there took pictures of Mr. Travers as well as myself and two other gentlemen. Mr. Madden thought it was appropriate to take that photo. I don't know if he sent the person out there, I don't know where it came from. He sent it around to the entire Department to say that Mr. Travers and myself we're going to ribbon cuttings that doesn't even have a permit. Okay, just to belittle or to make it seem as if Mr. Travers as well as myself did something wrong. And it's a hostile because, like I said, Mr. Madden didn't care who was around. He would yell at you, he would down-talk you. He

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didn't care who you were, because he felt that he was untouchable because of what he did to Pembroke Pines. And that's why we're here today because he thought he was untouchable and this wouldn't happen.

MR. MILLER: What happened after you sent that email? Did anybody from the City respond to you about what you had put in that email?

MR. CROSS: You mean the email referring to -

MR. MILLER: Yeah the email that we've been talking about, that you had written to Anthony Fajardo.

MR. CROSS: Yes, yes. Well, supposedly they were looking into it. That's what was told to me.

MR. MILLER: Okay. Now, did there come a time where you were ever asked questions again by anybody from the City about Mr. Madden?

MR. CROSS: Yeah, I mean, I think that's when I wrote my last statement.

MR. MILLER: Okay, you -

MR. CROSS: That came after the time when I was called to his office and when he told me that - "I'm a big guy, but I'm a nice guy," but he's got something that can stop me.

MR. MILLER: Okay, tell me about that. What

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was going on when that statement was made?

MR. CROSS: Listen, I know we're on this panel and no one can't tell me that wasn't a threat. He can fabricate or - he told me that I'm a big guy, he's got something can stop me. I took that as a gun, I took that as being shot, and I promise you, for a while - because there's another statement I made right after John made that statement to me, John Madden made that statement to me - we had another ex-City employee by the name of Paulo Serafini, who came to me and asked me, he goes, "Do you know -- did you hear about what happened to John?" I said, "Yes." He goes, "If I were you, I would wear a helmet and a bulletproof vest." That's what was told to me. Now we can make light of this, but that was a complete threat to tell me that I'm a big guy and you have something to stop me. So, yes, I walked to my car for a while going home looking over my shoulder.

MR. MILLER: What was going on at the point in time when that statement made?

MR. CROSS: That he has something that can stop me?

MR. MILLER: Yes, sir. What was taking place?

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MR. CROSS: Because that was during the time that he knew that I was fed up with his treatment. Because he talked to not only me, everyone, as if we were a child. So that's where that statement came from. That he wanted to tell me, "I'm a nice guy, but I'm a big guy" and he's got something that can stop me.

MR. MILLER: You eventually gave an interview to someone from HR that was doing an investigation. Do you recall that?

MR. CROSS: Vaguely.

MR. MILLER: Okay. Do you have a copy of that there with you, the statement that you gave?

MR. CROSS: Well, I have my statement in front of me. I do.

MR. MILLER: Okay. All right. And for the Board, this is City Exhibit Number 16-J in the notebook that you have as Mr. Cross' statement. How did this interview come about? Did someone from HR seek you out, or did you go seek them out?

MR. CROSS: They seeked me out. I didn't seek HR.

MR. MILLER: Okay. Again, it's a four-page statement, and I don't want to read the entire statement right now. I just want to ask you about

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a few things about that, okay?

MR. CROSS: That's all right.

MR. MILLER: In the beginning, on the first page, in the last paragraph after the first question, it says, "John Madden talks to me like I'm his child. Anything that he feels that I'm doing wrong, it upsets him in a way that he wants to do everything he can to spread it throughout the Department." What do you mean, specifically? Can you give me an example when you say he talks to you like you're his child?

MR. CROSS: Yeah, that when he talks down at me. That's when I'm expressing how he yells at you. And when I mean talking down at me and then spreading it throughout the Department, you have no idea how many of the co-workers come to me and tell me the things that I don't know what I'm doing. I'm not qualified to hold the position that I'm currently in. That's what I meant by that statement, talking to me like I'm a child.

MR. MILLER: Okay. On page 2 of your statement, five paragraphs up from the bottom, the statement says, "There are people that complain about him, but then he goes around saying he has dirt on everybody. There's something about this

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guy that he intimidates people." Did he actually say those words?

MR. CROSS: That he has dirt on people?

MR. MILLER: Yes.

MR. CROSS: Absolutely! Absolutely, I can remember that vividly. I even know where we were standing when he said it. It was near his office, his then office. He was actually walking into his office and stated that, "I have dirt on everybody." And that's when he said they don't want to mess with him.

MR. MILLER: And what was the context? How were you interacting with him that that came up?

MR. CROSS: Well, there was something, I don't know if that was after the Jody situation or something else that took place because, I must say, he did have a lot of people - a few people here - intimidated. And it's like they were afraid of him. But that statement, I don't remember because I'm not going to make anything up here. I don't remember exactly what caused that or why did that conversation come up, but it was definitely said. I was present when he said it.

MR. MILLER: Okay. From what you told me earlier, would I be correct in that you didn't have

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to interact with Mr. Madden every single day? Is that true?

MR. CROSS: No, not every day. And it was great - I felt great when I didn't have to interact with him. Because it was walking on eggshells every time I felt that I need to have anything dealing with Structural.

MR. MILLER: Okay. From your interactions with Mr. Madden, as you've described some of them here for us, did you feel threatened by him?

MR. CROSS: I did.

MR. MILLER: Did you feel humiliated -

MR. CROSS: Not threatened in a way to be afraid of him physically, but because of his background, I didn't know what his mental state -- I didn't know what he would try to do to me. That's why I said I would always look over my shoulder walking to my vehicle.

MR. MILLER: Did you feel as though he was verbally abusive to you?

MR. CROSS: Yes, he was.

MR. MILLER: And was it the things he said or just the way he said it?

MR. CROSS: More so - well, it was both. It was what he would say and it was how he would say

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it. You know, if we're going to work together, we should work as a team. I mean, that's how I feel it should be.

MR. MILLER: Okay. Did you feel as though he ever used verbally abusive language?

MR. CROSS: I mean, he would swear here and there, but he wasn't so - I would say yes.

MR. MILLER: Okay. Did he ever make condescending or demeaning statements to you?

MR. CROSS: Yes.

MR. MILLER: Okay. In ways other than you've already described for us, or were there other examples that you can think of about that?

MR. CROSS: Pretty much what I described.

MR. MILLER: Okay. Would he shout at you?

MR. CROSS: Yes. No doubt.

MR. MILLER: Would he use angry or hostile tones?

MR. CROSS: Yes.

MR. MILLER: Okay. Did you ever see him either berate you or others in front of other staff?

MR. CROSS: Absolutely. Yes.

MR. MILLER: Did you ever complain about Mr. Madden before you wrote that first email in

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September?

MR. CROSS: Yes, I have.

MR. MILLER: Okay. So, this is not something that, once this investigation started -- is that the first time that you ever complained about him?

MR. CROSS: No.

MR. MILLER: Or did you complain before?

MR. CROSS: I have complained before.

MR. MILLER: Since Mr. Madden has been out of the Department, what's been the demeanor in the Department?

MR. CROSS: I enjoy coming to work. Anything dealing with Structural, I have no issues. It was like one side of the building - I was on one side, he was on the other. And on the east side, I hated to come to the east side. Now there's no issues, no issues at all.

MR. MILLER: Do you still believe that there's a hostile work environment present today?

MR. CROSS: Not at all. Not at all.

MR. MILLER: You talk about that before you took this position you had heard things about Mr. Madden and that once you started in the position, you learned more about him. Do you recall saying that earlier?

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MR. CROSS: Oh, absolutely. Absolutely.

MR. MILLER: Had you known what you found out about Mr. Madden before you took the position, would you have ever taken the job?

MR. CROSS: If I would have known, honestly, if I would have known that I would have been dealing with that - his - the way he was, I would have reconsidered taking this position. I don't - I would not be in this position.

MR. MILLER: And if, in fact, Mr. Madden were to get his position back, what would that do to you?

MR. CROSS: I would definitely reconsider keeping this position. I've been here for too long and I would seek another department.

MR. MILLER: Would you feel comfortable working with him at this point?

MR. CROSS: Not at all. Not at all.

MR. MILLER: Okay. Thank you, sir. Those are all the questions I have for you. Mr. Madden's lawyer is going to have some questions for you.

MS. BLEAU: Good afternoon, Mr. Cross.

MR. CROSS: Good afternoon.

MS. BLEAU: How you doing?

MR. CROSS: I'm okay. How are you?

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MS. BLEAU: I'm all right. Thanks for asking. Let me just get set up here. Tell me what your job title is.

MR. CROSS: Business Assistance Coordinator.

MS. BLEAU: And that was your position three years ago when you gave the statements to the HR investigator about Mr. Madden, correct?

MR. CROSS: Yes, ma'am.

MS. BLEAU: And how long have you been in that position now?

MR. CROSS: Going on four years now.

MS. BLEAU: Prior to the City's termination of Mr. Madden, you were asked questions by an HR investigator, right? We've talked about that.

MR. CROSS: Yes.

MS. BLEAU: And the statements that were attributed to you in the investigation report, you reviewed those and were they accurate?

MR. CROSS: Yes. As I recall, yes.

MS. BLEAU: Didn't you say the statement is in front of you?

MR. CROSS: Yes, I have them here.

MS. BLEAU: Okay. And did you review them before testifying under oath here today?

MR. CROSS: I did.

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MS. BLEAU: Okay. And do you recall clearly or not recall clearly whether or not the statements attributed to you were accurate?

MR. CROSS: They are accurate.

MS. BLEAU: Okay. In 2016, you attended a meeting called by George Oliva where Mr. Madden was the subject, correct?

MR. CROSS: Yes.

MS. BLEAU: And were you aware that John Madden had filed some complaints against Mr. Oliva shortly before Mr. Oliva had called this meeting?

MR. CROSS: I do recall, yes.

MS. BLEAU: As the Business Assistance Coordinator, did you have any involvement or do any investigating regarding the complaints raised by Mr. Madden about Mr. Oliva?

MR. CROSS: Depends on what you're talking about because there were so many things that happened. I mean, which one are you - sounds like you're trying to like - which, which, what are you talking about? Which, which, there were so many things that took place. And I spoke to George Oliva on several occasions, so which one are you talking about?

MS. BLEAU: You spoke to George Oliva on

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several occasions about complaints that Mr. Madden had raised against him, is that what you're saying?

MR. CROSS: No, no, I didn't say that. I spoke to George Oliva --

MS. BLEAU: Well, that's what my question was about. My question was specifically limited to complaints by John Madden about George Oliva and whether or not you investigated or were involved in any such complaint.

MR. CROSS: There's only one that I remember that we discussed, the complaint that happened in the lobby.

MS. BLEAU: That was a complaint that John Madden had about George Oliva?

MR. CROSS: No, that was George Oliva having a complaint about John Madden. So, I'm not clear on what you're asking me, here.

MS. BLEAU: Okay. Were you - let me go back to my original question. Were you aware that John Madden had filed some complaints against George Oliva shortly before Mr. Oliva called that meeting rallying support for getting people to complain about John Madden?

MR. CROSS: Yes, I do remember that meeting. I do remember that meeting.

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MS. BLEAU: Okay.

MR. CROSS: If you're referring to the one where all of us had to put our input on the things that we encountered with Mr. Madden.

MS. BLEAU: Are you aware that a number of people that actually reported to Mr. Madden have filed letters of support for him in these proceedings?

MR. CROSS: I've heard. Yes, I've heard some. I don't know who they are, but yes, I did hear that.

MS. BLEAU: Who'd you hear that from?

MR. CROSS: I don't remember, but I did hear that. There's always talk.

MS. BLEAU: I'm sorry?

MR. CROSS: There's always talk around the office. I don't remember exactly from whom but I did hear that Mr. Madden was seeking support from people, individuals who still currently work here.

MS. BLEAU: Are you are that of the thirteen individuals that filed, or were interviewed Human Resources and appear in the report leading to Mr. Madden's termination, that very few of those actually reported to him. Do you know that?

MR. CROSS: No.

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MS. BLEAU: Hm. I can understand why you might not. You report directly to the Building Official, correct?

MR. CROSS: Correct.

MS. BLEAU: And were you aware, in your position as the Business Assistance Coordinator reporting directly to John Travers, that during the few final months of Mr. Madden's termination, he was being - charges had been brought against him by BORA for not overruling the prior Building Official. Were you aware of that? That's my question.

MR. CROSS: I do recall something referring to BORA, but as I mentioned earlier in my statements, a lot of things dealing with BORA and what the Chiefs and the Reviewers deal with, I don't get involved with that. The only reason why I was involved when it came up, referring to the BORA issue, is because of the complaints that I, you know, the encounters that I had with Mr. Madden. But I did hear something that there was a complaint dealing with BORA.

MS. BLEAU: Are you aware of times when Mr. Madden and Mr. Travers' opinion regarding building issues were not the same, were at odds?

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MR. CROSS: Again, I don't understand the building codes like they do, but yes there are times when the Building Official would make a decision and Mr. Madden did not agree with it.

MS. BLEAU: And do you think one might be stressful, feeling a lot of stress if, on the one side, you're being persecuted, prosecuted, take your pick, from BORA for not overruling the prior Building Official and being held responsible for the prior Building Official's decisions, while simultaneously being overruled by the current Building Official, who's making decisions that you think are not in compliance with the Building Code? You think that might cause someone to be -- feel under stress?

MR. CROSS: I'm sure that can cause stress, yes. I wouldn't doubt that.

MS. BLEAU: And were you aware that Mr. Madden was feeling that kind of stress during this time period that you were serving in this capacity as the Business Assistance Coordinator?

MR. CROSS: Not at all because he didn't talk to me like in that way. I wasn't in his circle for him to express that to me.

MS. BLEAU: He did talk to Mr. Travers about

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it. Mr. Travers never shared that information with you?

MR. CROSS: No.

MS. BLEAU: Did you tell the HR investigator that Mr. Madden is "ex-Marine and now that he is on the administrative leave, they say he's going to come back and shoot up the place?"

MR. CROSS: Oh, yes, I did say that. Yes, that was talk around the entire building. It wasn't just me. Yes.

MS. BLEAU: Did you personally hear anyone make that comment?

MR. CROSS: I did.

MS. BLEAU: Okay, who did you hear make that comment?

MR. CROSS: I don't remember who, but it was all around the office. Everyone was talking about it. I just don't remember exactly. I can't pinpoint a person who said that. But, yes.

MS. BLEAU: And were any of these persons making this comment City employees?

MR. CROSS: Yes. But I think that came from the interview he had on Channel 10, he mentioned it himself.

MS. BLEAU: What do you mean?

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MR. CROSS: He said it himself on Channel 10 when he was interviewed. He asked the question, "Have you ever killed anyone?" He goes, "I did." He did. So I guess that's why the talk went around the Building Department when he was terminated that they didn't know what he would do. No one knew what he would do.

MS. BLEAU: I guess - I assume you've never served in the military?

MR. CROSS: Never. Family members have, but I haven't.

MS. BLEAU: And you know that comment that you're talking about was made in March of 2017, which is after Mr. Madden was terminated.

MR. CROSS: Okay.

MS. BLEAU: Okay, so it couldn't have really contributed to any comments that were being made about Mr. Madden before he was terminated, right?

MR. CROSS: I wouldn't agree to that, no. I wouldn't agree to that.

MS. BLEAU: You wouldn't agree that a comment Mr. Madden made after he was terminated could not have contributed to the comments being made about Mr. Madden before he was terminated?

MR. CROSS: Listen. I mean, Mr. Madden is

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Mr. Madden. And that comment, what he made after he was terminated during that interview, I mean, yes, yes, it was made after he was terminated. Yes, I'll go with that. Yes. Yes.

MS. BLEAU: Okay, so the comments about him coming back and shooting up the place were also made after he was terminated or before he was terminated.

MR. CROSS: After he was terminated.

MS. BLEAU: Okay. Hm. But they were in the Human Resources report which led to his termination.

MR. CROSS: If it was made before the report to HR, it was because it probably was already around the office that Mr. Madden may be getting terminated? And then the discussions could have taken place saying that, you know what? This guy's an ex-Marine. He may come back and shoot up the place.

MS. BLEAU: If those comments were made about you, would you find those comments personally offensive?

MR. CROSS: I wouldn't like it. Of course not. I wouldn't like that. Yes, I would find it offensive.

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MS. BLEAU: You were interviewed by Brenda Brown from Human Resources. Did Miss Brown ask you for the names of the individuals making those comments about another City employee?

MR. CROSS: Not that I can remember.

MS. BLEAU: In addition to it being offensive, it seems clear that those comments are slanderous, ridiculing, and violative of the City's anti-bullying policy, wouldn't you say?

