

# APPROVED

## MINUTES

### CITY OF FORT LAUDERDALE CIVIL SERVICE BOARD MEETING

Friday, December 13, 2019 - 10:00 AM  
City Hall, 1st Floor Commission Chambers  
100 North Andrews Avenue  
Fort Lauderdale, Florida

#### Cumulative Attendance

01/01/2019 – 12/13/2019

<u>Board Member</u>	<u>Attendance</u>	<u>Present</u>	<u>Absent</u>
Lori Adelson, Chair	P	1	0
Shelley Gialluca	P	1	0
Robert Baldwin	P	1	0

#### Call to Order

Ms. Adelson called the meeting to order by at 9:47 AM.

#### Roll Call

#### Staff Present:

Tarlesha Smith, Esquire - Director of Human Resources and Board Secretary  
Kerry Arthurs - Administrative Supervisor and Board Clerk

#### Other Attendees:

Mimi Turin, Esquire – Board Counsel  
Patrick Zalman, Esquire – Outside Counsel for the City of Fort Lauderdale  
Ken Miller, Esquire – Outside Counsel for the City of Fort Lauderdale  
Denise J. Bleau, Esquire – Counsel for John Madden, Appellant  
John Madden – Appellant  
Janeen Richard – Employee Relations Manager  
John Travers – Building Official, Department of Sustainable Development

#### Attachment:

Transcript of Proceedings – Prototype Inc.

#### Meeting Adjournment:

the meeting was adjourned at 3:39 PM.

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CITY OF FORT LAUDERDALE  
CIVIL SERVICE BOARD HEARING

**TRANSCRIPT OF PROCEEDINGS**

**AGENDA ITEM V  
APPEAL OF TERMINATION OF EMPLOYMENT - JOHN MADDEN**

DATE HELD: FRIDAY, DECEMBER 13, 2019  
TIME: 9:47 a.m. - 3:39 p.m.  
PLACE: City Hall  
1<sup>st</sup> Floor Commission Chambers  
100 East Andrews Avenue  
Fort Lauderdale, FL 33301

**APPEARANCES BY****BOARD MEMBERS:**

LORI ADELSON  
SHELLEY GIALLUCA  
ROBERT BALDWIN

**STAFF:**

TARLESHA SMITH, Director of Human Resources  
and Board Secretary  
STEPHANIE ARTIS, Financial Administrator  
KERRY ARTHURS, Administrative Administrator

**COUNSEL:**

PATRICK W. ZALMAN, ESQUIRE  
KEN MILLER, ESQUIRE  
Haliczer, Pettis & Schwamm  
*Outside Counsel for the City of Fort Lauderdale*  
One Financial Plaza, Seventh Floor  
Fort Lauderdale, FL 33394-0015

DENISE J. BLEAU, ESQUIRE  
Ward, Damon, Posner, Pheterson and Bleau  
*Counsel for John Madden, Former Employee*  
4420 Beacon Circle  
West Palm Beach, FL 33407

MIMI TURIN, ESQUIRE  
Turin Center for Dispute Resolution  
*Board Counsel*  
11352 West State Road 84, Suite 58  
Davie, FL 33325-4007

## HEARING

DECEMBER 13, 2019

Thereupon [at 9:47 a.m.]:

CHAIR ADELSON: We're on. We're on the record. Good morning. This is the day two of the Civil Service Board Meeting and hearing appeal for John Madden. I'm going to request everyone to state their appearances for the Board first, and then we'll go to the parties' representatives.

I'm Lori Adelson. I am the Civil Service Board Chairperson.

MS. GIALLUCA: Shelley Gialluca, Board member.

MR. BALDWIN: Robert Baldwin, Board member.

MS. TURIN: Mimi Turin, Board Counsel.

MS. SMITH: Tarlesha Smith, Secretary to the Board.

CHAIR ADELSON: Terrific, and if I may have the appearances of the City.

MR. ZALMAN: Patrick Zalman and Kenneth Miller for the City of Fort Lauderdale. And to my far left is John Travers representing the City of Fort Lauderdale.

MS. BLEAU: Denise Bleau, attorney for John Madden, and John Madden.

CHAIR ADELSON: Okay, great. Any preliminary

1 matters, procedural matters before we begin?

2 MS. TURIN: I will just make the statement that  
3 we've received clarification about Mr. Baldwin late  
4 yesterday, which is that he is actually the City --  
5 the Mayor's appointment -- not the City Manager. That  
6 was just misspoken yesterday.

7 CHAIR ADELSON: All right, so we're going to  
8 proceed with swearing in the witness. She was sworn  
9 in yesterday. All right, we're going to proceed with  
10 the proceedings.

11 MS. TURIN: If she could just state her name for  
12 the record since we do have a different court  
13 reporter.

14 WITNESS: Janeen Richard. J-A-N-E-E-N R-I-C-H-  
15 A-R-D.

16 MS. BLEAU: Good morning, Ms. Richard.

17 MS. RICHARD: Good morning.

18 MS. BLEAU: You were here yesterday?

19 MS. RICHARD: Yes.

20 MS. BLEAU: Have you spoken with anyone about  
21 your testimony between yesterday and today?

22 MS. RICHARD: No.

23 MS. BLEAU: In your investigation that you  
24 conducted, did you learn that in September and October  
25 of 2016 Mr. Madden had been asking questions about

1 projects being constructed without building permits,  
2 without approved plans and without inspections, and he  
3 was questioning why the Building Official and  
4 Assistant Building Official were not doing anything  
5 about these things?

6 MS. RICHARD: I was not aware of that. No.

7 MS. BLEAU: You were not? Well, part of your  
8 findings against Mr. Madden were that he was  
9 insubordinate, correct?

10 MS. RICHARD: Yes.

11 MS. BLEAU: And that insubordination related to,  
12 did it not, his questions about projects being built  
13 without building permits and inspections?

14 MS. RICHARD: No. It related to directives that  
15 were given by the Building Official, Mr. John Travers,  
16 that Mr. Madden did not carry out or in some way  
17 hindered the instructions that were given by Mr.  
18 Travers.

19 MS. BLEAU: And those directions were related to  
20 the Permit by Affidavit, or Private Provider Program,  
21 correct?

22 MS. RICHARD: That is my understanding, yes.

23 MS. BLEAU: And specifically what direction did  
24 Mr. Madden not carry out?

25 MS. RICHARD: It's detailed in my report, so I

1 don't have an independent recollection, but there were  
2 several examples under the witness testimony of John  
3 Travers that he would instruct some folks under his  
4 command to do certain things, and Mr. Madden would --

5 MS. BLEAU: If I can just interrupt --

6 MS. RICHARD: Yes.

7 MS. BLEAU: -- I really need a specific example  
8 of --

9 MS. RICHARD: A specific example? Okay.

10 MS. BLEAU: -- a specific instruction and a  
11 specific countermand of that instruction.

12 MS. RICHARD: Okay. On page -- I can just read  
13 my report verbatim if that's sufficient?

14 MS. BLEAU: If it answers the question, that  
15 would be great.

16 MS. RICHARD: Okay. No worries. So, I think on  
17 page 3, I reference a time in May of 2016 when Mr.  
18 Travers sent an email to the Chiefs clarifying their  
19 roles as they relate to plans, reviews and  
20 inspections. Travers attached to the email a copy of  
21 the State Statute authorizing the use of private  
22 provider. Travers reminded his staff to not view this  
23 as an attempt to privatize, rather property owner's  
24 opportunity to choose an alternative, as long as State  
25 law requirements are satisfied.

1           In response, Madden instructed his inspectors  
2 not to sign anything if they did not review or audit  
3 the plans. He further instructed his staff to enter C  
4 into Community Plus -- I'm paraphrasing at this point  
5 -- with a note that the Private Provider performed the  
6 inspection by entering C into the system that had the  
7 effect of stopping subsequent inspection requests.  
8 That was one example and it --

9           MS. BLEAU: So, so wait a minute.

10          MS. RICHARD: Yes.

11          MS. BLEAU: So, there was a Statute that allows  
12 the Private Provider Program. Mr. Travers gave some  
13 instruction that you're not clear about in your report  
14 regarding inspections and plan review and then you  
15 have a statement about what Mr. Madden did. How did  
16 that countermand the instructions by Mr. Travers?

17          MS. RICHARD: As explained to me by Mr. Travers,  
18 is that -- and Mr. Madden then went behind that email  
19 and told his inspectors not to do what Mr. Travers had  
20 asked them to do. And to go a step further, by  
21 putting this letter C into the Community Plus, which  
22 had the effect of stopping the plans review process.  
23 That's how that was explained to me by John Travers.

24          MS. BLEAU: So if I understand it, what Mr.  
25 Travers told you, and that you accepted as true in

1 your investigation, was that John Madden was taking  
2 actions that stopped City of Fort Lauderdale officials  
3 from reviewing plans or conducting inspections and it  
4 was John Travers who wanted the City of Fort  
5 Lauderdale inspectors to conduct inspections and  
6 review plans. Is that true?

7 MS. RICHARD: I believe as the Building  
8 Official, that is what Mr. Travers wanted and that's  
9 what he instructed his staff to do.

10 MS. BLEAU: Okay. You would agree, would you  
11 not, that discussions regarding the requirements for  
12 reviewing plans and conducting inspections on building  
13 projects in the City of Fort Lauderdale are matters of  
14 public concern. Correct?

15 MS. RICHARD: Can you repeat the question. I'm  
16 sorry.

17 MS. BLEAU: Sure. You would agree that  
18 discussions of matters about whether or not plans  
19 should be reviewed and inspections should be conducted  
20 on projects constructed within the City of Fort  
21 Lauderdale are matters of public concern.

22 MS. RICHARD: What type of discussions?

23 MS. BLEAU: Whether or not permits should be  
24 issued and whether or not plans should be reviewed,  
25 and whether or not inspections should be conducted.

1 MS. RICHARD: I guess it would depend on what  
2 the nature of the discussions are, I guess. In  
3 general, I guess, how buildings are constructed and  
4 permitted and approved would be a matter of public  
5 concern.

6 MS. BLEAU: Okay. And do you know that the  
7 Florida Building Code 116.1.2 specifically states that  
8 structures commence without a permit shall be presumed  
9 and deemed unsafe?

10 MS. RICHARD: I'm going to take your word for  
11 that.

12 MS. BLEAU: Okay.

13 MS. RICHARD: I haven't read that Statute.

14 MS. BLEAU: Did you review Mr. Madden's response  
15 before reaching conclusions in your report, because  
16 you've talked about what Mr. Travers told you. Did  
17 you review Mr. Madden's response in that respect?

18 MS. RICHARD: Yes.

19 MS. BLEAU: Okay. And Mr. Madden explained to  
20 you that Mr. Travers was overruling his decisions  
21 regarding inspections in construction projects.  
22 Correct?

23 MS. RICHARD: That Mr. Travers was overruling  
24 Mr. Madden's decisions?

25 MS. BLEAU: That's right.

1 MS. RICHARD: That may have been in his  
2 response.

3 MS. BLEAU: Okay. And did you ascertain, before  
4 reaching conclusions in your investigation, whether or  
5 not those matters of public concern being raised by  
6 Mr. Madden were true?

7 MS. RICHARD: In what way? If you can show me a  
8 specific concern in his response, I can better answer  
9 your question as to whether or not I looked into it.

10 MS. BLEAU: Well let me ask you this. In the --  
11 true or false -- in the City's personnel policies that  
12 are attached to the materials in Mr. Madden's  
13 termination packet, if you will, in those personnel  
14 policies, regarding insubordination, there was a  
15 specific requirement, or exemption for insubordination  
16 in the event an employee is speaking about matters of  
17 public concern. Is that true?

18 MS. RICHARD: Let me take a look --

19 MS. BLEAU: Sure. I can find it for you.

20 MS. RICHARD: -- at the rules. If you can find  
21 it for me, that would be helpful. Thank you.

22 MS. BLEAU: Turn to Tab 21 and then the fifth  
23 page of that, at that tab. So you have the first two  
24 pages, I believe, are the letter -- or first one page  
25 is the letter -- and then pages from the personnel

1 policy. If you go to the fifth page of that document  
2 at the top, it's subparagraph 3 beginning with  
3 expression. You see that?

4 MS. RICHARD: Yes.

5 MS. BLEAU: Okay. Expression of a personal  
6 work-related grievance or bypassing official  
7 documented grievance procedures when such grievance is  
8 not a matter of public concern. Now, you found Mr.  
9 Madden guilty of violating this provision. Correct?

10 MS. RICHARD: I did. Yes.

11 MS. BLEAU: Did you, before you found him guilty  
12 of violating this provision, determine whether or not  
13 he was grieving about matters of public concern?

14 MS. RICHARD: I think when I sustained that  
15 particular rule violation, it had more to do with him  
16 expressing his frustration with Mr. Goldstein of Mr.  
17 Travers' ability to be a Building Official; things he  
18 said about Lee Feldman mishandling personnel matters;  
19 suggesting that Mr. Travers was on the take. I can't  
20 remember exactly what Mr. Goldstein said. So that was  
21 really more the facts to support the violation of that  
22 charge.

23 MS. BLEAU: Ms. Richard, yesterday you testified  
24 regarding violation number three. First of all, look  
25 at your report and confirm for me that violation

1 number three equates to that policy and procedure.