MR. CROSS: I wouldn't agree to that, because we can't neglect the fact how Mr. Madden used to carry himself here. How his attitude - so we can't try and sugarcoat this as if nothing went wrong here.

MS. BLEAU: So you think saying someone is ex-military and, therefore, they're going to come shoot up the place -

MR. CROSS: I'm not agreeing to that, no. I'm not agreeing to it just because someone is an ex-military. I know, trust me, I know ex-Marines. Well, they don't consider ex-Marines, but I know Marines, and I'm not going to sit here and testify that all of them would do that. No.

MS. BLEAU: Okay, your statement to the HR investigator was, "Mr. Madden is ex-Marine and now

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that he's on leave, they say he's going to come back and shoot up the place."

MR. CROSS: I did say that. I did say that.

MS. BLEAU: Your testimony, though, today is that the fact that he was an ex-Marine is not the reason for those comments, as best as you understand?

MR. CROSS: I didn't say that. I didn't say not all. I said, not all, and the only reason why I'm clarifying myself not to say ex-Marine because I was corrected that once you're a Marine you're always a Marine. That's the only reason why I'm not using the term ex-Marine. When I had that interview with HR, I'm not going to take back what I said. But I'm not referring to all Marines that that would happen. The only reason why I said that about Mr. Madden, because of how he used to carry himself and the things that he used to do when he came here. He was a ticking time bomb. That's -

MS. BLEAU: Let's talk about that. Have you ever seen Mr. Madden attack anyone, physically?

MR. CROSS: No.

MS. BLEAU: Have you ever seen Mr. Madden aggressively lay his hands on another person.

MR. CROSS: No. I mean no one is going to

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sit here and just let Mr. Madden beat on them. No one would do that.

MS. BLEAU: Aggressively lay his hands on another person. I'm not saying beat on him and somebody letting him. That wasn't my question, Mr. Cross. My question was, have you ever seen Mr. Madden aggressively lay his hands on another person.

MR. CROSS: No, but Mr. Madden was all talk. That's what it is. Never saw him - but yes, talking yes. Never saw him [inaudible]

MS. BLEAU: Have you seen Mr. Madden break an inanimate object in a fit of rage?

MR. CROSS: No.

MS. BLEAU: Have you ever see Mr. Madden threaten to physically harm another person?

MR. CROSS: Except me, when he said he told me that he's got something to stop me. But I don't know what he said to anyone else.

MS. BLEAU: Was he smiling and joking when he said that to you, if he said that -

MR. CROSS: No, he was joking. You want to know what he did? He politely put his hands on his chest like this and set back and let me know that, "I have something that can stop you." No listen,

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we can make light of that, but I'm telling you how I felt when he said that. It is the God's honest truth, that's what he said.

MS. BLEAU: If, sir, that is the God's honest truth and that's how you felt, I assume that you left his office and immediately went to Detective Maura and reported it, right?

MR. CROSS: I did, I did report that. I did.

MS. BLEAU: To Detective Maura? Right then? Because I've already talked to Detective Maura and he would say differently.

MR. MILLER: Excuse me, Counsel's testifying now. Can we ask questions?

MS. BLEAU: Mr. Cross, did you go to Detective Maura and make a complaint about John Madden physically threatening you? Yes or no?

MR. CROSS: I think I went to Anthony Fajardo first. It was a while ago, I don't remember who I went to first when that happened?

MS. BLEAU: Did you ever go to Detective Maura and complain about John Madden?

MR. CROSS: I want to say I think I have.

MS. BLEAU: Okay. And what was the result of that complaint?

MR. CROSS: I'm not sure if a report was

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written or what. I don't remember.

MS. BLEAU: So what do you think that you reported to Detective Maura, that he didn't follow up and write a complaint about?

MR. CROSS: The threat of him saying that he has something that can stop me.

MS. BLEAU: And you say you also raised it with Mr. Fajardo?

MR. CROSS: Yes.

MS. BLEAU: And when was this?

MR. CROSS: Well, as Counsel said, I did it in September.

MS. BLEAU: So that was what prompted your complaint in September of 2016?

MR. CROSS: As I stated before, look, I was new, and it seems that Mr. Madden had - he intimidated a lot of people. I didn't know really how to handle things. Like I said, I was new.

MS. BLEAU: I'm not looking for commentary, Mr. Cross. I'm looking for an answer to my questions.

MR. CROSS: Well, I'm answering your - it's not a commentary, I'm answering your question. See, I know your job is to try and back me against the wall, and what I'm telling you is that I'm

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answering your questions as best I can. You're not going to make me say something that's not true or I'm going to make it up. So, I'm answering you the best I can.

MS. BLEAU: What is the question that you are answering?

MR. CROSS: [Unintelligible] You asked me did I report to Maura. You asked me did I report to Anthony. I'm telling you that I don't remember. I don't remember if Maura wrote a report or what had took place after that. I'm telling you from what I remember now, I talked to Anthony, and I think I spoke with Maura. You're saying that Maura said a different story? I don't remember. But it is what it is. But I'm telling you, that I was threatened by Mr. Madden and you guys can make light of it, but the man threatened me. I don't what you thought - when he said "I have something to stop you" he was going to throw a pencil at me? No, that's not the way I took it.

MS. BLEAU: Are you done?

MR. CROSS: Proceed.

MS. BLEAU: Thanks. I appreciate it. Now can you answer my question, which was, the last question was, September 2016 when you went to Mr.

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Fajardo was the impetus for you doing that Mr. Madden's comment to you?

MR. CROSS: Yes.

MS. BLEAU: Thank you. That interview in March of 2017, when Mr. Madden was interviewed on Channel 10 news, that's when he broke down crying about the fact that he had to kill people when he fought for this country in a war? Is that right?

MR. CROSS: Yes.

MS. BLEAU: Did you see the interview?

MR. CROSS: I remember the interview.

MS. BLEAU: Yeah? Okay. And that's the one that you think would lead somebody to think that Mr. Madden would willingly kill again? Right? That's your testimony?

MR. CROSS: I can't speak for no one else, but -

MS. BLEAU: That was your takeaway?

MR. CROSS: Yes.

MS. BLEAU: Okay. Now, you complained about Mr. Madden making comments about your stylish dressing to the HR interviewer. Would you say that was less or more offensive than people saying that Mr. Madden was going to shoot up the place?

MR. CROSS: Of course him making fun of my

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clothes is less - that's less than, you know, than the shooting part.

MS. BLEAU: Okay. And I believe you said when Mr. Miller was asking you questions, that you can't - I think your words were - I can't say they continued after this. That was after you let them know that you didn't appreciate it - you said, "I can't say they continued after this." Right?
[inaudible, talking over one another]

MR. CROSS: Listen, we're talking a while ago. I mean, they were always joking at me. Always. And when I say - I can't refer to Joe DeMaio because he's not here, but John would always have something. John Madden would always - it happened all the time. You know, but I tried my best. I only went on the east side of the building when I absolutely necessarily had to deal with Structural, if there was a question I had for Mr. Madden.

MS. BLEAU: When you were promoted, there were a number of people, not including John Madden, that challenged your promotion, correct?

MR. CROSS: Yes.

MS. BLEAU: And was your promotion taken away for a while as a result of that challenge?

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MR. CROSS: Yes.

MS. BLEAU: Okay. So Mr. Madden wasn't the only one that maybe questioned your qualifications for the position that you're in, right?

MR. CROSS: Well see, that had nothing to do with Madden. That's a whole situation where the opponent, the opponent made the complaint. Okay? The opponent made the complaint - who I was - there was only two of us going for the position and when that person, when he didn't get it, that's when the complaint was made and that's when I had the investigation with HR.

MS. BLEAU: That had nothing to do with Mr. Madden, right?

MR. CROSS: I guess not. No. No that had nothing - now if any other talk, anyone else thought that I shouldn't have had the position, I don't know anything about that. I just know the treatment once I was given the position, okay? That's when I - that's the only thing I can refer to as far Mr. Madden, the treatment.

MS. BLEAU: Other than the one comment that you've testified to, is there any fact that you can relate to me to support a claim that Mr. Madden would be violent or somehow harmful or dangerous to

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City employees?

MR. CROSS: Let me say this, and I'm answering your question. I promise you, I thought Mr. Madden was one of the nicest guys that worked for the City of Fort Lauderdale, and I would still sit here and say to you that as far as knowledge with the Building Code and things, I would never take that away from Mr. Madden. I don't hate Mr. Madden. I'm not here to make his life miserable. I only can tell you the truth of what happened. Now, as far as me seeing him with weapons, as far as me seeing him grab anyone, throw anything, I have never ever seen that. Never, ever since I've been with the City of Fort Lauderdale. I have never seen that. I'm only telling you, when I took on this role, it's the encounters. I wish we had a better relationship, a better rapport. I wish that I felt that I could go to him when I need him, but that wasn't the case. I never went to him as if I was his boss, I never pretended to read plans, or any of that. So I really, I thought he was the nicest guys. When he had his medical issues, I came to Mr. Madden and I told him, I said, "I'm praying for you, I pray for a speedy recovery." I told him that. "I want nothing but the best for

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you." But I heard things, like I mentioned earlier, of a ticking time bomb and I promise you, I couldn't believe it. I was like, "Not the John Madden I know." But I don't know, maybe, you know, I know we all go through things in life and I don't really know what was happening during the time he and I had encounters, but I only can go by what I went through. You know, what I went through. So, I'm not here to make anything up.

MS. BLEAU: You all done? Are you finished?

MR. CROSS: Yes.

MS. BLEAU: Okay. I want to talk to you about the project being built without a permit that you discussed with the HR investigator. Do you remember discussing that in your statement?

MR. CROSS: The Auberge, the Auberge Project.

MS. BLEAU: Is that the --

MR. CROSS: Are you referring to the one that I -- when we went to the ribbon cutting?

MS. BLEAU: Is that the Rio Mar, is what I know it by. 2900 Rio Mar, I think? Let me see if -- let me see if I can share this.

MR. CROSS: Yeah, I think that was the Auberge.

MS. BLEAU: You can see this?

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MR. CROSS: Yes, I see it, the picture. Yes.

MS. BLEAU: Okay, good. That's what I was trying to share.

MR. CROSS: Yeah, I think - if I'm not mistaken, that's the Auberge Project. I don't have the address here, but that's the one that was out on the beach area.

MS. BLEAU: Tiffany House, 2900? Is that all the same, is what you're saying? That's the same project, right?

MR. CROSS: I think so, yes.

MS. BLEAU: Okay. Let me share this again. I'm not sure this is sharing properly. There, can you see that better now?

MR. CROSS: Yes. That's the one that was out on the beach area. That's where the -

MS. BLEAU: You're in this picture?

MR. CROSS: No, I'm not in this picture.

MS. BLEAU: Were you -

MR. CROSS: Not in that one, nope. But there were a picture - we were standing on the outside, outside the gate area, the fence area. It was John, myself, and two other gentlemen.

MS. BLEAU: This is Mr. Travers here
[inaudible].

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MR. CROSS: Yes, this is Mr. Travers here, I see. Yup.

MS. BLEAU: So, you had testified on your direct that -

MR. CROSS: What happened to the picture of us?

MS. BLEAU: Did it go away? Gosh darn it. I'll put it back. Hold on. It keeps trying to steal my other screen here.

I think you had testified that Mr. Madden had sent this picture around and you said something like, "I don't know if John sent someone to take this picture." Does it look to you like --

MR. CROSS: But it wasn't this picture. It was a picture with myself in it along with Mr. Travers and two others. I don't know what happened to that picture.

MS. BLEAU: Okay.

MR. CROSS: That picture did go around the Building Department, of myself, John Travers, and two other guys.

MS. BLEAU: Were you all posing, like the people are posing for pictures here?

MR. CROSS: No, it wasn't posing. It was like, I didn't even know the picture was being

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taken. I was standing with my hard hat and standing in front of the project, you know, the site. And that's when that picture from John Madden surfaced at the Building Department stating that John and I were at a site. We attended a ribbon cutting without permits - a job without permits.

MS. BLEAU: Okay. So, you see this email here from Victor Blanco?

MR. CROSS: Yes.

MS. BLEAU: And he sent this around asking, "Is this a new policy, where Special Provider jobs get preferential treatment? Correct me if I'm wrong, but I'm pretty sure State Statute says we have 30 days to review plans. This is the policy." You see that Mr. Blanco is complaining about perhaps the Private Providers getting special treatment. Correct?

MR. CROSS: Yes, I do see that. Yes.

MS. BLEAU: And these pictures were taken by - with officials standing in front of a project that was being built without a permit, right? Do you know that?

MR. CROSS: [Unintelligible]

MS. BLEAU: Do you think that's okay?

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MR. CROSS: No, I can't say that's okay. But I can't - and I also can't tell you that I was totally aware. I mean, I was there with my boss and, like I said, I didn't know the pictures were being taken.

MS. BLEAU: Do you know John - you said you didn't have very many interactions with Mr. Madden. Did you have enough to know that things like violating the Building Code, especially when he's being prosecuted for BORA for not making sure the Building Code was complied with, are things that would make him passionate or things that he deeply cared about? Do you know that about Mr. Madden?

MR. CROSS: I can say he's very passionate about his job. So I can agree to that.

MS. BLEAU: Okay. You said in direct that you - Mr. Miller asked if you ever complained about Mr. Madden before September, and you said yes. But he didn't follow up with you. Who did you complain to? What did you complain about? And what happened as a result of your complaint?

MR. CROSS: You see, that's the thing, I didn't put it on paper, but I did verbally complain to Mr. Fajardo.

MS. BLEAU: Why Mr. Fajardo and not Mr.

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Travers, your immediate supervisor?

MR. CROSS: Well, I went to Mr. - because my immediate supervisor was aware of my interactions with Madden, Mr. Madden.

MS. BLEAU: Did you seek his involvement in any way or try to get - ask Mr. Travers to counsel Mr. Madden or warn him or, you know, do an investigation or do anything prior to the September/October incident?

MR. CROSS: Well, I think that was already taking place. I think Mr. Travers was already speaking to Mr. Madden and trying to resolve all issues so we all can work together. I think that was already in play.

MS. BLEAU: What do you know? What facts are you aware of to support that thought?

MR. CROSS: Because John Travers is my boss as well as he was Mr. Madden's boss and when issues arise, he would let me know that he's already talking to Mr. Madden or that he was already on it. Or he already knew.

MS. BLEAU: Issues arise - regarding violations of the Building Code or issues regarding Mr. Madden's interactions with you?

MR. CROSS: Not with the Building Code

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because see, I can't argue the Building Code because I don't know it like Mr. Travers or Mr. Madden. The only thing I would bring to Mr. Travers - if he gives me an assignment to do - and the one that I can tell you about is when we had a project to where Mr. Travers just wanted to make sure that a Broward County seal was on there. Normally we take in two sets of plans; it had one set at that time. And I was instructed to take it to Mr. Riles, who is no longer with us, and just for him to check to see if a Broward County seal was on there. That's all it was. It wasn't trying to get Mr. Riles to do anything out of the norm. Just to check to see if that was on there. And they were going to bring in the second set that we can move it forward, to have a full review. Things like that I would bring to Mr. Travers to let him know that, "Look, you instructed me to do this, but Mr. Madden has an issue with it." Things like that.

But as far as enforcing or going over Building Codes, now, Mr. Travers would take his time his time to explain things that I, you know, if I don't understand when it comes to the codes, but I never got involved on those issues.

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MS. BLEAU: Okay, so you never got involved on the code issues.

MR. CROSS: Right.

MS. BLEAU: And as to the personnel issues, are you aware that Mr. Travers gave Mr. Madden an above satisfactory performance review very shortly before his termination?

MR. CROSS: No, that was never discussed with me.

MS. BLEAU: And did Mr. Travers tell you that he was dealing - addressing this issues that you were bringing to his attention with Mr. Madden? Is that what you're telling me?

MR. CROSS: Yeah, the one that I just - It's not like we just sat and talked about Mr. Madden all day. You know, it's just that when there was that issue --

MS. BLEAU: Other than that one issue, was there anything else that you went to Mr. Travers about, related to Mr. Madden from a personnel standpoint?

MR. CROSS: I'm sure I talked to Mr. Travers on several occasions, but I just can't remember, I mean, pinpoint exactly when and dates.

MS. BLEAU: So when Mr. Miller asked you if

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you'd ever complained about Mr. Madden prior to September 2016, it was that one incident that you were thinking about?

MR. CROSS: No. You want to know most of my complaints with Mr. Madden was just how he talked and how he handled - he didn't make it inviting to try and work with him. So most of my complaints, I mean, he would really just talk down. I don't know. Maybe when he looks at me, maybe that upsets him. I don't know. But that was my complaints.

MS. BLEAU: You understand, I'm not asking you what your personal beef with him was, but what you actually -

MR. CROSS: Oh his beef with me? Not my beef with him? What was his beef with me? We need to -

MS. BLEAU: Neither of those are my question. My question is simply, prior to September of 2016, who did you complain to about Mr. Madden and specifically what did you complain? You reported one incident having to do with Ralph Riles. Is there anything else?