2 MS. RICHARD: Yes. That is stated on page one  
3 of my report.

4 MS. BLEAU: Okay. So yesterday you testified --

5 MR. ZALMAN: I'm sorry, it's actually not number  
6 three. I just want to be clear for the record.

7 UNKNOWN FEMALE: What was that?

8 MR. ZALMAN: If you're going in order from her  
9 report, I think you're talking about the fourth thing.

10 MS. RICHARD: I meant to say F-3.

11 MS. BLEAU: Oh, F-3.

12 MS. RICHARD: F-3. Yes.

13 MS. BLEAU: So it's number four of the  
14 violation.

15 MS. RICHARD: It's actually number five, but  
16 it's F-3 from the civil -- from the Personnel Rules.

17 MS. BLEAU: Right

18 MS. RICHARD: Yes.

19 MS. BLEAU: Okay. That's number five violation?

20 MS. RICHARD: Yes. Number five.

21 MS. BLEAU: Okay. And so yesterday you  
22 testified that your consideration regarding Mr. Madden  
23 violating that was threatening to have Mr. Goldstein's  
24 employees arrested. Is that right?

25 MS. RICHARD: That fact, I think, said fell

1 under number three, as listed in my report. F-1,  
2 which is personally offensive or abusive conduct  
3 toward a member of the general public when acting in  
4 an official capacity. So, I was referring to that  
5 rule number three listed in my report. Not F-3 in the  
6 Personnel Rules.

7 MS. BLEAU: Maybe my notes are wrong. I'm going  
8 to move on. I guess the record will show.

9 The number four, in the Personnel Rules -- we're  
10 back on tab 21 -- is abuse of any portion of this  
11 subsection rule by employee or official in order to  
12 control, suppress, or threaten free discourse or  
13 discussion by any other official or employee when such  
14 discourse or discussion is a matter of public concern  
15 and pertains to another employee, public official,  
16 member of the public or any written city or department  
17 policy, rule, or official action. Do you see that?  
18 Are you familiar with that provision?

19 MS. RICHARD: Is that subsection four?

20 MS. BLEAU: Yes, ma'am.

21 MS. RICHARD: Yes.

22 MS. BLEAU: Okay. So if Mr. Travers was  
23 pursuing an investigation about Mr. Madden in order to  
24 keep Mr. Madden from questioning certain actions taken  
25 that were a matter of public concern, would Mr.

1 Travers have violated that provision?

2 MS. RICHARD: I can't answer that question  
3 because we didn't charge Mr. Madden with subsection  
4 four and I don't -- not charging Mr. Travers with  
5 anything.

6 MS. BLEAU: Right.

7 MS. RICHARD: Yes.

8 MS. BLEAU: Neither of those were really my  
9 questions. I understand that. My question is,  
10 assuming if, in fact, Mr. Travers pursued an  
11 investigation against Mr. Madden, and took action  
12 against Mr. Madden to keep him from continuing to  
13 raise questions about projects being built without  
14 plans and without inspections at the direction of Mr.  
15 Travers, and Mr. Madden was raising concerns about  
16 these things, would that violate that provision?

17 MS. RICHARD: I can't answer that question.

18 MS. BLEAU: Why not?

19 MS. RICHARD: Because I don't have all, all the  
20 facts. One, it's a hypothetical question, and I don't  
21 have all the facts to, to support whether or not Mr.  
22 Travers is guilty of violating any of the Personnel  
23 Rules.

24 MS. BLEAU: Okay. That really wasn't my  
25 question, but again I guess I'll move on.

1           You state that Mr. Madden made slanderous  
2 statements, accusing Mr. Travers and Mr. Hernandez of  
3 committing illegal acts and taking bribes from one of  
4 the private providers. Correct?

5           MS. RICHARD: I testified that some of the  
6 witnesses, as reflected in my report, mentioned that  
7 he would accuse Mr. Travers and Mr. Hernandez of  
8 either being in cahoots or on the take from one of the  
9 private providers -- I want to say it's MT Causley,  
10 which I believe both Mr. Travers and Mr. Hernandez  
11 previously worked for that company.

12           MS. BLEAU: Okay. So you found Mr. Madden  
13 guilty of slandering -- making slanderous statements  
14 against Mr. Travers and Mr. Hernandez regarding that.  
15 Right?

16           MS. RICHARD: I found that that was evidence of  
17 bullying because slanderous statements is one of the  
18 examples given in the City's bullying policy. Yes.

19           MS. BLEAU: As an attorney, you understand that  
20 something to be slanderous has to be untrue. Is that  
21 right?

22           MS. RICHARD: As a legal definition of slander,  
23 that is -- I'm aware of that. Yes.

24           MS. BLEAU: Okay. If, in fact, Mr. Madden made  
25 those statements -- and I'm not saying he did -- and

1 if, in fact, those statements were true, they wouldn't  
2 be slanderous. Correct?

3 MS. RICHARD: I guess in -- maybe in a court of  
4 law, it wouldn't be slanderous.

5 MS. BLEAU: Would it still be slanderous here in  
6 the City of Fort Lauderdale?

7 MS. RICHARD: I'm not -- didn't charge Mr.  
8 Madden with slander. He was charged with violating  
9 the City's policy against workplace bullying, and,  
10 like I said, that was an example of bullying behavior.  
11 Whether or not it meets the legal definition of  
12 slander, that would depend.

13 MS. BLEAU: Can you show me in your report where  
14 you address this issue.

15 MS. RICHARD: Address which issue?

16 MS. BLEAU: Your statements regarding Mr. Madden  
17 slandering Mr. Travers and Mr. Hernandez.

18 MS. RICHARD: Let me see. I think in the  
19 testimony of Greg Hamilton, he says he mentioned he  
20 had been told that Madden has a grudge against him and  
21 has accused Hamilton of being on the take.

22 MS. BLEAU: That was accuse Mr. Hamilton of  
23 being on the take, not Mr. Travers or Mr. Hernandez,  
24 right?

25 MS. RICHARD: And --

1 MS. BLEAU: Is that right? Just for the record.  
2 If you read it.

3 MS. RICHARD: Let me look at his --

4 MS. BLEAU: Sure.

5 MS. RICHARD: -- report.

6 MS. BLEAU: "He has been told that Madden has" --

7 MS. RICHARD: Oh, yes. Right. That is correct.

8 MS. BLEAU: Okay. All right. So, we're still  
9 looking for where in your report you reference --

10 MS. RICHARD: "Then Scott Dry says Madden  
11 accused Hernandez and Travers of being in cahoots with  
12 one of the private providers," in which -- which is  
13 where -- same thing I said earlier, where Mr. Travers  
14 and Mr. Hernandez previously worked.

15 MS. BLEAU: So, cahoots is the same thing as  
16 taking a bribe?

17 MS. RICHARD: I said taking either -- I think I  
18 said either in cahoots or on the take. I don't -- did  
19 I use the word bribe? I not sure if I said bribery,  
20 but I think I did quote those statements from the  
21 witnesses.

22 MS. BLEAU: Well to me -- well, on the take had  
23 to do with Mr. Hamilton, not Mr. Travers.

24 MS. RICHARD: And then there may have been  
25 something in, maybe Mr. Goldstein's report, I mean

1 letter as well.