MR. CROSS: Yeah, I complained about the incident that happened with the meeting that I scheduled. The incident that happened when he

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yelled at the Assistant Building Official, Luis Hernandez, because I witnessed that, the way he yelled at him in the lobby in front of people.

MS. BLEAU: Okay, let me stop you there. Who did you complain about that to?

MR. CROSS: Oh, I talked to Mr. Travers and Mr. Fajardo on that.

MS. BLEAU: And what did they do about it?

MR. CROSS: Well, I mean, I guess they did their reports and being his boss, I guess they - I don't know how, I can't answer how they did what they did.

MS. BLEAU: So, what you're talking about occurred prior to Mr. Madden's 2016 performance review where he received an above satisfactory from Mr. Travers.

MR. CROSS: I don't know the exact date when that took place, when he had that interaction with the Assistant Building Office, Luis Hernandez. I don't remember the exact date. So I don't - I don't know when his performance rating is due. So I don't know. I never discussed - they don't discuss his - that's his personal thing with his performance. I don't have anything to do - I don't know if he got an above satisfactory - I don't know

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what he got. Because they never discussed it with me.

MS. BLEAU: I know you said earlier you didn't know, understand about building issues, but you told the HR investigator that John Travers has made an agreement with the people out at Rio Mar, that project with the picture that we discussed earlier, that they could proceed on the project with a phase permit, right? That's what you told the HR investigator, do you recall that?

MR. CROSS: Yes. A phase permit you can go but so far.

MS. BLEAU: Do you know that that was a Private Provider project?

MR. CROSS: Yeah, I'm sure - yes.

MS. BLEAU: Do you know that the Private Provider policy of the City prohibits phase permits?

MR. CROSS: No.

MS. BLEAU: Can you see this?

MR. CROSS: I can.

MS. BLEAU: Okay, this is the City's Private Provider policy. Do you see this?

MR. CROSS: I see it.

MS. BLEAU: Okay.

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MR. CROSS: I see it.

MS. BLEAU: Do you have any idea why Mr. Travers would enter into an agreement with a Private Provider permitting a phase permit on a project with the City's policy drafted by Mr. Travers prohibits phase permits?

MR. MILLER: Objection. Again, calls for speculation on what someone else is going to say, plus Mr. Travers has already been here to answer these questions.

CHAIR ADELSON: You have two objections. The first objection is upheld with regard to speculative nature. The second objection is overruled.

MR. CROSS: I can't answer for Mr. Travers -

MR. MILLER: No. She sustained the objection, you don't have to answer.

MS. BLEAU: There's no pending question. Thank you. You know Mr. Travers used to work for MT Causley, right?

MR. CROSS: Who's MT - who is that?

MS. BLEAU: The Private Provider on the Rio Mar project.

MR. CROSS: No, I didn't.

MS. BLEAU: Okay. Did you tell the HR

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investigator that, "Mr. Madden made a huge deal to make it seem as if the Building Official did something illegal and wrong?"

MR. CROSS: That was after the picture, yes. That was after the picture had surfaced, yes.

MS. BLEAU: And is it your position that if Mr. Madden believes the Building Official or anyone in the City is violating the law, that he should just shut up and sit down?

MR. CROSS: I can't say that, no.

MS. BLEAU: Is it your position that he is obligated as a Chief Building Inspector to raise these issues and bring them to people's attention?

MR. CROSS: Yes.

MS. BLEAU: Okay. In your statement on page 3, at the end of the third paragraph, "The investigator includes a date (August 17, 2016)." You see that?

MR. CROSS: Yes.

MS. BLEAU: Do you know what that date refers to?

MR. CROSS: I guess maybe when the picture was resurfacing? Somebody [inaudible].

MS. BLEAU: The only email that I could find that has that date is this email by Charlie Nickert

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that was sent to Mr. Travers before the groundbreaking ceremony.

MR. CROSS: Are you referring to the pictures that I stated that was surfacing, is that what you're referring to?

MS. BLEAU: I guess so. I mean, there's no email.

MR. CROSS: That's the thing. John nor myself was included in those emails. Those were brought to my attention that the pictures were surfacing, being sent throughout the Building Department. So, yeah, I wouldn't expect you to find that on John Travers' page -- email.

MS. BLEAU: Okay. I wasn't just looking at John's email, but all right, let me move on.

MR. CROSS: And you know maybe it wasn't - I don't know why - that's the only thing I can assume why August 17 is in parenthesis is when those pictures went out, I assume. But -

MS. BLEAU: Well, we looked at this earlier. These have a September 5th date, right?

MR. CROSS: That's September 5th, yes. And I don't know what that date is for. I can't - I don't know.

MS. BLEAU: Okay, good. Because I don't

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either, other than Mr. Nickert's email.

You had a meeting - you've talked a lot in this, in your testimony - "I don't get involved in building issues." "I don't get involved in building issues." I don't know anything about birthin' no babies, I guess.

MR. CROSS: Let me rephrase that when I say building issues, though. What I am referring to is when there's a breakdown of the Code, or the Code needs to be explained, because when I get calls, whether it's from the City Manager, the Commissioners, or even our neighbors, and if they need an answer for something, I don't have the answer, I will get it. If it has to come from Structural, Plumbing, Electrical, I would get that answer for them, because that's my job. So when I say building issues, when we have issues with - the neighbors are complaining that it seems as if the review process is taking too long, that is a building issue that I get involved with. But what I am referring to, when it comes to reviewing plans or explaining what a reviewer said, I don't get involved. I refer or I get the answer for the neighbor. That's what I mean by that. So building issues, I do get involved, but I wanted to rephrase

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that because that is my job, to resolve any issues when it comes to the review process.

MS. BLEAU: The Richard Mercedes, Luis Hernandez discussion, you recall referencing that earlier?

MR. CROSS: Yes.

MS. BLEAU: Okay. And you told the HR investigator, "That Mr. Madden said he is the Chief Building Plan Examiner and pretty much no one overrides this, so to speak, and he says this in front of the ABO. I just feel that he undermines authority and does what he wants to do. And I think that it has gone on for so long and nothing is being done about it." Does that sound like what you told the investigator?

MR. CROSS: Yes. Yes. Yes.

MS. BLEAU: Do you understand that, according to BORA and the Fourth District Court of Appeal, Mr. Madden was correct? That he is the authority having jurisdiction and what he says goes regarding building issues?

MR. CROSS: Over his boss?

MS. BLEAU: Yes.

MR. CROSS: No, I wasn't aware of that.

MS. BLEAU: To this day you're not aware of

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that.

MR. CROSS: That he would overrule his boss?

MS. BLEAU: Yes.

MR. CROSS: No, I'm not aware of that.

MS. BLEAU: Okay. But you were aware - I think we talked about it earlier - that during Mr. Madden's employment, the BORA proceeding was going against Mr. Madden for not overruling the Building Official. You were aware of that, right?

MR. MILLER: Objection. Asked and answered and mischaracterizes the testimony. That's not what he said.

MS. BLEAU: That's why I'm asking to clarify. Were you aware of that?

MR. CROSS: No.

MS. BLEAU: Oh, you weren't. Okay. Had you been aware of that, and had you been aware of the ultimate determination of BORA and the Fourth District Court of Appeal that the Chiefs and not the Building Officials are the authority having jurisdiction regarding the Building Code, would that have affected your opinion or complaint about Mr. Madden being insubordinate?

MR. CROSS: Well, yeah, I would have looked at that different if knowing that the Assistant

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Building Official as well as the Building Official is his, you know, boss. And you're telling me, due to BORA, the Chief overrules the Assistant Building Official as well as the Building Official. I didn't know that.

MS. BLEAU: Okay. Mr. Travers -- prior to Mr. Madden's termination, Mr. Travers expressed to you his frustration about being challenged or questioned by Mr. Madden regarding the violation of the Code, regarding these various issues? Right? I think the way you said it to HR was, "Mr. Travers said he'd had it up to here with Mr. Madden."

MR. CROSS: Yes, he was frustrated. Because it seemed like everything he does, it's always going against the grain.

MS. BLEAU: That's all the questions I have. Thanks.

MR. MILLER: Mr. Cross, just a couple on follow-up. You were asked not that long ago having to do with a photograph and if Mr. Madden had a belief that there was some violation, did he have a duty to bring it to people's attention. Do you remember being asked questions about that?

MR. CROSS: Yes.

MR. MILLER: In your understanding of the way

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that this Department works, is there a difference between bringing a potential problem to somebody's attention versus emailing the entire Department?

MR. CROSS: I agree, yes. If he had an issue with that, especially with that picture floating, he could have easily come to me, but we didn't have that type of a relationship. We should have. And I tried to bring that to him, but instead I feel that it was on a tactic to belittle not only me, but the Building Official.

MR. MILLER: If, in fact, Mr. Madden believed there was something inappropriate about that project, that if it was proceeding with the wrong permit or no permit, is there a channel for him to bring that to somebody's attention in a professional manner?

MR. CROSS: Yes, I feel that he could have went to the Building Official and talked to him about it.

MR. MILLER: And even if we accept that that's what he believed, do you believe that his decision to email the picture to everybody else, including others not the Building Official, was motivated by something other than simply wanting to bring this to someone's attention?

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MR. CROSS: Yeah, that was motivated on something else. Yes. Yes.

MR. MILLER: All right. And, you know, just to clarify this, you were asked questions earlier by counsel about the statement having to do with Mr. Madden coming back and shooting, you remember that whole discussion?

MR. CROSS: I do. I do.

MR. MILLER: And you referenced in one of your answers an interview that Mr. Madden gave after he'd actually be terminated in March. Remember that?

MR. CROSS: Yes, I do.

MR. MILLER: Okay. In your actual statement to HR that you gave in October of 2016, specifically on page 2, did you bring up the fact that someone else actually brought this to you? That this wasn't some opinion that you had in your own mind that this could happen? Someone actually brought this concern to you? Is that what you told HR?

MR. CROSS: Absolutely, yes. I mean it was, to be honest, it was more - it was around the entire building. Everyone was talking about it.

MR. MILLER: All right. And what it says is,

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"One of the Mechanical Plans examiners by the name Paola Serafini, came to my office after Madden left and asked if I had heard about what happened to John Madden." First of all, what did that sentence by itself refer to? When is this point in time? Is this after Mr. Madden's already been placed on leave?

MR. CROSS: Yes, this was when he was placed on leave and that's when he asked me - Paolo Serafini was a Mechanical Examiner and he asked me did I hear about what happened to Mr. Madden. And my answer was yes, I heard. And he goes, "If I were you, I would wear a bullet proof vest and a helmet to work."

MR. MILLER: Okay. So you were relaying in this statement what someone else brought to you. This wasn't Andre Cross say, "Aha! John Madden's a Marine so he's going to come back and shoot the place up. I need a bullet proof vest." That's not what this was, was it?

MR. CROSS: No. Not at all. Not at all.

MR. MILLER: Okay, as far as all of the questions that you were just asked about the responsibility of the Building Official versus the Chief as far as interpreting the Code, is that an

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issue that you get into as part of your job on any type of basis.

MR. CROSS: No. No, not at all.

MR. MILLER: Are there issues, though, where there was conflict between Mr. Madden and in particular, Mr. Travers, that involved things other than just interpretation of the Building Code?

MR. CROSS: Ask that again please?

MR. MILLER: Sure. Do you recall that there was confrontation or disagreement between the two of them on issues other than simply interpreting the Building Code.

MR. CROSS: No. No, I don't. Nothing else.

MR. MILLER: Okay. Were you involved at all with the issues involving the C-Plus program?

MR. CROSS: No.

MR. MILLER: Do you even know what that is?

MR. CROSS: No.

MR. MILLER: Okay, then I'll withdraw that. Okay, those are all the questions I have. Thank you very much, sir.

MS. BLEAU: Couple follow-up, please.

CHAIR ADELSON: [inaudible]

MS. BLEAU: Thank you. Mr. Cross, you, under Mr. Miller's questioning just now, he was pointing

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out that you were just relaying to him, you were relaying to the HR investigator comments that had been made about Mr. Madden after he was placed on leave, correct?

MR. CROSS: Yes.

MS. BLEAU: About spraying bullets, I think, or something, one of those offensive comments.

MR. CROSS: Yes.

MS. BLEAU: So, the comments that were made to you were not made to an HR investigator in the context of an HR investigation, correct?

MR. CROSS: The comments made to me -

MS. BLEAU: By Mr. Serafini, for example, about Mr. Madden were not made in the context of an HR investigation? You're not an HR person?

MR. CROSS: No.

MS. BLEAU: He wasn't in HR? He wasn't coming to you as part of an HR investigation and making these comments, right?

MR. CROSS: Not at all.

MS. BLEAU: These were outside of that context. But you're not aware of any investigation the City took regarding these comments made by Mr. Serafini, correct?

MR. CROSS: I'm not aware.

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MS. BLEAU: Are you - were you ever aware of Mr. Madden's involvement with the FBI and the Office of Inspector General regarding issues in the Building Department?

MR. CROSS: With IG, no. I don't recall.

MS. BLEAU: The IG no, what about the FBI?

MR. CROSS: No.

MS. BLEAU: Okay. That's all I have.

Thanks.

CHAIR ADELSON: Any questions from the Board Members?

MR. BALDWIN: Madam Chairman, I'm not sure if this is a question for Mr. Cross, but I was looking at the file and I see that Mr. Madden was first a Building Inspector and then Chief Building Inspector and he was the Interim Building Official, and then he returned to Chief Building Inspector. But Mr. Cross called him Chief Structural Plans Examiner. I can't find that title in the schedule. So, I wasn't sure if I missed something or if that is just what you knew him as? I wasn't sure.

CHAIR ADELSON: That is a question for Mr. Cross.

MR. CROSS: We use the term Building, Structural, it's the same.

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MR. BALDWIN: Okay, so then what's in, basically - maybe it's to Ms. Arthurs, I don't know, but what's in the file presented to the Board, those positions I mentioned were the only positions that Mr. Madden was in, is that correct?

MS. BLEAU: No, I would say yes, John's shaking his head no. Building Inspector, Chief Building Inspector, and Temporary BO. Right.

CHAIR ADELSON: At this point, I don't think there's a question for Mr. Cross anymore. At this point, I think we're just trying to qualify titles. He testified that he understood him to be in that title for those roles. [unintelligible] If we need to clarify his titles at the time, I think we can do that. But do you actually have a question for Mr. Cross.

MR. BALDWIN: I don't have anything further, no.

CHAIR ADELSON: I'm sorry, Shelley?

MS. GIALLUCA: Madam Chair, I don't have a question for Mr. Cross. I just want to make a statement that at approximately 3:30 somebody turned off my video. The host did. But I've been here the whole time.

CHAIR ADELSON: Okay, great. Glad you were

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here the whole time. Thank you for confirming that because we need that for a quorum. I'm going to release Mr. Cross. Thank you for your time. You are dismissed.

MR. CROSS: Thank you.

CHAIR ADELMAN: You're welcome.

MS. GIALLUCA: Madam Chair, if there's a reason why they turned off my video, [inaudible, talking over one another] or if I did something wrong.

CHAIR ADELSON: Mauricio, is there a reason that her video was off?

MR. BAQUERO: Just give me a moment here.

MS. GIALLUCA: Okay, thank you.

MR. BALDWIN: I wondered where you went. I couldn't see you.

MS. ARTHURS: Madam Chair, can you repeat your question you had again about the positions, please?

CHAIR ADELSON: So, Mr. Baldwin had started asking about the positions, and I didn't think it was a question he was asking for Mr. Cross, so I suppose it was just confirming what positions did Mr. Madden hold from inception to the time that he was placed on suspension and then [unintelligible].

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So if you can clarify that.

MR. BALDWIN: And Mr. Cross had mentioned that Mr. Madden was the Chief Structural Plans Examiner and I just couldn't find that position in your classifications schedule. So, I wasn't sure what that meant. I think he explained it.

CHAIR ADELSON: Yeah, he said that's just the verbiage that they used.

MR. BALDWIN: Apparently that wasn't an official title, but something they used occasionally, if I understood him correctly.

CHAIR ADELSON: Do we have any questions open? Are we clear on Mr. Madden's titles?

MS. GIALLUCA: Since I'm working off my cell phone, did we receive another document that maybe I haven't seen? I guess that's my question. Madam Chair, I'm just wondering if we received an email during these last couple hours about positions that maybe I didn't see on my cell phone?

CHAIR ADELSON: No, this was over the course, I believe, of the hearing that people testified as to his titles. Mr. Baldwin had suggested the four that he knew and was asking Mr. Cross if he used a different title, and Mr. Cross said that was just an unofficial title that they just used once in a

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while.