2 MS. BLEAU: Okay. Let's go ahead and look at  
3 that and see if there's --

4 MS. RICHARD: Okay.

5 MS. BLEAU: -- anything there.

6 MS. RICHARD: Take my glasses off to read.

7 MS. BLEAU: I do the same thing.

8 MS. RICHARD: I don't see that specific  
9 reference in his letter.

10 MS. BLEAU: Yeah, I don't think it's there.  
11 Let's look at pages 9 or 10 of your report. In the  
12 first paragraph of your conclusion --

13 MS. RICHARD: Yes.

14 MS. BLEAU: -- the last sentence, could you read  
15 that, please?

16 MS. RICHARD: The last sentence in the last  
17 paragraph?

18 MS. BLEAU: The last sentence of the first  
19 paragraph "In conclusion."

20 MS. RICHARD: Okay. "He made slanderous  
21 statements accusing Travers and Hernandez of  
22 committing illegal acts and of taking bribes from one  
23 of the private providers."

24 MS. BLEAU: So, I think all, all you've  
25 identified is a statement that he was in cahoots --

1 MS. RICHARD: Yes.

2 MS. BLEAU: So, you did use the term "taking  
3 bribes," right?

4 MS. RICHARD: Yes, I did.

5 MS. BLEAU: And can you identify for this  
6 committee any factual support for that statement?

7 MS. RICHARD: Other than what I testified to  
8 earlier and then the witness statements, that's the  
9 evidence supportive of that conclusion.

10 MS. BLEAU: -- with the private provider and the  
11 other statement had to do with Mr. Hamilton. So that  
12 couldn't support this statement, right? That couldn't  
13 support --

14 MS. RICHARD: That's correct.

15 MS. BLEAU: -- your conclusion. Okay. If, in  
16 fact, there was evidence to support your conclusion  
17 that Mr. Madden accused the building official of  
18 taking bribes from a private provider, would that be a  
19 matter of public concern?

20 MS. RICHARD: If there was evidence to support  
21 Mr. Travers was taking bribes from a private provider,  
22 would that be a matter of public concern? Is that the  
23 question?

24 MS. BLEAU: Nope. That really wasn't my  
25 question.

1 MS. RICHARD: I'm sorry.

2 MS. BLEAU: That was all right. My question  
3 was, if Mr. Madden, in good faith -- that wasn't my  
4 question, but I'm going to reword it for you. If Mr.  
5 Madden, in good faith, believed that the Building  
6 Official was taking bribes from the private provider  
7 and made a statement to that effect, would you believe  
8 that under the City's policies that is something that  
9 an employee should be punished for?

10 MS. RICHARD: I'm sorry. Can you repeat it  
11 again? An employee should --. I'm gonna let you  
12 repeat it again before I answer.

13 MS. BLEAU: Well, let me ask you this. If a  
14 City employee is concerned in good faith that  
15 something illegal is occurring within the City of Fort  
16 Lauderdale, would you encourage the employee to stay  
17 quiet, or risk being terminated if they express their  
18 concern? Is, is --

19 MS. RICHARD: No. Every employee has the right  
20 to raise concerns in whatever channels that are  
21 available to them. I would never encourage anybody  
22 that's aware of any concern to keep it to themselves  
23 and -- out of fear that they would be terminated.

24 MS. BLEAU: But you found, without factual  
25 support, in your report, you found that Mr. Madden

1 violated the City's Personnel Rules because he raised  
2 questions about a building official taking a bribe.

3 CHAIR ADELSON: Hold on for one second. It  
4 appears we might have some witnesses that are early  
5 and they might be in the room, so we're going to hold  
6 off on questioning for a moment.

7 MS. BLEAU: Can I just have a five-minute break?  
8 Let me talk to them?

9 CHAIR ADELSON: Sure.

10 MS. BLEAU: Thanks.

11 CHAIR ADELSON: There's no question -- there's  
12 no open question, right?

13 MS. BLEAU: There is not, I was --

14 CHAIR ADELSON: Okay.

15 [Break taken from Proceedings at 10:24 a.m.]

16 [Hearing resumed at 10:28 a.m.]

17 CHAIR ADELSON: We are back on.

18 MS. BLEAU: Thank you, Madam Chair.

19 Ms. Richard, before our break, I just -- we were  
20 talking about a subject. I just want to wrap up and  
21 then we can move onto something else. You said that  
22 in the City, employees would be encouraged to speak  
23 out of matters of public concern, such as if a  
24 building official were on the take or taking bribes,  
25 correct?

1 MS. RICHARD: Yes.

2 MS. BLEAU: How can you reconcile that with the  
3 fact that you found Mr. Madden guilty of inappropriate  
4 speech by making the same statements?

5 MS. RICHARD: Well, I guess it's in the manner  
6 in which it was said. If it's said to other employees  
7 that, you know -- and I did find another reference.  
8 Thank you for giving me the opportunity to look again.

9 MS. BLEAU: Sure.

10 MS. RICHARD: In Charles Nickert's testimony,  
11 there is a section where he said that Madden implied  
12 that Mr. Travers and Hernandez are getting kickbacks  
13 from M.T. Causley, so that's probably another  
14 reference that I came to my conclusion. But, I think  
15 in this case it was the manner in which it was done  
16 by, I guess, expressing it to employees within the  
17 Department.

18 MS. BLEAU: Do you know any details of how Mr.  
19 Madden went about implying the kickbacks that Mr.  
20 Nickert discussed?

21 MS. RICHARD: I do not. I just have Mr.  
22 Nickert's statement.

23 MS. BLEAU: You don't know the context?

24 MS. RICHARD: I do not.

25 MS. BLEAU: Do you know about a meeting that Mr.

1       Madden called where he played a recording and was very  
2       upset and had called in Anthony Fajardo discussing his  
3       concerns? Do you recall that?

4               MS. RICHARD: I did read that somewhere, yes.

5               MS. BLEAU: Okay. Do you know if it was in that  
6       context that any statements might have been made that  
7       were taken as implying kickbacks?

8               MS. RICHARD: That I don't know.

9               MS. BLEAU: Do you know, in your opinion, would  
10      it be inappropriate for Mr. Madden to contact Anthony  
11      Fajardo and call a meeting to discuss his concerns?

12              MS. RICHARD: Would that be inappropriate?

13              MS. BLEAU: Yes, ma'am.

14              MS. RICHARD: No, I don't think that would be  
15      inappropriate.

16              MS. BLEAU: Okay. And you don't know whether or  
17      not Mr. Madden ever made these comments outside of the  
18      context of that meeting? Whether he made them in or  
19      out of the context -- the meeting?

20              MS. RICHARD: I don't know.

21              MS. BLEAU: Okay. Did you document every person  
22      that was interviewed in this investigation?

23              MS. RICHARD: Document in terms of the written  
24      statements that were provided, those were documented,  
25      and my conversation with Mr. Travers is documented in

1 my report.