MS. GIALLUCA: Okay, got you. I thought he received a document that maybe I just didn't check yet. Thank you.

MR. BALDWIN: Actually, I read a document, but I'm not allowed to send it to you. [laughter]

MS. GIALLUCA: So you got something I didn't get. Okay, thank you. [laughter]

MR. BALDWIN: Tell the internet.

MS. BLEAU: I think that Mr. Baldwin is referring to the statement in the City's notebook of Mr. Cross.

MR. BALDWIN: That's right.

MS. BLEAU: He referred to that job title in that way about Mr. Madden.

MS. GIALLUCA: I got you. Okay, thank you.

MS. BLEAU: Sure.

MS. ARTHURS: Madam Chair, so just to clarify, is there additional information you needed staff to provide?

CHAIR ADELSON: No. I don't. So that's clear. So, it is now 4:30. We went until 5:00 to deal with the final City witness. The question is are the Board Members prepared to finish with the City witnesses tonight regardless of what time we

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end?

MS. GIALLUCA: I'm okay as long as I can take two minute break.

CHAIR ADELSON: We definitely need a break.

MR. BALDWIN: Me, too. Same here.

CHAIR ADELSON: So, Counsel?

MR. MILLER: Depends what we're doing, because I have a matter in Federal Court that I've got to get something filed this afternoon. So what are - I mean, if we start now, they way we've been going. If we start in five minutes, we're looking at going probably beyond 6:00 with this witness.

CHAIR ADELSON: I would say probably at least until 6:00. That's probably a good estimate. So if you have another obligation which --

MR. MILLER: I mean, if we finish by 6:00, I'm good. But if we wind up going beyond 6:00, I have a problem. So that's my only -

CHAIR ADELSON: Understood. I know those Federal Court deadlines. So, Ms. Bleau, I am going to put this in your court. Mr. Miller needs to be out of here by 6:00. What do you think? And I want to give you sufficient time, I don't want to cut your off or cut you short.

MS. BLEAU: Understood. If he finishes by

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5:00, I should be finished by 6:00.

MR. MILLER: All right, let me do this then, let me just check with Mr. Battle, because obviously when this day started we told him we were going to be done by 4:00. So let me make sure he can stay until 6:00 before we restart. I know Ms. Gialluca wanted a five minute break or whatever. So maybe if we could take a quick break and I can check with Mr. Battle to make sure he's okay to stay to 6:00, then we can resume.

CHAIR ADELSON: Okay, so that's five minutes and we'll come back and we'll see if we're at yes.

MR. MILLER: Okay.

MS. TURIN: One question. Is there an issue for the staff?

MR. MILLER: Oh, yeah. What about them?

MS. TURIN: Is there a problem for staff to stay later. I don't know if that generates an overtime situation, if they need to get permission or anything.

MR. POST: Not to my knowledge, Kerry, do you have any issues?

MS. ARTHURS: No, I can stay.

MR. POST: And how long do we have [unintelligible].

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MS. ARTHURS: Do we also have the court reporter?

MS. OPFERLEE: I'm okay until 6:00.

MR. BAQUERO: You have me until like, until 6:00 -- 6:00 or 7:00. So we're okay with the schedule.

MR. MILLER: Okay. Let me contact Mr. Battle and when we get back on, I'll let everybody know if we're ready to go or if we have a problem.

MS. GIALLUCA: Okay, thank you.

CHAIR ADELSON: Okay. So let's take five minutes.

[Recess called from 4:27 to 4:37 p.m.]

CHAIR ADELSON: So, Mr. Miller, what did you find out?

MR. MILLER: Mr. Battle is good. He said he can stay as long as we need him.

CHAIR ADELSON: All right. So everyone else, just nod your head that we're all good. Reporter, everyone?

MR. BALDWIN: Yes.

CHAIR ADELSON: Great. So I'll go ahead and please let Mr. Battle in.

MR. BAQUERO: Alfred Battle is now in the room.

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MR. MILLER: I like your background. Go ahead and take yourself off of mute. Go Gators.

CHAIR ADELSON: Okay, everyone is present. Mr. Battle, you are unmuted. Excellent. Let's get situated and then I need to swear you in.

MR. BATTLE: Here. I can hear you all.

CHAIR ADELSON: So I'm going to swear you in. Do you swear to tell the truth, the whole truth, and nothing but the truth?

MR. BATTLE: I do.

CHAIR ADELSON: Okay. You may proceed.

MR. MILLER: Thank you. Good afternoon, sir. Would you tell us your name and who you work for.

MR. BATTLE: My name is Alfred G. Battle, Jr. I work for the City of Fort Lauderdale in the Department of Sustainable Development. I am one of two Deputy Directors there.

MR. MILLER: And how long have you been employed in total by the City of Fort Lauderdale?

MR. BATTLE: I've been employed a little over 15 years as of February of 2020.

MR. MILLER: When did you first become one of the Deputy Directors in the DSD?

MR. BATTLE: I believe it was January of 2014 or 2015. 2015, I became a Deputy Director at that

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time, we added a Deputy Director sometime shortly after that.

MR. MILLER: And prior to becoming Deputy Director at DSD, what positions did you hold with the City?

MR. BATTLE: Prior to that I was the Director for the Community Redevelopment Agency and Economic Development Director. Director for the Community Redevelopment Agency for approximately 10 years and during that time as the CRA Director I also managed our Economic Development Department for about two years.

MR. MILLER: I'm sure there's a whole lot more than you can say in a very short answer, but if you could give us some idea of what the duties and responsibilities are for a Deputy Director in the DSD.

MR. BATTLE: So, the Department was created to combine the efforts of the Building Division, the Building Department at that time, Code Enforcement, the Planning and Zoning Department, and at that time we did not have an independent ITS or accounting functions. Those functions were brought under the entire organizational chart of the Department. And we also brought over the

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Economic Development Department too. All of those happened in about 2011 when the former City Manager Lee Feldman combined all of those departments into a large department and called it Sustainable Development. As of today, we have seven divisions in Sustainable Development: Building Services Division, Code Enforcement Division, Engineering Division, Zoning and Landscaping Division, the Administration Division, and Economic Development. Deputy Director in a department of that size, which today is over 240 employees, we split the responsibilities between myself and the other Deputy Director in terms of the direct reporting structures with the Division Managers. So as of today, I have a direct reporting relationship with the Division Manager for Economic Development, for our Administration Division, and also with the Building Department.

MR. MILLER: So if I were to summarize that from a chain of command standpoint, currently you've got the Director of DSD, who is Mr. Fajardo, correct?

MR. BATTLE: That is correct.

MR. MILLER: Then underneath him are the two Deputy Directors of which you are one. And then

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below you would be the various Chiefs of the Departments?

MR. BATTLE: Would be the Division Managers and then beneath them would be the various Chiefs in divisions where we have Chiefs, which are primarily the Building Department. But we would have some also, some subsidiary supervisors in those divisions as well.

MR. MILLER: Was that generally the same structure back in 2015 and 2016, or has it changed?

MR. BATTLE: Close to it. I would say the only thing is we've added the Landscape, Zoning and Engineering groups. We've now broken those out and declared them as Divisions. Before those groups were under the Urban Design and Planning section of the Department. But pretty much the - the employees haven't changed, we've just elevated some employees to be Division Managers.

MR. MILLER: Back in 2015 and particularly 2016, in your role as a Deputy Director, did you have that same direct reporting with the Building Department at that time to you?

MR. BATTLE: I did not. I've been the direct supervisor for, or the supervisor direct report for the Building Division for about the last year and a

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half.

MR. MILLER: Okay. Back in 2016, did you become aware of the fact that in October the Director of the Department, Anthony Fajarado, initiated or requested an HR investigation of an employee named John Madden?

MR. BATTLE: I was aware of that at that time.

MR. MILLER: Tell us how it came to be that you would have been aware of that as a Deputy Director at that time.

MR. BATTLE: A couple of different ways. The Management Team, which would include myself, Mr. Fajardo, and the other Deputy Director, we routinely discussed and made decisions about things that would affect the entire department before any decisions were made in order to move forward with them. So something like this, we would have at least talked about it prior to him initiating any type of investigation.

MR. MILLER: All right. And he wrote the letter to initiate the investigation, but were you familiar at the time with what the issues were that he was asking to be looked into?

MR. BATTLE: I was. I was familiar with the

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issues that he identified as to initiate the investigation, yes, sir.

MR. MILLER: The documentation standpoint, do you recall that you wound up writing two letters in this matter, basically towards the end of that investigation?

MR. BATTLE: I am familiar with writing those letters, yes.

MR. MILLER: So, I think the way I would like to do this is to kind of talk to you about the content of those letters, okay?

MR. BATTLE: Okay.

MR. MILLER: So, the first letter I'd like to discuss is City Exhibit 12 in the notebook, and this is a memorandum that's dated February 15, 2017. So, if you have that available, Mr. Battle, I want to direct your attention to that as well.

MR. BATTLE: I do have it and I'm looking at it right now.

MR. MILLER: Okay. So, at the point in time that this memo is written, is the investigation that was done of Mr. Madden essentially complete?

MR. BATTLE: It's probably complete in terms of all of the investigation, interviews being concluded. And HR, if they haven't put pin in

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paper yet, they've probably developed a recommendation, but they just may not have gotten it signed and circulated to all the people involved in it. But, if I'm not mistaken, this memo is dated the 15th of February and the investigation probably concluded either about that time or shortly thereafter.

MR. MILLER: All right. And we're going to go through the contents, but from a procedural standpoint, is there a specific reason why you, as the deputy director, would have authored this memo, for example, as opposed to Mr. Fajardo?

MR. BATTLE: So, anytime we're going to the realm of higher level discipline, meaning something more than a letter to file or documenting employee issues, any time there may be something involving a suspension or termination, we generally - the City's policy is for one of the Assistant Directors or Deputy Directors to initiate the discipline process so that at the end of it, in the event that the employee wants to take advantage of an appeal, the Director has an arm's length distance from the process and can hopefully listen to the appeal objectively without being intimately involved in all of the pieces of the suspension, termination or

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any other type of employee discipline.

MR. MILLER: All right. So, it would - most likely it was because of the actual City policy on this that would cause you to have been the author of this memo?

MR. BATTLE: That was probably the main reason for something like that.

MR. MILLER: Okay. Now, the memo was directed to the City Manager. Do you know procedurally why that is?

MR. BATTLE: I think it's just a matter of - and I probably asked at that time, who should the memo be made out to. But I don't believe it went directly to the City Manager, I believe it was reviewed by the HR Department before it went to him. But we're asking for his permission to initiate this termination, so procedurally, he's the person who has the final say on something like that, so that's why the letter would be or memo would be directed to him.

MR. MILLER: Within the way the City operates and is set up, even if you as the Department make a recommendation for termination, ultimately it's the City Manager that has to approve that? You guys can't do that without his or her authority?

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MR. BATTLE: That is one of the steps, so it would not be able to be done unilaterally by the Department. We would have to get concurrence from the City Manager as well as the other department or the other signers among which we would also include HR.

MR. MILLER: Okay. I know I directed you to your memo, but there's another document that's part of the file that's got signatures on it. And it's got, in this case, the signatures of Assistant City Manager Stanley Hawthorne, Assistant City Manager Chris Lagerbloom, and City Manager Lee Feldman. Would that have been the process that all of them would have signed off on this once the decision was made?

MR. BATTLE: Yeah. So, I'm not as familiar with how the City, you know, the City Managers, they may differ on whom they get to sign off on documents of this magnitude, but typically, each Department has an Assistant City Manager that they work with directly. And during the Lee Feldman era, or time with the City, Mr. Hawthorne was the Assistant City Manager who was directly involved with HR. Human Resources was a direct report to him, so I'm going to assume that Mr. Feldman wanted

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both of those individuals to sign off before it got to his desk.

MR. MILLER: Okay. Now the very first sentence of the memo itself says, "It is recommended that Chief Building Inspector John Madden be relieved of his duties and employment terminated with the City of Fort Lauderdale effective immediately." How does that recommendation wind up coming out of this investigation and whatever the Department is given. In other words, what's the processes and what was the review internally that went into all this before this particular memo with this recommendation gets generated?

MR. BATTLE: It would be - a decision like this, as you would imagine, isn't made lightly. And it would need to include all of the evidence from the investigation, our conversations not only internally with the DSD, the Department of Sustainable Development management team, and the Direct Supervisor for Mr. Madden, which at that time was Mr. John Travers, the Building Official; but also, with the HR Department and definitely making sure that the City Manager's Office knew what decision we were likely to bring forward to

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them. So, with all of the information that we have from the investigation, also after speaking with employees within the Department, we got to determining that it was in the best interests of the Department to part ways with Mr. Madden at that time.

MR. MILLER: All right. Paragraph two of your memo kind of lays out what the allegations against him were, correct?

MR. BATTLE: That is correct. So, in addition to the investigation - the investigation gives an overview through interviews and other types of documentation as to what would have occurred that would have precipitated an investigation taking place. In addition to that we look at the City of Fort Lauderdale policies on employees working in our workspace and, if employees are found to be in violation of certain policies or personnel rules, as they are generally referred to, depending on the level of the infraction generates the response from the City in terms the discipline that is offered. So, we have all the way up from written reprimands to termination in this situation based on the volume of the items brought to our attention. After

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reviewing all of those items and looking at them with respect to the work rules, that's how we got to the determination of termination versus anything else.

MR. MILLER: Did you on an individual basis have any prior dealings with Mr. Madden as far as any of the issues that were brought up? Or were you involved in this strictly as the Deputy Director, who's kind of in a supervisory role looking at the big picture?

MR. BATTLE: My personal interactions with Mr. Madden didn't involve anything that would have been a part of the investigation. I'm strictly acting, or was acting at that time, as an Administrator for the Department.

MR. MILLER: Okay. One of the things it mentions in paragraph 3 is that "In response to the allegations made against Mr. Madden, we also extended an opportunity to discuss them at an informational meeting in detail with Mr. Madden. After a couple of attempts to schedule this meeting, Mr. Madden and his attorney responded to the allegations listed in the informational meeting notice in writing on January 30, 2017." Can you just talk about that piece a little bit? What does

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that say was offered to Mr. Madden as far as this meeting that's being referred to?

MR. BATTLE: Whenever there's a pending discipline, it is the standard procedure to inform the employee of the infractions that they are accused of or they're being brought in to talk with Management about, and the notice in that type of meeting that would be offered to the employee is that they can bring whomever they decide that they want to bring with them. If they're a union employee, they can bring their union rep, they can bring their attorney, they can bring other employees. It's up to them in terms of how they want to bring, come into the meeting and how they want to represent themselves. So, at those meetings we typically go through - basically, it's almost like a mini investigation. We want to try to better understand what occurred to either get us to want to start an investigation or get the employee's side of the story if that's what needs to occur. So, the informational meeting can kind of take on a variety of things, but in most cases it's an opportunity for the employee to talk directly with management about what happened or what's going on and kind of get their part of the

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story without the - if there are other employees involved, without those other employees in the room.

MR. MILLER: So, in this particular case, that was offered to Mr. Madden and he declined to meet in person to discuss the allegations, correct?

MR. BATTLE: So, he may have declined it, but I believe that we did have an informational meeting with Mr. Madden at sometime later. The date of it escapes me, but I do remember meeting with his attorney, Mr. Madden, myself, and someone from the City Attorney's Office.

MR. MILLER: Okay. Your memo references a written response that he filed to the allegations. Was that written response considered before determining what the outcome and recommendations would be?

MR. BATTLE: It would have been a part of the decision process, but no, the response in writing, I don't believe would have influenced our decision either way, but it would have been considered as a part of whatever decision that we made.

MR. MILLER: Okay. The memo continues by saying, "It is the opinion of the Department Senior Management that Mr. Madden's actions have directly

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contributed to a Department culture and atmosphere where operational conflicts and building construction inspections, plan reviews, and building permits can not be resolved without confrontation, verbal abuse, or insubordination." Those words kind of speak for themselves. I'm assuming that's your talking about what the investigation found as opposed to your own personal knowledge. Correct?

MR. BATTLE: That is exactly right. I'm summarizing the outcomes of the investigation and trying to make them as succinct as possible in this type of communication.

MR. MILLER: All right. You finished that paragraph by saying, "It is the assessment of Department leadership that the actions of this employee has undermined this key department objective." Correct?

MR. BATTLE: That is correct.

MR. MILLER: All right. The last two sentences talk about on the second page that "The cumulative weight of the complaints and personal rule violations are too serious for corrective actions to be considered. For this reason, we recommend termination of employment effective

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immediately." Can you just kind of talk a little bit about why it was the decision that there was too many violations and they were too serious - for example, for some other less drastic discipline to have been recommended in this situation.