2 MS. BLEAU: And Mr. Oliva, you don't have a  
3 written report for him either? But --

4 MS. RICHARD: I don't think so.

5 MS. BLEAU: Right. But my question is, is there  
6 anybody that was interviewed that's not referenced in  
7 a section in your report?

8 MS. RICHARD: No. That was not interviewed by  
9 either me, Miss Rosa or Miss Brown.

10 MS. BLEAU: Do you know who interviewed Ralph  
11 Riles for an hour and a half, or a little over an hour  
12 -- about an hour and a half?

13 MS. RICHARD: I'm not even sure -- I don't know  
14 who that is.

15 MS. BLEAU: Hmm.

16 MS. RICHARD: What's the name? Ralph --

17 MS. BLEAU: Ralph Riles.

18 MS. RICHARD: Riles? That name does not sound  
19 familiar to me.

20 MS. BLEAU: He -- okay. As to the statements  
21 that were prepared by everybody except Mr. Travers and  
22 Mr. Oliva, did you or your coworkers, associates,  
23 provide the witnesses with an opportunity to review  
24 the statements and make sure that they were accurate?

25 MS. RICHARD: We did not. No.

1 MS. BLEAU: You stated in your report that  
2 "several coworkers recalled examples of shouting,  
3 verbal abuse, threats, slamming doors, clenched fists  
4 --

5 CHAIR ADELSON: Ms. Bleau.

6 MS. BLEAU: Yes.

7 CHAIR ADELSON: We have another witness that  
8 walked in.

9 MS. BLEAU: Thank you.

10 CHAIR ADELSON: You're welcome.

11 MS. BLEAU: Can we just let them know we're  
12 probably not going to call them today, based on the  
13 City's witnesses.

14 [Inaudible]

15 MS. BLEAU: Yes. Thank you.

16 CHAIR ADELSON: He's still in the room. Wait  
17 until they step out.

18 MS. BLEAU: Good to go? Okay.

19 Ms. Richard, did you make a statement in your  
20 report that several coworkers recalled examples of  
21 shouting, verbal abuse, threats, slamming of doors,  
22 clenched fists, and belligerent behavior?

23 MS. RICHARD: Yes.

24 MS. BLEAU: And Mr. Madden has worked for the  
25 City since 2007, correct?

1 MS. RICHARD: That sounds correct. Yes.

2 MS. BLEAU: How many of these recalled examples  
3 were in the year that Mr. Madden was terminated?

4 MS. RICHARD: I believe these examples were from  
5 2016. The -- yes.

6 MS. BLEAU: Okay.

7 MS. RICHARD: Whatever the time periods are  
8 reflected in, in the report.

9 MS. BLEAU: You were told that before Mr. Madden  
10 had his heart attack, he would get worked up, but that  
11 he'd been better since the attack, right? I think we  
12 talked about that yesterday.

13 MS. RICHARD: Yes.

14 MS. BLEAU: Can you describe for me one specific  
15 instance of Mr. Madden slamming doors in the year --  
16 slamming a door in the year he was terminated.

17 MS. RICHARD: If you give me a second.

18 MS. BLEAU: Sure.

19 MS. RICHARD: I think in Greg Hamilton's report  
20 he says Madden yells, walks around with clenched fists  
21 and slams doors.

22 MS. BLEAU: Do you know when he was referring  
23 to?

24 MS. RICHARD: I do not. No.

25 MS. BLEAU: Anybody else?

1 MS. RICHARD: Was that question just limited to  
2 slamming doors?

3 MS. BLEAU: Yes. Yes, it was.

4 MS. RICHARD: I think that's it. The only  
5 reference that we have --

6 MS. BLEAU: Okay.

7 MS. RICHARD: -- in the report.

8 MS. BLEAU: That's okay. [Speaking off the  
9 record to someone unknown]

10 CHAIR ADELSON: Just for the record, Mr. Madden  
11 has stepped out of the room and we are going to pause  
12 for a moment for him to return, unless his attorney  
13 wants to continue without him present.

14 MS. BLEAU: Oh, I thought she was going to be at  
15 the back of the room there.

16 CHAIR ADELSON: She is.

17 UNKNOWN FEMALE: He took that notepad.

18 CHAIR ADELSON: Okay. He's back in the room?

19 MS. BLEAU: Okay. All right, so you said that  
20 was the only incident and you don't know if that was  
21 in the year before Mr. Madden was terminated.

22 MS. RICHARD: That's correct.

23 MS. BLEAU: Next was verbal abuse. Can you tell  
24 me -- describe a specific incident of verbal abuse in  
25 the year before Mr. Madden was terminated.

1 MS. RICHARD: I believe that would be testimony  
2 from Valerie Arthur where he, I guess, pointed his  
3 finger, yelled at her, "You know the law. You should  
4 know better." When he spoke to Mr. Cross saying,  
5 "You're a big guy. I don't want to upset you, but I  
6 have something that could stop you." And just --

7 MS. BLEAU: Hang on just one second. As to  
8 Valerie Arthur --

9 MS. RICHARD: Yes.

10 MS. BLEAU: -- "You know the law. You should  
11 know better," is verbal abuse?

12 MS. RICHARD: I think the manner in which he was  
13 pointing his finger in her face and yelling and  
14 continuing to yell at her after she said, "I don't  
15 know the law." I would characterize that as being  
16 verbally abusive, Yes.

17 MS. BLEAU: What page is her statement on?

18 MS. RICHARD: Five of ten.

19 MS. BLEAU: I don't see any reference in here to  
20 a date. What are you basing your testimony on that  
21 this occurred during Mr. Madden's last year of  
22 employment.

23 MS. RICHARD: I believe she has any date in her  
24 written response -- in her email. Let me check that.

25 MR. ZALMAN: It's Tab 9.

1 MS. RICHARD: Tab 9.

2 MR. ZALMAN: It's Tab 9, the email.

3 MS. RICHARD: Yeah, I mean, there's no date in  
4 there, but I -- it doesn't have a date on it. But,  
5 her email is dated September of 2016, but the date of  
6 when that incident occurred is not in her written  
7 statement.

8 MS. BLEAU: And the September 2016 date is a  
9 pretty - the mid- to September to beginning of October  
10 -- that's a very popular date, right? Pretty much  
11 everybody that sent an email or submitted a statement  
12 against Mr. Madden did so within that two-week time  
13 period, didn't they? Mr. Oliva's was dated October 4<sup>th</sup>  
14 being --

15 MS. RICHARD: I believe that's when they, they  
16 reduced their incidents to writing. Yes.

17 MS. BLEAU: And do you recall one of the  
18 witnesses providing statement that George Oliva had  
19 called a meeting in September and invited ten or more  
20 people to basically ask anybody who ever had any  
21 grievances about Mr. Madden to provide -- come to the  
22 meeting and provide input about their complaints. Do  
23 you recall that?

24 MS. RICHARD: You mean Mr. Fajardo? I think you  
25 said George Oliva called the meeting?

1 MS. BLEAU: No, I -- No, I meant Mr. Oliva.

2 MS. RICHARD: Oh, I'm not aware of that.

3 MS. BLEAU: You -- okay.

4 MS. RICHARD: I know, I thought I read in Mr.  
5 Fajardo's memo that there was a meeting. I don't know  
6 who called it.

7 MS. BLEAU: So, as you sit here, you are not  
8 aware that George Oliva called a meeting that  
9 precipitated the September 15, October 4 written  
10 complaints about Mr. Madden?

11 MS. RICHARD: I'm aware that there was a  
12 meeting, but I was not -- I don't know how George  
13 Oliva played a part in that meeting.

14 MS. BLEAU: Okay. And again, just for the  
15 record, you don't know when that incident that Miss  
16 Arthur described occurred, and you don't know if it  
17 was in the last year of Mr. Madden's employment with  
18 the City?

19 MS. RICHARD: I don't have a specific date of  
20 when that interaction between Ms. Arthur and Mr.  
21 Madden was.

22 MS. BLEAU: And, I'm sorry. I interrupted you.  
23 You were moving on -- there was a second instance that  
24 you believed constituted verbal abuse and I asked --  
25 and I interrupted you. What was that one?

1 MS. RICHARD: I guess that would be testimony  
2 from Mr. Cross -- and yes.

3 MS. BLEAU: And specifically, what was the  
4 context of the verbal abuse?

5 MS. RICHARD: In my report I said, "Cross  
6 believes Madden is dangerous. He recalled a time when  
7 Mr. Madden said, 'You are a big guy and I don't want  
8 to upset you, but I have something that can stop  
9 you.'"

10 MS. BLEAU: There's nothing to indicate when  
11 that statement was allegedly made, correct?

12 MS. RICHARD: Not in this report. No.

13 MS. BLEAU: In any -- in Mr. Cross' written  
14 statement, and in any documentation in that entire  
15 notebook in front of you, is there anything to suggest  
16 when that statement occurred and to substantiate or  
17 prove that it occurred, if at all, within the last  
18 year of Mr. Madden's employment? Do you need me to  
19 ask that again?

20 MS. RICHARD: Yes.

21 MS. BLEAU: Is there anything in this notebook  
22 to suggest that that statement, if it was made, was  
23 made during Mr. Madden's last year of employment.

24 MS. RICHARD: And the last year of employment  
25 would be from 20--?

1 MS. BLEAU: Terminated in 2016 --

2 MS. RICHARD: Yes. So, you're going the year  
3 back to 2015?

4 MS. BLEAU: Yes. Correct.

5 MS. RICHARD: I would say for Mr. Cross, I would  
6 say yes because I know he was not in that position  
7 until January of 2016, to be -- because he was in a  
8 different position.

9 MS. BLEAU: Okay.

10 MS. RICHARD: So that would be my answer for  
11 that.

12 MS. BLEAU: [Speaking softly] This is your  
13 statement? Well, there's somebody else.

14 UNKNOWN MALE: [Inaudible]

15 MS. BLEAU: Yeah. Okay. Okay, let's move onto  
16 Charlie Nickert.

17 CHAIR ADELMAN: In the future, any statements  
18 that are made in this room, I ask that you please talk  
19 into the microphone if you haven't had it or --

20 MS. BLEAU: He's talking to me.

21 CHAIR ADELMAN: I understand that, but it's an  
22 open public forum, so if you want him to say it to you  
23 in, quietly in your ear, that's fine, but if it's out  
24 loud and forward --

25 MS. BLEAU: Yeah. Okay. Right.

1 CHAIR ADELMAN: Then we need to hear it.

2 MS. BLEAU: Certainly nothing wrong with him  
3 saying something privately to counsel.

4 CHAIR ADELMAN: But he was speaking this way, as  
5 if he was speaking to us, so we just need to hear what  
6 he's saying.

7 MS. BLEAU: I gotcha. All right. Could you  
8 turn to Charlie Nickert -- maybe the summary will --

9 MS. RICHARD: Yes. Seven of ten.

10 MS. BLEAU: Thank you very much. No, it doesn't  
11 look like it made it into your report. Would you look  
12 at Mr. Nickert's statement itself.

13 MS. RICHARD: Can you help me with the tab?

14 MS. BLEAU: Sure. Tab sixteen has all the  
15 statements and Mr. Nickert's is "D."

16 MS. RICHARD: Okay.

17 MS. BLEAU: This investigation, by the way,  
18 every statement had something to do with Joe DeMaio as  
19 well, or virtually all of the statements had to do Mr.  
20 DeMaio, as well. Do you know why?

21 MS. RICHARD: I do not know why.

22 MS. BLEAU: Okay. As to Mr. Madden -- in Mr.  
23 Nickert's statement there's actually sort of a  
24 separate section from Mr. Madden -- Can you read the  
25 first paragraph under the heading, "John Madden."

1 MS. RICHARD: Yes. "We had a meeting a couple  
2 of weeks ago. George Oliva called the meeting.  
3 Various employees came forward because they had  
4 concerns dealing with Joe DeMaio and John Madden."

5 MS. BLEAU: Okay. But you were not aware that  
6 George Oliva had called that meeting?

7 MS. RICHARD: The meeting that -- my  
8 understanding at the time was that Mr. Fajardo called  
9 the meeting. I'm referring to the meeting that's  
10 referenced in Mr. Fajardo's memo to my former boss.

11 MS. BLEAU: Okay. All right, let's move onto  
12 threats. You know we started this line of questioning  
13 and a summary by you of all of the specific examples  
14 of Mr. Madden's conduct that -- and the third one  
15 mentioned is threats. Who did Mr. Madden threaten in  
16 the last year of his employment and what did he say  
17 specifically?

18 MS. RICHARD: My recollection is that several  
19 people said he threatened to -- well, he threatened  
20 Mr. Goldstein's employees to have them arrested and  
21 their license suspended and, I think, there was some  
22 threats referenced by some of the other employees  
23 about threats against their licenses. I don't mean  
24 like physical threats.

25 MS. BLEAU: So, no physical threats, no threats

1 of harm in any way?

2 MS. RICHARD: No.

3 MS. BLEAU: And, and the threat of -- putting  
4 aside Mr. Goldstein for one minute -- the threat  
5 against another individual's license, do you know if  
6 that occurred in 2016?

7 MS. RICHARD: I don't know for sure. But, if I  
8 can just say this -- when we did the investigation, of  
9 course, I wasn't looking at anything prior to 2013 --  
10 or the issues that were occurred in 2013. Can I say  
11 now that I said we're only looking at stuff from 2015  
12 to 2016. That may not have been going through my mind  
13 at the time. I know I was not considering stuff from  
14 2013, so I can't say definitively if these things  
15 happened in that window, from 2015 to 2016, so I know  
16 I wasn't looking at anything from 2013.