MR. BATTLE: So, in looking at all of the evidence presented to us and the outcome of the investigation, Management really thought long and hard about how to address this particular issue. And we felt like, first, the complaints - the number of them were concerning to us. The timing of those complaints were concerning to us. At that time at the Department, we were really under fire in terms of doing a good job to support our community. And we felt as if the complaints, the types of complaints, they weren't various complaints, they seemed to be the same complaints from employees, or the same types of complaints from employees regarding the interactions with Mr. Madden. And that, at that time, the number of complaints, the magnitude of the complaints, and all of those things combined, that it was in the best interests of the Department to part ways with Mr. Madden.

MR. MILLER: All right. A memo on February

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15 is sent off to City Attorney and the City Manager's Office. What role, if any, do you have in the rest of this process?

MR. BATTLE: I don't have the ability to terminate the employee, of course. I'm writing these memos and/or communications with HR and the City Manager in order to be part of the process. So procedurally, that's where my influence stops. So, after writing a letter, I'm like the other employees in our management group, and that is, we're waiting to see what happens, if we need to respond to provide additional information, if we're going to continue down this path, *i.e.*, is the recommendation going to be accepted and acted upon, or are we going to be told to do something else. So, procedurally, I'm acting as a part of the process, nothing more than that.

MR. MILLER: So, let me direct you, then, to the next letter, which is in the City's Exhibits Tab Number 18, and this is a letter dated February 27th, 2017, now addressed to Mr. Madden. Do you have that in front of you, sir?

MR. BATTLE: I do have it up.

MR. MILLER: So, between the memo of the 15th that we just finished discussing, and this letter

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of the 27th, you know procedurally what's happened up until this point in time?

MR. BATTLE: I don't know if I understand your question, could you repeat it again, please?

MR. MILLER: Yeah. You had mentioned that one of the reasons that you wrote the initial memo, not Mr. Fajardo, is because if there was some type of an appeal requested, then that would mean Mr. Fajardo could participate in that. Do you know if such a request for an appeal took place in this case?

MR. BATTLE: Oh, I do not know if an appeal request took place. I would have probably written this memo after getting, if not written feedback, verbal feedback from HR that the Request to Terminate had been approved.

MR. MILLER: Okay. Now that I'm looking at it - I kind of jumped ahead a little bit - on page 2 of the letter itself, it actually contains information that gives Mr. Madden the right to make an appeal. Correct?

MR. BATTLE: So, at all the parts in the process, now that you're mentioning that, it's not "that's the final step," the termination, the request to terminate. The employee still has

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rights that they can work within when these types of things occur. But, the second letter would have been written with some information saying that our request to terminate the employee was accepted and we can move forward.

MR. MILLER: Okay. So, the letter indicates that basically 30 days from the date of the letter is when Mr. Madden's termination will be effective. Correct?

MR. BATTLE: That is correct.

MR. MILLER: All right. And then below that, it goes through and it lists specific violations of the specific policies that it determined that he violated. Correct?

MR. BATTLE: That is correct.

MR. MILLER: I'm assuming that you simply took that information from the investigative report?

MR. BATTLE: There was no adding or embellishment of anything. This is directly from the investigative report.

MR. MILLER: Okay. So you listed one, two, three, four, five, six different items, and then below that it then says, "Your behavior also violates the City's Workplace Bullying Policy."

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Again, did you personally go through and identify each of those things or you're just now - you're kind of the administrative guy, so you're going through and taking what they've already found and you're just reducing it to a letter?

MR. BATTLE: So, in some cases I am interpreting - I'm taking the report and trying to develop this letter. But I'm also - I've prepared this letter with, I would say, a final draft or a draft in progress would be reviewed by our HR Department to make sure that I have identified the rules that have been violated by the employee. In addition to that, to make sure that whatever we write is inclusive of all of the things that we believe justify recommending and moving forward with termination. So, yes, in short, I am acting as an administrator here in trying to capture all of the elements that we believe make our best case to justify termination. Some cases I'm taking directly from the document, other cases I'm working or getting some type of direction from HR to make sure that the letter meets the standards of a letter that we would issue in this type of situation.

MR. MILLER: Even if you don't remember

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specifically, is it likely that by the time you wrote this letter you would have gotten feedback from the City Manager's Office that they concurred with your recommendation?

MR. BATTLE: Yeah, that's fair to say. Yes.

MR. MILLER: Okay. I take it you don't have a specific recollection of a communication you had with anybody in particular?

MR. BATTLE: I do not. Not this long ago, no, sir.

MR. MILLER: Okay. So from the portion that you've been involved in here, as far as the memo to Mr. Madden and this letter here, as far as you know, did you all follow the City's policies as far as dealing with employees in discipline, and discipline such as this of a termination?

MR. BATTLE: As far as I am aware, we did our best to follow the City's policies and procedures.

MR. MILLER: All right. Once you authored this letter on February 27, 2017, did you have any further involvement in this matter?

MR. BATTLE: Other than the deposition in the Civil Service Board, no, sir.

MR. MILLER: Okay, and by that I should - let me ask you a better question. Did you participate

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in any further appeals? Did you have any meetings with Mr. Madden and his attorney? Did you participate in anything in that sense?

MR. BATTLE: Other than the meeting that I mentioned where I met with Mr. Madden and his attorney and Candace - I can't remember her last name - from the City Attorney's Office, that's the only other meeting outside of the process that I am aware of.

MR. MILLER: Okay. And do you know, was that a deposition that you gave as part of the BORA case against Mr. Madden?

MR. BATTLE: No. It wasn't anything of that nature. I'm almost certain it was a meeting in response to the Informational Meeting Notice.

MR. MILLER: Tell me what you recall from that meeting. Do you remember being presented anything by Mr. Madden and his attorney that was different or new than had already been uncovered thus far in the investigation?

MR. BATTLE: I don't recall anything new or different. No, sir.

MR. MILLER: Did anything change as far as the recommendation as a result of that meeting?

MR. BATTLE: No, it did not.

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MR. MILLER: At any point prior to -

MR. BATTLE: I'm sorry. I need to make a clarification. It wasn't an informational meeting, it was an appeal. Anthony Fajardo could not attend the appeal. I'm mixing up the two, but as you mentioned probably about five minutes ago, the employee had the right to have a meeting, and the employee exercised that right. Unfortunately, Mr. Fajardo wasn't in the office that day that the meeting needed to occur, so I attended that meeting on his behalf.

MR. MILLER: Okay. And so you met with Mr. Madden, his lawyer, the City's representative, and you listened to whatever they had to present and, based on whatever that was, you did not feel that the recommendation should be changed?

MR. BATTLE: That is correct.

MR. MILLER: Before Mr. Fajardo initiated the investigation of Mr. Madden back in October of 2016, had any of the employees of the Department come to you at all with any complaints about Mr. Madden?

MR. BATTLE: Before the investigation, I had heard from a few employees. I wouldn't call them complaints, but expressed concerns about some

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interactions they'd had with Mr. Madden. Again, I wasn't personally there to witness the interactions, but there are at least two of them that come to mind that the employees made it a point to bring it to my attention.

MR. MILLER: Do you remember any details of what types of things they were bringing to your attention?

MR. BATTLE: So, in one case an employee felt that he was being intimidated or that there was being some purposeful information shared with him to give him some fear, about either about his employment longevity or the purpose of the job that he had been subscribed to do.

And on the other occasion, the employee expressed concern about being mistreated in terms of their interaction with Mr. Madden as they were trying to explain something that they had attempted to do or had done as a part of using our Community Plus system.

MR. MILLER: And once those complaints were - I'm using the word complaint, I know you said it really was a complaint, it was raising a level of concern, perhaps - once those were brought to your attention, did you do anything with that

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information at that time?

MR. BATTLE: So, as I said, I wasn't a personal witness to any of those issues, but after I spoke with Mr. Fajardo and our other Deputy Director at that time, we kind of all were comparing notes that we were hearing. We were hearing this information in the system about issues that employees were having with Mr. Madden. The ones that I heard, you know, they may have seemed rather - they seemed rather benign to some of the other things that I'd heard employees express concerns about after I compared notes with Mr. Fajardo and our other Deputy Director. So after, kind of we heard, after we kind of talked through and got to a point of kind of listing all of the things we had heard, we then wanted to try to better understand those issues from all of the employees, which prompted Mr. Fajardo's investigation.

MR. MILLER: I want you to assume that early on at this hearing, Mr. Fajardo testified that he recalls there being a meeting in the Department where ten or so employees came in, specifically to talk to him in particular - he remembers being there - about Mr. Madden. Were you present for

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that or did you participate in that at all?

MR. BATTLE: I was present for the meeting.

MR. MILLER: All right. Do you remember in fact that there was upwards of ten people that came in to talk about Mr. Madden?

MR. BATTLE: I'd say about ten is a good number. I don't remember the number exactly, but I know there were more than five or six.

MR. MILLER: And what was - and I'm not asking you to give me the specifics of what everybody said -- but what was the general tenor or purpose or outcome of that meeting, if it were?

MR. BATTLE: The meeting definitely was an airing of similar issues that employees had come across in their interactions with Mr. Madden. Some of them described situations where they were engaging with Mr. Madden and they were either - they felt threatened or they were talked to inappropriately. In other words, Mr. Madden raised his voice at them and they felt as if that was a sense of making them feel belittled or less than professional. Other situations where employees felt as if Mr. Madden was probing or trying to get something out of them through his efforts to generate a workplace issue regarding his

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relationships with the Building Official at that time, Mr. Travers, who is still our Building Official, and some of the policies and procedures that Mr. Travers was trying to put in place at that time. So, some of the employees expressed their frustration in some of their interactions with Mr. Madden about those issues.

MR. MILLER: Did that meeting take place before Mr. Fajardo initiated the request for an investigation?

MR. BATTLE: My memory tells me yes, it did.

MR. MILLER: You yourself, did you participate at all in the investigation?

MR. BATTLE: No, I was not a part of the investigation.

MR. MILLER: Okay. So your role, as we've already gone through, is kind of at the end when it came time to do the recommendations and then the formal letter of the meeting. Correct?

MR. BATTLE: That is correct.

MR. MILLER: Okay. Thank you very much, sir. I don't have any other questions.

MR. BATTLE: Okay.

CHAIR ADELSON: I've been here. I'm just having an issue with the sun placement on my

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screen, so I apologize for being off screen. Ms. Bleau, if you are prepared, please proceed.

MS. BLEAU: Thank you. Good afternoon, Mr. Battle.

MR. BATTLE: Hello. How are you, Denise?

MS. BLEAU: I'm good, thanks. Good to see you again.

MR. BATTLE: Likewise.

MS. BLEAU: Let's start here. I want to look at this letter that, I guess this is what Counsel asked you about. But I want to go up to the last paragraph on page 1 where you say here, "Sustainable Development." Do you see that?

MR. BATTLE: Yep. I do.

MS. BLEAU: That's big enough? You see it okay? "Sustainable Development is trusted to provide our neighbors with a development services solution that will support the Fort Lauderdale they never want to leave." Is that what you meant? There's not a word missing there? That's the sentence?

MR. BATTLE: So, it is taken from - that part of that sentence is taken from one of our older tag lines as "the city you never want to leave." So that is attempting to use a part of that tag line

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as the Fort Lauderdale they never want to leave.

MS. BLEAU: Got you. And was the decision reflected in this recommendation - I'm not clear from your testimony under Mr. Miller's questions - was this decision your recommendation or was this somebody else's decision that you're just reflecting, reporting, or putting in a written memo form?

MR. BATTLE: So, I am the author of the letter, but the recommendation is on behalf of the Department Director, of which that recommendation was supported by myself, as one of the Deputy Directors and the other Deputy Director at that time.

MS. BLEAU: The Department Director being Mr. Fajardo?

MR. BATTLE: That is correct.

MS. BLEAU: Okay. So, I'm a little confused because I thought you testified about this policy and the City to provide a fair and impartial process for the employees where you were - in order for the Director to be arm's length and hopefully objective and listen to the appeal without any preconceived notions, you were asked to get involved at this early stage, correct?

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MR. BATTLE: That is correct.

MS. BLEAU: And then later because Mr. Fajardo was not available, the Director wasn't present to be, hopefully, at arm's length and objective and listen to the appeal without any preconceived notions because you were the same person that started the process, you were the person that ended the process. Right?

MR. BATTLE: I don't know if I understand that question, but I think you are referring to the meeting that we had? [unintelligible] meeting?

MS. BLEAU: Yes, correct.

MR. BATTLE: So, let me make sure I understand the question in total. And exactly what was the question?

MS. BLEAU: So the question - you said that this process is set up so that the person hearing the appeal is different from the person sending this letter, right -- this recommendation for termination? You were asked to get involved here so that the Director "can be at arm's length and hopefully objective and listen to the appeal without any preconceived notions." But the appeal was actually handled by the same person, that being you. Right?

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MR. BATTLE: I attended on the Director's behalf that meeting. You are exactly right.

MS. BLEAU: Okay. So that process that's set up, that was the reason you initially got involved, wasn't followed in Mr. Madden's case? Having the Director be present for the appeal, but not involved in the initial proceedings. Right?

MR. BATTLE: He wasn't there. I can't speak to whether that's a violation or just chance, but he wasn't at that meeting. You are exactly right.

MS. BLEAU: Sure. And I'm not asking for a legal opinion, I just want us -

MR. BATTLE: That's good because I can't give you one.

MS. BLEAU: Not a problem at all. I just want to confirm that that process that you described wasn't followed in this case.

MR. BATTLE: Understood.

MS. BLEAU: Okay. You say on page 2, here, and Mr. Miller asked you about this, that it was "the comprehensive review of all personnel issues involving Mr. Madden over the last five years." Do you see that?

MR. BATTLE: I do.

MS. BLEAU: Okay. I want to ask you a little

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about that. Again, now, is this your comprehensive review or is this somebody else's comprehensive review?

MR. BATTLE: I'm the author of the letter, but I'm not the author of all the opinions in the document. So -

MS. BLEAU: So, who can I question about the comprehensive review of all personnel issues involving Mr. Madden over the last five years?

MR. BATTLE: I think I can answer your questions, but I don't know - I think you're asking if I'm writing this letter with people, on behalf of people, are these my - so I penned the letter and the letter is then - you know, we want to make sure it says everything it needs to say - but I would say 80% of the words here are my words based on everything that I observed in the investigation as well as my understanding of the personnel file for the employee.

MS. BLEAU: Okay. My question was really more simple than that. I wanted to know who actually did the comprehensive review of the last five years of personnel issues involving Mr. Madden.

MR. BATTLE: I don't know if someone actually

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- quote unquote - I don't know if there's one person that I can identify for that particular task. I would say that was actual conversations on the review of the file as well as the exiting issues would have been a part of multiple conversations with myself, members of our management team at DSD, and HR, because many of the personnel issues are prior to 2014, as you know. So, we wouldn't have had easy access to that information. We would have had to get some of it from HR.

MS. BLEAU: Say that last thing again?

MR. BATTLE: I said we wouldn't have necessarily had easy access to it because we would have gotten it from HR or conferred with them, because myself, Anthony, and the other Deputy were not in those roles when those other issues occurred some years ago. So if we could not find them, we would have conferred with HR to make sure what we had was right or to get other information from them.

MS. BLEAU: I'm showing you what is in the City's notebook at Tab 12. This is a letter from Greg Brewton. Is this what you are referring to?

MR. BATTLE: That is one of them. I do

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recall us having that in our files at DSD. So as we're trying to gather information about any employee, whatever their personnel history is, we may not have a complete file and we may need to ask HR if they have things that we don't have in order to initiate something of this magnitude. So, when I say we needed to get with them to make sure we have all the information, it's really we may not have a complete file, they may have information that we can't get access to because we weren't involved with the -

MS. BLEAU: I understand, I'm not really focused so much on how you got the information as much as what information you got that you considered. Okay?

MR. BATTLE: Okay.

MS. BLEAU: Is this memo from Mr. Brewton, I guess, that you got from Personnel, and what is reflected in here, something that you considered as part of the five year comprehensive review of Mr. Madden's performance or personnel - I'm sorry, what was the wording?

MR. BATTLE: It said comprehensive issues. I don't think it said five years.

MS. BLEAU: Uh, yeah. It said five years.

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See this? "After a comprehensive review of all personnel issues involving Mr. Madden over the last five years." Did I read that correct?

MR. BATTLE: Uh-huh [affirmative].

MS. BLEAU: Okay. So my question in, is this memo from Greg Brewton something that was considered by you and the other leadership of the City, in recommending Mr. Madden's termination here as part of this comprehensive review of his personnel issues over the last five years?

MR. BATTLE: I'm sure we looked at that document and took that into account. But we also took into account the issues that were right in front of us. So history is indicative of the future, so I'm sure we took both of those - we took all of that information into account.

MS. BLEAU: Okay, you did, because there's been testimony to the contrary. But, okay. And if you considered this, would you agree that that's not consistent with the County's Progressive Discipline Policy? Uh, City's, I'm sorry.

MR. BATTLE: I think you meant the City, but -

MS. BLEAU: I was in-house counsel for Palm Beach County for many years and I just keep going

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back to that. But, the City.

MR. BATTLE: I don't know if that's not consistent, because the issues regarding the investigation and the termination were really based on the current issues. We included - you know, we looked back that the employee's history at the organization as a part of really understanding what the decision was. But that wasn't the primary reason for recommending termination.

BM: That's not my question at all, if it was the primary reason for recommending termination. My first question was, did you consider it as part of the decision-making tree - let's put it - leading you to your decision to recommend Mr. Madden's termination, and you've testified, yes, in fact, that you did. And then my second question is -

MR. BATTLE: Miss Bleau, can I ask a question of you?

MS. BLEAU: Sure, it's "blue" [phonetic], but yes.

MR. BATTLE: Bleau, I'm sorry. That's why I didn't say your last name when I first said, "Hi, Denise."

MS. BLEAU: It's okay.

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MR. BATTLE: I didn't want to mess that up. So, Ms. Bleau, I just want to make sure I'm answering your question as I understand it. So, I'm good with the first question. Now what are we getting at? Because I'm trying my best to answer that question, but I'm looking at the information you have on the screen and I think you're referring to that. So, my apologies if I didn't answer what you're asking.

MS. BLEAU: That's okay. My second question, since you told me it was considered and was part of the decision-making tree, would that violate the Progressive Discipline Policy of the City that says that written counselings - assuming that is a written counseling, and I'm not even giving you that, but we can go back to that - but assuming that's a written counseling of Mr. Madden three years prior, this would suggest that that should not be considered in determining discipline, correct?

MR. BATTLE: I don't know what the document from Mr. Brewton was intended to do, so I don't know if that - I don't think that applies here.

MS. BLEAU: Okay. So, because it was a written counseling, you think you could consider

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it?

MR. BATTLE: No, I think it's (a) older than a year old -

MS. BLEAU: Yes, that's my point.

MR. BATTLE: -- and (2) I don't think it did anything. It's a document in a file. I couldn't find anything else that happened with Mr. Madden after that time.

MS. BLEAU: And, actually if you look at Mr. Brewton's memo, it served as a notice of investigation. It's not even a written counseling, it's not a find of guilt, it's just a notice of investigation that complaints were made. Correct?

MR. BATTLE: If that's what it says, I can only say that that was the intent of it.

MS. BLEAU: Is it on the screen in front of you, can you see it?

MR. BATTLE: When I say that's what it said, I can only -

MS. BLEAU: You said "if" that's what it said -

MR. BATTLE: Oh, no, I'm agreeing with you.

MS. BLEAU: All right. So that is what it says, and you said, I think you've made clear you didn't have any other information regarding this,

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but you did consider this in reaching the recommendation to terminate Mr. Madden. Have I got that right? We can move on to something else?

MR. BATTLE: Yep. We can move on. I think you're right.

MS. BLEAU: Okay. Did you consider, as part of that comprehensive review - going back to your letter - of all personnel issues involving Mr. Madden, did you consider positives as well as negatives?

MR. BATTLE: You'll have to give me a little bit more on that, Miss Bleau. Positives in terms of what, exactly?

MS. BLEAU: His personnel file being littered with letters of commendation from people in the City, contractors, developers, builders, property owners, for an example. Did you consider that in this decision tree leading to the recommendation to terminate Mr. Madden?

MR. BATTLE: So, we considered the positives that Mr. Madden brings to the table from a technical standpoint and also he is definitely thought of as an expert in his field. But, we felt as if the outcome of the investigation and the issues that we saw from and gained from our

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employees, in terms with their interactions, outweighed those positives.

MS. BLEAU: Did you consider as part of your comprehensive review of Mr. Madden's employment history with the City for the last five years, the fact that he had received an above-satisfactory evaluation from John Travers four months before he was placed on administrative leave?

MR. BATTLE: No, we talked about that. We did ask about what was the employee's evaluation history. So it was a part of our conversation.

MS. BLEAU: And you said that Mr. Travers was involved in the decision to recommend Mr. Madden's termination?

MR. BATTLE: I would call it more of informed. That the Department Director would have made the recommendation, so I want to say more of involved in terms of being informed as to what was going to happen.

MS. BLEAU: Did Mr. Travers offer his opinion regarding whether or not Mr. Madden should be terminated?

MR. BATTLE: I don't recall. I don't recall if he did or didn't.

MS. BLEAU: In your consideration of the

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letter from Mr. Brewton, three years prior, did you also consider the fact that Mr. Madden was promoted a few months after this letter from Mr. Brewton -- by Mr. Brewton?

MR. BATTLE: I am aware of that event. I wouldn't say that was a part of me understanding Mr. Brewton's letter, because the timing of those two issues are not the same.

MS. BLEAU: Right, but if you're going - my question is if you're considering Mr. Madden's employment for the last five years of the City to decide whether or not termination was an appropriate discipline for whatever the allegations were, would you have considered the fact that after these complaints were made and Mr. Brewton engaged in an investigation, a few months later he promoted Mr. Madden, thereby suggesting that there wasn't much validity to the complaints? Correct?

MR. BATTLE: I can't speak for that. I wasn't around at that time.

MS. BLEAU: Those two things don't compute to you? You think Mr. Brewton might have found that Mr. Madden engaged in this conduct, but still decided to promote him anyway?

MR. BATTLE: I've seen it happen before, so,

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I'm not going to guess on this one. I'm just not familiar enough with that series of events to give you an opinion.

MS. BLEAU: Do you know Mr. Brewton?

MR. BATTLE: Yes.

MS. BLEAU: Okay. In your comprehensive review of all personnel issues involving Mr. Madden over the last five years, did you consider at all Mr. Madden's efforts to have the floodplain regulations enforced properly, while being thwarted by the then-City Building Official, Chris Augustin?

MR. BATTLE: I'm not familiar with that series of events. I'm familiar with what you're talking about, but I'm not familiar with the details.

MS. BLEAU: You were at the City in what capacity during that 2012 to 2015 time period?

MR. BATTLE: Yeah, I wasn't in the Building at that time. I wasn't physically in that Building. I was over at the Community Redevelopment Offices, so, I'm familiar with the issue from afar, but I'm not familiar with all the goings-on with Mr. Augustin and Mr. Madden's conflict on that issue.

MS. BLEAU: You are familiar that the City

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was not enforcing the floodplain regulations and it led to an investigation by the Office of Inspector General?

MR. BATTLE: I am aware of that outcome, yes.

MS. BLEAU: And you are aware that the Office of Inspector General determined that Chris Augustin and Glenn Osbourne were guilty of misconduct?

MR. BATTLE: Are those the only people that they identified?

MS. BLEAU: Yes. I'm not here to testify, but yes.

MR. BATTLE: I just wanted to see if you were with me, that's all [laughing].

MS. BLEAU: Are you aware of anybody else?

MR. BATTLE: No, not particularly. I am aware, I'm aware of the issues of Mr. Osbourne, you said, and Mr. Augustin?

MS. BLEAU: Yes.

MR. BATTLE: I'm aware of that. I'm aware of their issues with the Inspector General.

MS. BLEAU: Are you aware that after the Inspector General's report, BORA brought proceedings against Mr. Madden for basically not overruling Mr. Augustin, arguing that Mr. Madden was the authority having jurisdiction as the chief

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building person in the City? Did you know that?

MR. BATTLE: No, the mechanics of it I am not as familiar with. I'm only familiar with the results as they were kind of given to me in summary fashion.

MS. BLEAU: We - I mean, Mr. Madden discussed it in his letter, and we discussed it when we met, correct?

MR. BATTLE: I don't recall. And forgive me, but I don't recall that part of our conversation.

MS. BLEAU: In your comprehensive review of all personnel issues involving Mr. Madden over the last five years, did you consider the fact that the City promoted Mr. Madden to the Interim Building Official position when Mr. Augustin left?

MR. BATTLE: That wouldn't - no. That was not a part of laying the plusses and the minuses. No, that was not.

MS. BLEAU: Are you aware that the Building Code Administrators and Inspectors Board prosecuted Chris Augustin and Glenn Osbourne for misconduct associated with signing Certificates of Occupancy, knowing the elevation requirements under the new floodplain regulations were not satisfied?

MR. BATTLE: No, I'm not aware of that. Did

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this occur after they left the employ of the City of Fort Lauderdale? Because, if so, I don't - I'm not familiar with any of their activities outside of when they were working for us. And to be honest with you, I don't even know Mr. Osbourne. I barely know Mr. Augustin.

MS. BLEAU: Okay, let's discuss the second part of this paragraph, if we can, here. Take this away. "The cumulative weight of the complaints and personnel rule violations are too serious for corrective actions to be considered." You agree with me that the City has a Progressive Discipline Policy, correct?

MR. BATTLE: Yes, I agree with that.

MS. BLEAU: And in this letter you state, "The City was presented with a complaint," - ah, here it is. So in this letter you state that "... there were similar complaints about Mr. Madden by more than a dozen employees within the Sustainable Development," correct?

MR. BATTLE: That's correct.

MS. BLEAU: Okay. And is this what you're referring to when you reference cumulative weight of the complaints? Is that what you mean -- more than a dozen?

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MR. BATTLE: Yeah, only the complaints that I was aware of; that's what I'm referring to. Yes.

MS. BLEAU: And that would be the "more than a dozen" that appeared in the Human Resources Investigation Report? Is that right?

MR. BATTLE: The ones internally and externally, yes.

MS. BLEAU: You mean in Mr. Goldstein's complaint.

MR. BATTLE: Correct.

MS. BLEAU: Okay. There were thirteen employees interviewed by Ms. Richard or somebody else from the Human Resources Department. Those are the employees that you're referring to?

MR. BATTLE: Yes.

MS. BLEAU: And one of those employees was Malik Mohammed. At the time of his interview, Mr. Mohammed had worked for the City for sixteen years, right?

MR. BATTLE: Correct. I think it's Mohammed Malik.

MS. BLEAU: Oh, Mohammed Malik. Yes, it is, sorry. And in all that time, according to Mr. Malik, John Madden "was always professional with him and never yelled at him." Do you recall that

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that was what he said in the report?

MR. BATTLE: I recall that he said that in the report, yes.

MS. BLEAU: And Mr. Malik reported one meeting in September 2016 where Mr. Madden was very upset and yelled. Are you aware of the circumstances of that meeting or why Mr. Madden was upset?

MR. BATTLE: I can't speak to that because I wasn't in that meeting. So, no.

MS. BLEAU: Would you hope that your Chief Building Inspector would be upset if he discovered a nearly complete building which had been constructed without a building permit?

MR. BATTLE: I would hope that he would find a way to bring it to our attention and try to get it rectified. I don't know if upset is the position to take, but I would hope that he would bring it to our attention and see if we can get it rectified.

MS. BLEAU: Would you - is it reasonable for the Chief Building Inspector to be upset that he found out that the building that was nearly complete, having been constructed without a permit, was, according to the owner, something that the

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Building Official had personal knowledge of and had approved?

MR. BATTLE: If there is a conflict of that magnitude, I think the Building Official and the Chief Building Inspector both need to resolve that issue, and we need to do everything we can to help them do that. So him being upset or being - I don't know what the emotion to describe - I could see why that person may feel as if something is happening that is on their watch. So I could understand that point of view.

MS. BLEAU: And you were actually copies on a number of emails from Mr. Madden leading up to your letter here, and leading up to the investigation, I should say, where he was copying you on various concerns that he did have, correct?

MR. BATTLE: I don't recall those emails. So if you say he copied me and I'm a part of the copy, yes. But I don't recall those emails specifically.

MS. BLEAU: So, you don't recall taking any action with respect to anything that you were copied on.

MR. BATTLE: I'm not going to say that either, but if you're asking me about emails from three and four years ago, I don't recall those

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specifically.

MS. BLEAU: Okay. Another of the thirteen employees reviewed by the Human Resources Department was Robert Gonzalez who said Mr. Madden never yelled at him. He said Mr. Madden never did anything negative to him. In fact, he volunteered that he witnessed Mr. Hernandez speak very strongly about Mr. Madden. Do you recall that?

MR. BATTLE: Do I recall that being in his investigative report? Yes.

MS. BLEAU: And Mr. Gonzalez said he had been told that Mr. Madden had been suspended three years ago, but that wasn't true, was it? You've reviewed his personnel files, you know that Mr. Madden -

MR. BATTLE: I don't recall a suspension. I recall him taking leave.

MS. BLEAU: After he had a heart attack?

MR. BATTLE: And now you're telling me something that I had only heard, but you're confirming it. But, I'd heard he had taken leave, if that was the case, then those times match up.

MS. BLEAU: He certainly wasn't suspended, right? In fact, Mr. Madden had no disciplinary history in his personnel file at all, correct?

MR. BATTLE: Other than the letter which Mr.

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Brewton references and stuff, I didn't see anything else, no.

MS. BLEAU: You're considering Mr. Brewton's letter a prior disciplinary action?

MR. BATTLE: I'm referring to it because it mentions an investigation on behavior. So you're asking me a question about what else did I see in the personnel file, and I'm telling you this is the only thing that I recall that mentions behavior. I don't recall anything else about behavior.

MS. BLEAU: Okay, well, I appreciate that information. But, actually what I asked you was, isn't it true, in fact, that there has been - that Mr. Madden has never been disciplined? There was no evidence of any prior disciplinary action at all regarding Mr. Madden.

MR. BATTLE: And I thought I did answer it. I said I didn't see anything in the personnel file to that effect.

MS. BLEAU: Yeah, but when I asked you this time, you said other than Mr. Brewton's letter, so I wanted to clarify that that's not prior discipline, right?

MR. BATTLE: Not a problem. No, it's not prior discipline, no.

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MS. BLEAU: All right, good. Another of the employees that was interviewed by Human Resources was Charlie Nickert. Do you recall that?

MR. BATTLE: Yes.

MS. BLEAU: Did Mr. Nickert report to Mr. Madden directly?

MR. BATTLE: No.

MS. BLEAU: Okay. Mr. Nickert said, "I'm in the hub, so I hear and see a lot." Do you remember him saying that?

MR. BATTLE: I read the report probably a day or so ago, so I do recall a little bit of the language in detail.

MS. BLEAU: And Mr. Nickert admitted he had never heard John Madden yelling at anyone. Do you recall that?

MR. BATTLE: Not specifically, but if you say he said it, he said it.

MS. BLEAU: Mr. Nickert said he heard from others about Mr. Madden confronting some people at some time in the past. That was pretty much his testimony, wasn't it?

MR. BATTLE: I don't specifically know.

MS. BLEAU: No, you don't recall? Mr. Nickert said he'd heard about an email that Mr.

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Madden sent and he was told it was an accusatory email about work being done illegally. Is that rumor reported by Mr. Nickert something you considered in your decision to terminate Mr. Madden?

MR. BATTLE: No, I don't recall that item specifically being a watershed moment on the decision, so, no. I don't believe that that played a larger role than it being listed in the investigation and it being a part of the information I shared.

MS. BLEAU: Was everything listed as part of the investigation something that you - was included in the decision to terminate Mr. Madden?

MR. BATTLE: So, the entirety of the investigation, yes. I can't speak to one item being a point of - that this is the point where we said this is the issue, he violated a personnel rule and this is the point that connects one dot to the other dot. I'm sure there are other parts of those interviews that speak to those personnel rule violations that we identified.

MS. BLEAU: Yeah, I mean, you would agree that an employee shouldn't be terminated just because one employee says he heard from another

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employee that the - Mr. Madden in this case - did something, right, without some verification or validation that that was in fact the case? Right?

MR. BATTLE: I would say that that would be the case. That we would not terminate for that type of hearsay information, no.

MS. BLEAU: Okay, good. Mr. Nickert complained, "I do the expired permit reports. John made a big deal about purging records, so I don't purge anything anymore." Is that Mr. Madden's concerns about records being purged, something you considered in your decision as a negative against Mr. Madden or a positive?

MR. BATTLE: So, I would say neither. But I would also wonder why that's a point to bring up. Mr. Madden doesn't supervise Mr. Nickert and didn't supervise Mr. Nickert. Whatever's purged or isn't purged is in accord - would have to be in accordance with State Statute, and I would hope that that would also be something that the Building Official agreed with, so I don't have an opinion either way on it. But you're asking me this with respect to Mr. Nickert's point about it being something that would be a grievance against Mr. Madden, I'm going to say no. Fundamentally, no.

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That's not something that would be considered because it's a part of his job. Mr. Madden's questioning it or has some questions about it, he's allowed to do that. Any employee is allowed to ask questions about something like that. But I'm not familiar with it specifically, but I would say yes, yeah he's allowed to ask that question. Anybody is.