17 MS. BLEAU: Sure, I understand that that's your  
18 testimony. But, you would agree with me, would you  
19 not, for a long term employee who is in the building  
20 industry, who is going to have conflict with people  
21 from time to time, that if you're determining whether  
22 or not this employee should be terminated, it would be  
23 fair, would it not, to only look at the employee's  
24 recent conduct and not things that have happened in  
25 the past?

1 MS. RICHARD: Normally, yes.

2 MS. BLEAU: Okay. So, the threats -- Mr.  
3 Goldstein's employees -- in the event that actually  
4 happened as Mr. Goldstein described, that would be  
5 improper, why? If they're violating the law and,  
6 according to Mr. Goldstein's letter, build a building  
7 that was, in his words, substantially complete or  
8 nearly complete, and there was no permit issued for  
9 that project and inspections have not been done on  
10 project, explain to me why it would be wrong for the  
11 Chief Building Officer of the County -- of the City to  
12 tell the employees that what they had done was in  
13 violation of the law and could subject them to losing  
14 their license. Why is that a bad thing?

15 MS. RICHARD: I think it's bad when you threaten  
16 to have people arrested and their license suspended in  
17 that manner. And that was what was represented by Mr.  
18 Goldstein to me. And I think one of the problems that  
19 I had when doing this investigation was that I didn't  
20 get any response from Mr. Madden on these issues. He  
21 never said, "I didn't threaten the employees. I didn't  
22 threaten this. This happened in 2015. This happened  
23 in 2014. These statements --." And if that had come  
24 out in his written response, then there would have  
25 been follow up questions and things of that nature.

1 But those issues weren't raised at the time that I was  
2 doing the investigation, so it sort of -- he didn't  
3 provide anything to me in his written response that  
4 sort of tipped the scale in his favor.

5 MS. BLEAU: Okay. Last category, I believe, is  
6 clenched fists or belligerent behavior. Do you have  
7 any examples -- because, with all due respect, in your  
8 summary that we started going down here, you said  
9 several employees provided -- recalled examples of  
10 this behavior.

11 MS. RICHARD: Yes.

12 MS. BLEAU: And so what I'm looking for is what  
13 specifically was told to you other than in some  
14 general reference regarding this behavior.

15 MS. RICHARD: I know someone mentioned the  
16 clenched fists. If you can give me a second, I think  
17 --

18 MS. BLEAU: I think you read it before.

19 MS. RICHARD: Okay.

20 MS. BLEAU: It was Greg Hamilton. Was it?

21 MS. RICHARD: Yes. So it wasn't -- I guess it  
22 was unartfully written on my part. It wasn't to say  
23 that several people said the same -- all of the  
24 things. That one person said he abused, threats,  
25 slammed, clenched fists. It was just sort of a

1 combination of several people said these things.

2 MS. BLEAU: Right.

3 MS. RICHARD: It wasn't meant to say that they  
4 all experienced the same thing.

5 MS. BLEAU: No, no, no. Yeah, I'm not saying  
6 that. I understand that. But you don't have any  
7 examples reported in this investigation of clenched  
8 fists or belligerent behavior. You have a comment by  
9 Mr. Hamilton --

10 MS. RICHARD: Uh-huh [affirmative].

11 MS. BLEAU: -- that Mr. Madden has engaged in  
12 this, just sort of in a general statement without any  
13 examples of, "We had this conversation. This was the  
14 context. He came in, he had clenched fists." You  
15 don't have any examples of Mr. Madden coming in, "He  
16 slammed the door. Here is the context. This was the  
17 date. This is what happened." None of that, right?  
18 You have no specific examples, do you?

19 MS. RICHARD: Just their statements. Yes.

20 MS. BLEAU: Which didn't provide any specific  
21 examples, did they?

22 MS. RICHARD: Well, it described his behavior.  
23 But, if you're saying it didn't go as far as saying it  
24 happened on this date and this context, that is  
25 correct. But they did testify that he slammed doors,

1 he clenched his fists.

2 MS. BLEAU: That it happened.

3 MS. RICHARD: That it happened.

4 MS. BLEAU: At some point.

5 MS. RICHARD: At some point.

6 MS. BLEAU: Okay. All right. Yesterday, in  
7 your testimony regarding comments that Mr. Madden  
8 allegedly made about Mr. Travers taking bribes that we  
9 talked about earlier, you said something to the effect  
10 of "this is a significant statement of a City employee  
11 and, therefore, violative of the policy," which is  
12 number three in your report. Right?

13 MS. RICHARD: I did say that was a significant  
14 accusation. Yes.

15 MS. BLEAU: Luis Hernandez in his statement told  
16 Ms. Rosa that he felt like John Madden may be off his  
17 medication.

18 MS. RICHARD: Uh-huh [affirmative].

19 MS. BLEAU: And Andre Cross said there were --  
20 he made comments about Mr. Madden coming in and  
21 spraying the building with bullets and needing to wear  
22 a helmet and a bullet proof vest, having a bullet  
23 proof vest. Would you say that those were statements  
24 that were significant statements made about a City  
25 employee?

1 MS. RICHARD: Okay. Yes. Those are strong  
2 words. Yes.

3 MS. BLEAU: Do you think that those are  
4 appropriate statements to make about another employee  
5 without any -- any history of violent behavior  
6 whatsoever?

7 MS. RICHARD: I think that's how they feel, so  
8 whether or not it's appropriate or not, I don't know  
9 if I can answer that, but that's the feeling that they  
10 had.

11 MS. BLEAU: Well, I mean, you're -- what's your  
12 position in HR?

13 MS. RICHARD: Employee Relations Manager.

14 MS. BLEAU: Okay, you're the Employee Relations  
15 Manager for the City of Fort Lauderdale and you don't  
16 have any concerns about employees making statements or  
17 a supervisor making a statement about an employee such  
18 as, "I thought he was off his medication." You're  
19 okay with those statements, but not Mr. Madden saying  
20 that he thinks the City Building Official may be in  
21 cahoots with a private provider?

22 MS. RICHARD: I'm not okay with those statements,  
23 but when we did the investigations, that's what they  
24 reported. And so I felt an obligation to include it in  
25 my report.

1 MS. BLEAU: Did you feel an obligation to do a  
2 separate investigation into those inappropriate  
3 statements?

4 MS. RICHARD: On my own? I don't initiate  
5 investigations on my own, and I can't sit here and  
6 tell you that that would be a rule violation as well.

7 MS. BLEAU: You don't know if it is? Is that  
8 what you're saying?

9 MS. RICHARD: It could be.

10 MS. BLEAU: Do you know who Jorge Maura is?

11 MS. RICHARD: Can you spell the last name.

12 MS. BLEAU: Detective Maura. M-A-U-R-A.

13 MS. RICHARD: I've heard the name. I don't know  
14 him personally. No.

15 MS. BLEAU: You know he's a police officer  
16 assigned to the Building Department for the City of  
17 Fort Lauderdale, correct?