MS. BLEAU: You wouldn't want Mr. Madden necessarily - it's not all about just staying in his lane and staying with blinders if, for example, Mr. Nickert or another employee that weren't licensed by BORA were changing entries in the computer regarding building issues -- that's not something that Mr. Madden should just overlook, right? You would expect him to ask questions about that?

MR. BATTLE: He could ask questions about it, but it needs to also be valid and true. So I can't speak to what anyone found, but I would hope they would go to that individual or go to another Chief or go to the Building Official and bring that up. But to your earlier question, is it something they should be doing? No. They should go to the proper person to get those types of things corrected.

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MS. BLEAU: And you don't recall being copied on any communications from Mr. Madden regarding -

MR. BATTLE: I probably was and I probably shot that over to the Building Official or somebody on his team to have them investigate it. But I get a lot of emails a day. I'm not going to sit here and try to remember that one, because, I'm going to be honest with you, I don't.

MS. BLEAU: Since it's pretty clear from the report that Mr. Nickert was not a fan of Mr. Madden but he also said he was in the hub, had a great opportunity to see and hear things and he never heard Mr. Madden yell, did you consider that in questioning some of the other statement by other employees?

MR. BATTLE: So, in reading the reports, some employees said he yelled, they witnessed it, some employees said they didn't witness it. I think all of that information is important to consider when this type of discipline is levied, so yeah, I considered all of that.

MS. BLEAU: Mr. Nickert - and he was certainly not the only one - talked about the conflict between his opinion that the Building Official is the authority having jurisdiction and

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the conflict between he and Mr. Madden regarding the interpretation of building code issues, right? That was sort of a recurring theme, insubordination, Madden questioning Mr. Travers, he shouldn't be questioning Mr. Travers or Mr. Hernandez. Do you recall that as a pretty common theme?

MR. BATTLE: I recall that as a theme, but I don't recall it as him questioning them. I recall it as him not going to them to seek resolution and going around them to seek his own resolution. That's what I recall occurring.

MS. BLEAU: Hm. Can you give me an example?

MR. BATTLE: I think Mr. Goldstein's letter speaks to Mr. Madden visiting his site and wanting to identify issues on his own, outside of speaking with the Building Official, to determine if a property or project has the right permits. I mean, typically, in a chain of command of any organization you would want to speak with your supervisors and managers to see if we can resolve this issue. I don't recall that being a part of that conversation.

MS. BLEAU: Two parts to that. One, are you saying it's not the Chief Building Inspector's

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responsibility to make sure that projects aren't being built without a permit?

MR. BATTLE: I didn't say that.

MS. BLEAU: Okay. Because that is his responsibility, right? That is his responsibility?

MR. BATTLE: Uh-huh [affirmative].

MS. BLEAU: Okay. And then, secondly, part of what Mr. Madden asked the City to do - both in his letter and in our meeting regarding the appeal - was for you to watch the video tape of the interaction with Mr. Madden and Mr. Goldstein. Did you ever do that?

MR. BATTLE: No, I did not.

CHAIR ADELSON: Ms. Bleau -

MS. BLEAU: Yes.

CHAIR ADELSON: I'm sorry to interrupt you in the middle of your conversation. I absolutely have to take an urgent phone call. I need five minutes [inaudible]. I have to get on this call.

MS. BLEAU: You want to stop here?

CHAIR ADELSON: No, you're under cross and it looks like we're going get done tonight with City's case.

MS. BLEAU: We can go beyond 6:00. I wasn't sure.

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CHAIR ADELSON: I'm fine with that, I just have to - I have to [inaudible].

MR. MILLER: I thought Mauricio said he only had until 6:00.

MS. BLEAU: Yeah, that what's I was thinking.

MR. BAQUERO: I can stay 'til longer.

MS. BLEAU: Okay.

CHAIR ADELSON: All right. Mr. Battle?

MS. BLEAU: He said he could stay.

CHAIR ADELSON: I literally need like three minutes.

MS. BLEAU: Okay.

CHAIR ADELSON: All right, so I'm going to put myself on mute and - whoever wants to take maybe a restroom break during the three minutes, go for it.

[Recess called from 5:49 to 5:54]

CHAIR ADELSON: Okay, sorry folks. But yeah, that was urgent. So, is everyone back? We have the court reporter, Kerry? No, Kerry's not back. We'll wait for Kerry to get back. I don't hear Jamie. Jamie, and there is Kerry. All right, so with everyone being present, you may proceed.

MS. BLEAU: Thank you. Mr. Battle, we were talking about Mr. Nickert. One of the other employees in that list of thirteen in the report was

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Scott Dry, correct?

MR. BATTLE: Yes, that's correct.

MS. BLEAU: And Mr. Dry told the HR investigator that he didn't really work with Mr. Madden, that he interacted with him rarely, and that he'd never had a run-in with Mr. Madden. Right?

MR. BATTLE: Okay. I can only agree with that. I don't specifically remember everything he said in it.

MS. BLEAU: One of the others was Mr. Oliva. He didn't report to Mr. Madden either, right?

MR. BATTLE: I think they were peers, so, no.

MS. BLEAU: Andre Cross, did he report to Mr. Madden?

MR. BATTLE: He did not.

MS. BLEAU: John Dougherty, he actually reported to Mr. Madden, correct?

MR. BATTLE: I believe so.

MS. BLEAU: Okay. Is that the first one we've come to out of this list of people who actually reported to Mr. Madden?

MR. BATTLE: I think Mr. Masula may be included in that, but he may have reported to Mr. Madden, but I don't think he did at this time.

MS. BLEAU: Okay. Was that not important to

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you, that most of these complaints were coming from people not under Mr. Madden's supervision?

MR. BATTLE: We considered that too, but that doesn't mean that there weren't issues there. But we did consider that some of the employees or the employees listed in the investigation that only one of them reports to Mr. Madden. And some of that consideration was also - at least as we understood - some of the employees who did report Mr. Madden did not want to say anything on the record, even if they were asked to be a part of any investigation.

MS. BLEAU: You didn't consider that, those off the record comments?

MR. BATTLE: No. No. I mean, I can't. I don't have anything to consider.

MS. BLEAU: Okay, that's sort of what I thought. I'm not sure why you brought it up, then. But - because you say in your letter that there's like over a dozen and we just talked about a whole bunch who didn't have anything negative whatsoever to say, out of the thirteen employees in the report. Were you aware that not everybody in the report had anything negative to say about Mr. Madden?

MR. BATTLE: I'm aware of what the report contained, not everybody had anything negative to

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say, but that didn't mean that they didn't have a thing negative to say. Some of them mentioned very specifically that they had no problems with Mr. Madden, but they were aware of situations where they did think that he was acting out of character or wasn't acting in good character in the position that he held. But there were some others in that report that mentioned specific incidents with Mr. Madden that they had issues with.

MS. BLEAU: Right. What -

MR. BATTLE: We took the totality of the report, not the individual parts of it.

MS. BLEAU: Sorry, I didn't mean to interrupt you. I'm just trying to cut the wheat from the chaff, I think is the phrase.

MR. BATTLE: [Unintelligible]

MS. BLEAU: So, I think the first one that we've got that had anything really negative, other than Mr. Nickert's rumors - which you said you wouldn't have considered - we have Mr. Oliva had negative things to say about Mr. Madden. Mr. Cross did. John Dougherty, one of the few who actually reported to Mr. Madden, you were aware that he had a negative review that had been approved by Mr. Madden and Mr. Travers at the time that he was giving this

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report? He actually complained about having it not be finalized and worried about it hanging over his head, right? You remember that?

MR. BATTLE: I do recall seeing that.

MS. BLEAU: Did that at all color how your view of Mr. Dougherty's comments regarding Mr. Madden?

MR. BATTLE: No. It didn't.

MS. BLEAU: You didn't question whether or not he was maybe biased because he had messed up on a number of projects and his review was going to reflect the poor performance that he had provided?

MR. BATTLE: So, I'm not aware of his poor performance on other projects, but I took the investigation interview for what he provided as first person testimony. So, I took what he said as being truthful based on what he offered in the investigation.

MS. BLEAU: Okay. So, other than the cumulative weight, which we've talked about, I think, which was much less than the thirteen mentioned in your report that had anything negative to say about Mr. Madden - you also mentioned "the violations were too serious for corrective actions to be considered." Specifically, out of the violations that you list -

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where is that? - which of these violations specifically were too serious to warrant corrective action?

MR. BATTLE: A, D, F1, F2, F3, H, and violation of the Bullying Policy.

MS. BLEAU: So, A: incompetency or general inefficiency in a performance of duties is considered by you to be something that cannot be corrected?

MR. BATTLE: If the employee wanted to correct it, they would have done so. So, that particular item speaks to Mr. Madden's stats as it relates to performing plan reviews. You know, our Chiefs are expected to be working Chiefs; they are managing a group, they are also participating in the process of approving building permits. In comparison to our other Building Chiefs, Mr. Madden was not doing that.

MS. BLEAU: So, in the annual review that Mr. Madden got four months before the investigation, Mr. Travers gave him a above-satisfactory. Correct?

MR. BATTLE: I don't have his employee evaluation, so, if that's what he has, I can only go by what you're telling me.

MS. BLEAU: I think I'm sharing it on the screen, are you not seeing it?

MR. BATTLE: No, because I'm trying to look at

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the document that you're referencing at the same time
- so, I have it up now.

MS. BLEAU: Sorry, you see this right?

MR. BATTLE: I do see it now.

MS. BLEAU: Okay. So four months before - you
see over here, above-satisfactory -- John Travers'
signature? Who else would have signed off on this?
Was Mr. Fajardo to have also approved this
evaluation?

MR. BATTLE: I probably had the okay to do it.
Based on what you see right there, it looks like Mr.
Travers and then I signed off on it afterwards.

MS. BLEAU: This is your signature here?

MR. BATTLE: Yep, that's AGB.

MS. BLEAU: Okay. And what about this? Whose
signature is that? Do you know?

MR. BATTLE: That looks like Averill Dorsett,
the former HR Director.

MS. BLEAU: Okay, so the HR Director, Mr.
Travers, and you all agreed that Mr. Madden's
performance was above-satisfactory four months before
being terminated for irreconcilable, unfixable, and
incorrectable [*sic*] failure to perform. Is that your
testimony?

MR. BATTLE: Only as it relates to the item

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that I mentioned.

MS. BLEAU: So, he didn't perform plans reviews? That wasn't an issue four months before this investigation, and now it's uncorrectable? Yup. Right?

MR. BATTLE: It's listed as one of the violations, so, yes.

MS. BLEAU: It's listed as one of the violations, but is it really your testimony that every single one of these was so serious that it could not be corrected and wasn't subject to the City's Progressive Discipline Policy?

MR. BATTLE: I don't know if I have a particular opinion on whether it's not correctable or not. I didn't do Mr. Madden's performance evaluation, specifically, but at the time same time these particular violations are listed - are provided in context of the initial memo that outlined all of the things that we found from the investigation and are listed of the violations Mr. Madden has of the personnel rules. I'm not giving it to you as an opinion. They're in direct response to what Mr. Madden didn't do.

MS. BLEAU: I'm not sure I understand that answer [inaudible, talking over one another].

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MR. BATTLE: Your question was -

MS. BLEAU: You may not understand my question, so let me -

MR. BATTLE: Your question was, can anything be walked back? Can he do them better? I'm going to say, this particular document is a moment in time. Anybody can get better. But at this point in time, Mr. Madden is a Chief of our Department, these are the things that he was found to be in violation of, and we don't feel like we want to go backwards. We issued a letter of termination. That was our decision. I think that's what you're asking me. And what I'm saying is that these are the things as listed.

MS. BLEAU: Okay. So, this was just a decision that you don't want to - you don't want to - you choose not to give Mr. Madden an opportunity to correct his actions? You wanted to terminate?

MR. BATTLE: So, you mentioned Progressive Discipline earlier, and depending on the level of the violations, we can go all the way from the bottom to the top. Mr. Madden is in a category in which, if we choose, if we decide that based on the violations that the employee is not going to be able to stay with the organization, then this is the decision that

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we made. I don't know whether Mr. Madden can go backwards and do something different. I'm telling you what's listed here is our decision.

MS. BLEAU: Madam Court Reporter, are you able to read the last part of what he said?

MS. OPPERLEE: No, I don't take verbatim notes.

MS. BLEAU: Okay. If I heard you right, you basically said, "Yeah, we have a Progressive Discipline Policy, but if we don't feel like allowing Mr. Madden to - to counsel him and allow Mr. Madden the opportunity to correct his behavior, we don't have to." In essence, is that what you were saying?

MR. BATTLE: We do have those management rights. Yes, I believe that to be the case.

MS. BLEAU: Okay. You don't have to follow the City's Progressive Discipline Policy.

MR. BATTLE: That's not what I said, Ms. Bleau, and you know that. I said -

MS. BLEAU: I really don't know that. What is it you're saying then?

MR. BATTLE: What I'm saying is, is that Mr. Madden's violations, if we believe them to be too egregious that Progressive Discipline is not going to work, we can make the decision to terminate.

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MS. BLEAU: Okay, well, now that's what your letter said. I didn't hear that that's what you said. And so then my follow-up question was, if that's true -

MR. BATTLE: Okay.

MS. BLEAU: -- then you decided they were so serious that they could not be - that they should not be, or could not be corrected. My question is, which of these violations that was on the screen - and I can put them back for you, if you would like -

MR. BATTLE: I have them up.

MS. BLEAU: Okay, which of these was so serious that it could not be subject to a Progressive Discipline opportunity to correct? All of them, which is what you said before, or do you want to change that.

MR. BATTLE: I don't know if I want to change it. I think all of them speak for themselves. So, yes, all of them.

MS. BLEAU: All of them? The Workplace Bullying Policy -- do you know how many of the thirteen employees interviewed in the HR investigation did not raise any complaint against Mr. Madden?

MR. BATTLE: No.

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MS. BLEAU: If the complaint of Workplace Bullying is against an employee's supervisor - if somebody actually reported to Mr. Madden, the employee is supposed to report concerns to Human Resources or the Office of Professional Standards, right? Is that what that - do you know that that's what the policy says? Somewhere here - do you know that?

MR. BATTLE: Yep. That's what it says, that's what we're supposed to do.

MS. BLEAU: Over the last two years of Mr. Madden's employment, how many complaints did Human Resources have about John Madden's bullying? Over the last two years meaning, prior to the investigation, two years back.

MR. BATTLE: I'm not aware of any.

MS. BLEAU: Over the last two years of Mr. Madden's employment, how many complaints to the Office of Professional Standards had there been about Mr. Madden's bullying?

MR. BATTLE: Off the top, I don't recall any. [pause] I'm sorry, were you waiting for me to respond?

MS. BLEAU: I was not, sorry. That's why I took that off. I'm just seeing if I have any other

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questions for you. Hang on a second, if you would.

Did I understand you to say in response to Mr. Miller's questioning, that Mr. Madden was told he could bring employees to the informational meeting?

MR. BATTLE: I said - I don't think I said that specifically, I think what I said was that according to our rules, you can bring people to an informational meeting. Sometimes people bring employees. That's what I was getting at. People can bring - people bring whoever they want to these meetings and should let us know who wants to come.

MS. BLEAU: They can't compel attendance, like at a Civil Service -

MR. BATTLE: It's not a trial. It's an informational meeting.

MS. BLEAU: Right, which means they can't compel, if they wanted to bring an employee and ask them questions, that's not the time, right?

MR. BATTLE: No. That's not what that meeting is about, no.

MS. BLEAU: Okay.

MR. BATTLE: So, so -- never mind, go ahead.

MS. BLEAU: And did I also understand you to say, in response to the questions from Mr. Miller, that the written response, the detailed written

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response submitted by Mr. Madden - first of all, you agree with me that Mr. Madden was given the opportunity to submit a written response if he wanted to instead of showing up live, right?

MR. BATTLE: Yes.

MS. BLEAU: Okay. Did you say that you didn't consider his written response at all?

MR. BATTLE: I think you asked if that was considered in our decision, and I said it was not a factor.

MS. BLEAU: Was not a factor?

MR. BATTLE: It did not change our mind, no.

MS. BLEAU: It didn't change your mind? You did consider it though, right?

MR. BATTLE: Yes, we read it. We read it. It wasn't tossed in the trashcan if that's what you're getting at.

MS. BLEAU: Okay. You just didn't give it any weight.

MR. BATTLE: That's right. It wasn't given any weight in our final decision.

MS. BLEAU: Okay. I don't think I have any other questions for you. Appreciate your time.

MR. MILLER: At the risk of my own peril -

CHAIR ADELSON: I'm sorry.

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MR. MILLER: -- I have a couple I have to ask you in follow-up. Early on in her examination, Ms. Bleau was asking you about if Mr. Madden had found problems, was it not his responsibility as the Chief Building Inspector to bring those problems to somebody's attention. Do you remember that line of questioning?