18 MS. RICHARD: I do know that. Yes.

19 MS. BLEAU: Do you know whether or not any  
20 employee ever went to Mr. Mauro about having a  
21 legitimate concern about Mr. Madden or their safety?

22 MS. RICHARD: I do not know if that happened or  
23 not.

24 MS. BLEAU: You -- we've talked a little bit  
25 about Mr. Goldstein's complaint letter about Mr.

1       Madden. In all the time that Mr. Madden has been  
2       working for the City, enforcing the building code,  
3       making people do things they generally don't want to  
4       do, you only came across one complaint by one  
5       contractor, or owner. Is that right?

6               MS. RICHARD: Only one letter was provided to  
7       me, correct.

8               MS. BLEAU: Okay. And Mr. Goldstein was the  
9       property owner complaining about Mr. Madden. He was  
10      the one that owned the building that was nearly  
11      complete without a permit. Right?

12              MS. RICHARD: If that's what the letter says.

13              MS. BLEAU: Did you listen to the tape recording  
14      of Mr. Madden's interaction with Mr. Goldstein?

15              MS. RICHARD: I did not.

16              MS. BLEAU: Did you talk to Mr. Fajardo about  
17      whether or not he listened to the tape recording of  
18      Mr. Madden's interaction with Mr. Goldstein?

19              MS. RICHARD: I did not.

20              MS. BLEAU: Okay. Madam Chair, if it's okay,  
21      I'm going to get up and play that recording at this  
22      time?

23              CHAIR ADELSON: Yes.

24              MS. BLEAU: Okay.

25              CHAIR ADELSON: Just for the record because you

1 did see us talking. This is more -- it's my first  
2 time as Chair, so making sure I have all the  
3 procedural requirements in place.

4 MS. BLEAU: Okay.

5 MR. ZALMAN: We're going to object to the  
6 playing of the video. It was never provided to  
7 anybody in the course of the investigation of Mr.  
8 Madden's behavior and I believe it's outside the scope  
9 of the investigation that resulted in his termination,  
10 and we're here on appeal. This isn't to present new  
11 material. It certainly wasn't attached to his  
12 statement.

13 MS. BLEAU: The City has to show that they had  
14 [inaudible]

15 MS. BLEAU: The City has to show that they had  
16 good cause to terminate Mr. Madden and they accepted  
17 the word of Mr. Goldstein and evidence to show that  
18 Mr. Goldstein's statements were incorrect, thus  
19 undermining the good cause that was alleged to exist  
20 is certainly relevant.

21 MR. ZALMAN: Just to clarify, Mr. Madden was  
22 invited to an informational meeting to present his  
23 entire case after reviewing all materials the City  
24 gathered and through advice, we believe, through  
25 advice of counsel, he provided a written statement.

1 It did not include any -- other than emails -- it did  
2 not include this video. So, it was not considered,  
3 and Mr. Madden had the opportunity for the City to  
4 consider the video and he didn't.

5 CHAIR ADELMAN: So, Ms. Bleau, if I may, is it  
6 true that he was offered an opportunity during the  
7 course of this investigation to present his evidence  
8 and the reasons to address the investigation and the  
9 complaint?

10 MS. BLEAU: He was. Under the City's  
11 procedures, he can either provide a written response  
12 or me, and he provided a written response. Then, Ms.  
13 Richard reached her conclusion. Then we had a  
14 separate face-to-face meeting with Al Battle in the  
15 City, as part of that process, and Mr. Battle just sat  
16 there and let us say whatever we wanted to say and  
17 then confirmed it. But the proceeding here is not  
18 whether or not we provided enough information to the  
19 City to show that their allegations were unfounded.  
20 The question here, the burden is on them to show that  
21 they had just cause to terminate Mr. Madden. And if  
22 they just accepted an owner -- a letter from an owner  
23 about a building that Mr. Madden was specifically  
24 complaining about and use that to support, I believe  
25 in her testimony, at least two of the six charges

1 against Mr. Madden. They have to be able to support  
2 that and we're here today to show that that was not  
3 supported.

4 MR. ZALMAN: Mr. Madden does reference the  
5 Goldstein letter in his statement and, again, had a  
6 chance at another meeting to present all evidence that  
7 his termination was founded. It was approved Mr.  
8 Battle, approved by the City Manager, where this is an  
9 appeal of that termination. So, the evidence under  
10 your consideration is what was used to render that  
11 termination, and this is outside the scope.

12 CHAIR ADELMAN: Mimi?

13 MIMI TURIN: Through the Chair, a couple of  
14 issues for the Board to consider. Number one, we are  
15 not under the formal rules of evidence. Number two,  
16 evidence that is submitted that is objected to, the  
17 Board gives it whatever weight it feels it is  
18 appropriate to. That being said, it may be helpful  
19 for the Board to find out when this tape was made,  
20 when it became available to the claimant, and was it  
21 even in existence, in his possession, at the time that  
22 he even filed this response. We don't know that at  
23 this point, so --

24 CHAIR ADELMAN: Those were going to be my follow  
25 up questions, so the two lawyers --

1           MR. ZALMAN: I would suggest that the proper  
2 time to play the video would be after the proper  
3 predicate and foundation is laid down, and that seems  
4 like it would be through the testimony of Mr. Madden  
5 himself.

6           MS. TURIN: Who made the -- do we know who made  
7 the --

8           MS. BLEAU: Yes. Mr. Madden made the video on  
9 the City -- using the City phone. It was on the City  
10 computer at the City, and it was played for Mr.  
11 Fajardo in a meeting prior to this termination.

12          MR. ZALMAN: I don't see how Ms. Richard could  
13 comment about the video.

14          CHAIR ADELMAN: Right, so I'm going to sustain  
15 the objection and ask that we will reconsider the  
16 video at the time that Mr. Madden testifies --

17          MS. BLEAU: Sure.

18          CHAIR ADELMAN: -- as it is his - obviously,  
19 that way he can lay the predicate for the  
20 admissibility of this in the event that it is  
21 appropriate in any regard.

22          MS. BLEAU: That's fine. Just, just for the  
23 record, I wasn't asking her to, you know, to introduce  
24 the video or to comment on its authenticity, or  
25 anything else. Just that if that was the interaction,

1 would that substantiate her findings in her report.  
2 And I don't know who else can answer that question but  
3 her.

4 MS. TURIN: Just for the -- what the Board may  
5 want to take into consideration is whether or not the  
6 witness did even have knowledge of this tape when she  
7 made her decision, as opposed to asking her after-the-  
8 fact would it change her decision. I'm just pointing  
9 that out to the Board.

10 CHAIR ADELMAN: So maybe at this point -- and I  
11 don't want to, of course --

12 MS. BLEAU: That's fine.

13 CHAIR ADELMAN: -- tell you what questions to  
14 ask, but it might be appropriate to figure out, find  
15 out whether or not she even knew about the existence  