MR. BATTLE: Yeah, I do. I think.

MR. MILLER: Okay. Is it acceptable to bring up those problems by yelling and screaming at people?

MR. BATTLE: No, of course not. That's not acceptable.

MR. MILLER: Is that acceptable professional behavior in an office such as you guys are operating?

MR. BATTLE: No, it's not acceptable, and in many cases it can be morale killer, so it's definitely not something that we want to condone, sponsor, or endorse by allowing it to happen.

MR. MILLER: Okay. And if for some reason - I don't know why - Mr. Nickert became a real important part of this discussion this afternoon. There was a reference made that Mr. Nickert said in his statement that he never heard John Madden yelling. Do you remember Ms. Bleau asking you about that part of your statement?

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MR. BATTLE: I do.

MR. MILLER: Did she read the rest of it to you where he said, "He's careful about who he yells at"? That didn't get brought up, did it?

MR. BATTLE: No, it didn't.

MR. MILLER: So there's more to what Mr. Nickert said, perhaps, than what was just simply discussed in our conversation this afternoon, correct?

MR. BATTLE: That's an accurate statement, yes.

MR. MILLER: All right.

MS. BLEAU: You know you're leading, right? I've been letting you just because it's faster, but if you could -

MR. MILLER: I'm trying to get out of here tonight. As far as the number of people that were involved in this investigation, if you look at the investigative report, there's a summary in there, is there not, of kind of what people said? Not verbatim, word for word, but the report has summaries, does it not?

MR. BATTLE: It does.

MR. MILLER: Okay. So, prior to being asked today, had you ever gone through and counted up how

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many people actually said something negative about Mr. Madden?

MR. BATTLE: I probably did in the very beginning, but after reading it a number of times, I'll be honest, I didn't pay attention. You know, I didn't do the plusses and minuses.

MR. MILLER: When you made your recommendation in this case and the decision was made to recommend termination, did you all count up the number of people, plusses and against, and do it in the fashion?

MR. BATTLE: No. So, part of the talking about the weight of the issues and using that as a part of any sentence in the document, is really, it only takes one time for something of this magnitude or to feel like, you know, that employees are being treated - are being mistreated, or employees bringing it to your attention for you to want to take an action against it. The fact that there are more than one employee bringing this to our attention, we felt that the combined efforts of those complaints were enough for us to recommend termination.

MR. MILLER: And I think you touched upon this - under the City's Progressive Discipline Policy, does it say anywhere that because a person hasn't had

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a disciplinary issue in the last two years, they cannot be terminated?

MR. BATTLE: It doesn't. It doesn't say that.

MR. MILLER: People that have had no discipline ever in their history, if they're found to violate certain policies at certain levels, that can warrant discipline up through termination, can it not?

MR. BATTLE: That is correct?

MR. MILLER: So just because the City has a Progressive Policy doesn't mean the progressive part of it applies in every scenario, does it?

MR. BATTLE: That is right. It doesn't apply in every situation.

MR. MILLER: I don't have any other questions.

MS. BLEAU: I have a couple of follow-ups to all those leading questions. But they'll be short. Mr. Battle, regarding Mr. Nickert, his comment was - as pointed out by Mr. Miller - "He's careful about who he yells at." We talked about how Mr. Nickert reported being told by other people that Mr. Madden had yelled at this person or that person, and I think you agreed that that hearsay testimony would not be something that you would consider in your decision, right?

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MR. BATTLE: Him witnessing or not witnessing Mr. Madden yelling at somebody, we couldn't consider that. But even about, "he's careful about it," you know, that's something to think about and at least pay attention to the rest of his statement. I don't recall what it says, off the top of my head, but I'm sure as reading through it, you definitely want to make sure you understand what Mr. Nickert is trying to get across in his interview.

MS. BLEAU: You certainly do, but an employee's opinion that's based on rumor is not any more valuable information to consider than the employee's rumors, right?

MR. BATTLE: I don't know if that was a rumor or was his observation.

MS. BLEAU: Well if he's never heard Mr. Madden yell -

MR. BATTLE: Uh-huh [affirmative].

MS. BLEAU: -- well, you explain this to me because I'm not getting it. If Mr. Nickert has never heard Mr. Madden yell and he says, "I'm in the hub, and I'm in a position to hear what's going on in the Department and I've never heard John Madden yell," and then he says, "He's careful about who he yells at," what possible information - like, you know,

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actual facts - could Mr. Nickert know about what's in Mr. Madden's mind about who he's yelling at that Mr. Nickert has never heard him yell at anybody? Other than maybe rumors that he's heard about, that you've already acknowledged, are not valid things to consider? Right?

MR. BATTLE: If he didn't witness it, I agree we can't consider that. But Mr. Nickert has worked there, particularly in the location that he's describing as "the hub," for a number of years and he's observed a lot of things that happen in that area or throughout the Building Division. So, I think, in reading all of his statement, we're going to allow for some benefit of the doubt of some of the things he says and try to understand them as a part of the overall picture. But we can't consider stuff that he didn't witness. I think you're exactly right on that issue. But things that he is saying in there, I think Mr. Nickert has earned the right to have an opinion.

MS. BLEAU: And his opinion, based on hearsay, is okay to consider, but the hearsay itself is not. That's what I'm hearing you say.

MR. BATTLE: I did say that I think it's okay for him to have an opinion. That particular part of

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the statement I don't know if I could take much from it. I think he has probably other parts of that statement that we could take something from, but him saying that, "he's careful who he yells at," I don't know if that means - that doesn't mean much to me. It might have meaning to others, but it doesn't mean much to me.

MS. BLEAU: Thank you. It didn't mean much to me, either, but it seemed to mean something to Mr. Miller, so I just wanted to point it out. Because it doesn't seem to be facts based and I would assume you were trying to consider actual facts --

MR. MILLER: I'll tell you why it's important to me, if you like, but I don't think you do.

MS. BLEAU: We can have a discussion about it. I'm sure you can point it out in your closing argument, how's that? Why this employee's opinion is important. But as to you, Mr. Battle, it wasn't part of something you considered because it didn't mean much to you, right?

MR. BATTLE: That particular sentence. So Mr. Nickert, I believe, gave like about two pages of information, so to focus on these two sentences I think is a little bit unfair to me. Because I can't also produce what Mr. Nickert was thinking. But

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there also, as you said, thirteen, twelve other people that are making statements. So, things of that magnitude or him saying I observed things, or I didn't observe things, we're going to lean to the things that we can really place some credence on, as Mr. Nickert's observations. That particular part of it, where he's saying, "he's careful who he yells at," there are other staff members who he yelled at. So whether he specifically saw it or not, I can't - I don't base the other person's experience on what Mr. Nickert is saying, I guess is what I'm saying. There's enough evidence there.

MS. BLEAU: If I asked you in this hearing, can you tell me why Mr. Nickert did something, Mr. Miller would object saying, "objection, calls for speculation." He can't tell me what's in Mr. Nickert's mind and I guess it seems to me that Mr. Nickert's comment, "he's careful about who he yells at," is exactly that. Trying to testify about what was in Mr. Madden's mind. Wouldn't you agree with that?

MR. BATTLE: You asking me or Mr. Miller?

MS. BLEAU: I'm asking you.

MR. BATTLE: Oh. I'm sorry can you repeat the question again?

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MS. BLEAU: Would you agree that Mr. Nickert's comment, "he's careful about who he yells at," is Mr. Nickert trying to basically "testify," -- if we use that as testimony -- about what's in Mr. Madden's mind -- which would be speculation and objectionable in this proceeding? Right?

MR. BATTLE: I don't know what Mr. Nickert is saying. As I said before, he's worked there a very long time. I'm sure his observations are his own and I'll leave it at that. I don't know what he would be trying to say.

MS. BLEAU: So you don't think he's careful about who he yells at is a statement about Mr. Madden's -- what's in Mr. Madden's mind?

MR. BATTLE: I'm sorry, repeat that again?

MS. BLEAU: You don't think the statement, "he's careful about who he yells at," is testimony about what's in Mr. Madden's mind? I mean, I don't know what else it could be, but --

MR. BATTLE: I guess it could be a number of things. He's observing who he's heard that Mr. Madden has yelled at. He's making a statement about general observations that he sees around the building. I don't know. Could he be speaking to Mr. Madden's state of mind? He could be doing a number

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of things. I can't speak to the specifics of it.-

MS. BLEAU: So you think it might be about Mr. Madden's state of mind and it might not be. Is that right?

MR. BATTLE: It be either/or, yes, ma'am.

MS. BLEAU: Hm. Okay. We'll agree to disagree, and I won't have any other questions.

CHAIR ADELSON: All right, thank you everyone. Thank you for your time today. Board Members, are there any questions for Mr. Battle?

MR. BALDWIN: Do we get a chance in the future to question anybody or should I ask the questions now?

CHAIR ADELSON: I would ask it now. They may be witnesses on the other side, but to recall them for our questions, I think it would be nice if we could do it -

MR. BALDWIN: If you don't mind, I have just a few questions.

CHAIR ADELSON: All right.

MR. BALDWIN: And I know I sound like a broken record, but I asked early on, does this only apply to the employee's record of recently, not going back, all the way back to when they were in the collective bargaining agreement? Mr. Battle said today, or it

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was pointed out in the memo, that they considered information going back five years. I mean, I think they can do that, but as the Board, I think we're sort of confined to whatever's been done while Mr. Madden has been in the classified service. I don't know if the attorneys agree with that, but -

MR. MILLER: I don't know that there's been any evidence presented about anything before that, is there?

MR. BALDWIN: I know the memo said that they considered things going back five years, which -- [inaudible, talking over one another] -- You all had answered my question at a previous meeting that it was all current. Do you remember that?

MS. GIALLUCA: I remember, yes.

CHAIR ADELSON: Excuse me, stop. We're talking about other people, witnesses' testimony at this point, so I don't want to have that conversation.

MR. BALDWIN: Okay.

CHAIR ADELSON: If you want to question Mr. Battle about it, please feel free to ask him. But I don't want to discuss other testimony in front of Mr. Battle.

MR. BALDWIN: I also asked who recommended that Mr. Madden be terminated, and at the time, Mr.

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Travers said, "I didn't recommend that." And I said, "Well, who recommended it?"

CHAIR ADELSON: I'm sorry, Robert, again, you're talking about someone else's testimony. I just need you -

MR. BALDWIN: Okay.

CHAIR ADELSON: -- a question for Mr. Battle.

MR. BALDWIN: Let me ask Mr. Battle. Did you recommend -- other than what you stated sort of as an administrative policy -- were you the person who was the lead recommendation to terminate Mr. Madden?

MR. BATTLE: In terms of the process, yes, sir. I would be the lead person making the recommendation for termination.

MR. BALDWIN: So would consider that the recommendation came from you.

MR. BATTLE: As it's written under my opinion, so yes, it would have come from me.

MR. BALDWIN: Okay, and then in terms of Progressive Discipline, it's your opinion, Mr. Battle, that you don't really have to abide by that Policy for Progressive Discipline if you feel there is some reason to terminate the employee urgently?

MR. BATTLE: If we feel that the violations of the Personnel Rules are to a level that warrant

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termination, we can go to that level, yes, sir.

MR. BALDWIN: Okay, that's all I have. Thank you.

CHAIR ADELSON: Does anyone else have any other questions? All right. Thank you to everyone. Mr. Battle, you are dismissed.

I do need the Board Members to remain on. There needs to be a modification to the motion made earlier on the vacation issue. So I just need to ask you to remain. Mr. Battle is dismissed [inaudible]. This hearing with regard to the City's portion, the testimony, I need to confirm, is concluded, Mr. Miller?

MR. MILLER: That is correct. The City is not calling any other witnesses.

CHAIR ADELSON: Okay.

MS. BLEAU: Now, are we talking about a date for the next hearing now, or do you want to do that -

CHAIR ADELSON: No, why don't we do - either Kerry can circulate or we can do a date now. But I do need the Board Members to say on because we have to address that other issue that is time sensitive.

MR. TRAVERS: Since the issue is coming before the Board now as an amendment to the earlier work that you did, do you need me to stay on, or am I

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dismissed?

CHAIR ADELSON: You're dismissed, unless we need you for time, actually, for dates?

MR. TRAVERS: I can always get that with follow-up from Kerry.

CHAIR ADELSON: Do you know where we are on this schedule?

MR. TRAVERS: Repeat please.

CHAIR ADELSON: I was asking if Kerry knows your schedule, when is she available?

MS. ARTHURS: I can communicate via email to find out what his schedule is like.

CHAIR ADELSON: Okay, so why don't we do that. I'll just let everyone go. Kerry, can you communicate with us via email and we'll come up with a subsequent date --

MS. ARTHURS: Sure.

CHAIR ADELSON: -- for Mr. Madden's case.

MR. TRAVERS: Thank you.

CHAIR ADELSON: That way everyone can go except for the Board. Sorry.

MR. BALDWIN: Thank you.

MS. GIALLUCA: Thank you. Bye.

MS. BLEAU: Thanks for your time.

MS. GIALLUCA: Thank you.

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CHAIR ADELSON: Jerome, welcome back. So, I do want to put on the record that I received an email communication so that we were not interrupting the hearing that there is a modification that the City Manager's Office would like the vacation accrual max lifted retroactive to June 28th rather than August 23rd. I did ask that they send me their revised copy, so I will share it.

MS. GIALLUCA: Lori, I'm sorry, I have a hard time understanding you again.

CHAIR ADELSON: Let me go back on my headphone.

MS. GIALLUCA: Thank you.

CHAIR ADELSON: Of course. So this is important. So, I just want it to be clear for the record that I have received an email, so that we didn't interrupt the hearing, from Mr. Post that the City Manager's Office would like to push the date for the retroactive lifting of the accrual to June 28, 2020, rather than August 23rd. So, I have it up here on the screen and all we have to do is vote on the amendment for the date. It's going backwards a few days, about six weeks.

MS. GIALLUCA: Okay, and that's the same for all employees across the board, I would assume?

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MR. POST: Yes, that is correct.

MS. GIALLUCA: Okay.

CHAIR ADELSON: Okay, so I'm going to put it for a vote. Do we have a vote to revise our approval and approve the amendment that the date be changed from August 23, 2020, to June 28, 2020, in the vacation leave policy?

MS. OPFERLEE: Is there a motion?

MS. GIALLUCA: Yes.

MS. OPFERLEE: Is there a second?

MR. BALDWIN: Second.

CHAIR ADELSON: All right, it's done.

Approved.

MS. OPFERLEE: Is that unanimous?

MR. BALDWIN: Unanimous.

MS. GIALLUCA: Yes, yes.

MR. POST: Thank you all, once again.

CHAIR ADELSON: You're welcome. I know it's important [unintelligible].

MR. BALDWIN: Will they contact us about another meeting, is that right, email?

CHAIR ADELSON: Yes.

MS. TURIN: When they contact us about other meetings, do we know if there - how many days to wrap this one up?

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CHAIR ADELSON: How many witnesses do they have? Kerry, do you know?

MS. ARTHURS: I'm not sure. I think that was all for the City, City's outside counsel, that was all.

CHAIR ADELSON: How many witnesses does Mr. Madden have so we can try to figure out how many days they're going to need.

MS. ARTHURS: I'm not sure, to be honest. I have to find out.

MS. GIALLUCA: I recall from our first couple meetings when she was requesting subpoenas, all those papers, was it like eight or something like that?

CHAIR ADELSON: Yeah, it was a lot. It was a lot.

MS. GIALLUCA: It was a lot, yeah.

CHAIR ADELSON: All right, so why don't we let Kerry look up and see how many witnesses we have and how many days we think we need, and then circulate these.

MS. GIALLUCA: A couple dates.

MS. ARTHURS: Okay, I'll get that information.

MS. GIALLUCA: Thank you.

CHAIR ADELSON: All right, so I am calling the end of this meeting, absent any other discussion?

APPROVED

MR. BALDWIN: Yes. Stay safe, you guys stay safe.

CHAIR ADELSON: Everyone stay safe, thank you.

[Hearing was adjourned at 6:30 p.m. End of recording.]

APPROVED

CERTIFICATE

STATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

I hereby certify that I was authorized to and did transcribe the foregoing and the transcript is a true record of the proceedings to the best of my ability.

Due to the possibility of audio being difficult to comprehend and the undersigned not being personally in attendance during the recording of the audio, narrative unable to be transcribed is indicated as [inaudible] or [unintelligible].

I further certify that I am not of counsel, I am not related to or employed by any party to this matter, and I am not interested in the outcome thereof.

Dated this 24th day of August, 2020.



LISA G. TAYAR

STATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

SWORN TO and SUBSCRIBED before me the day and year above written by Lisa G. Tayar, who is personally known to me.



BRIGITTE CHIAPPETTA, Notary Public
State of Florida

Notarial Seal:

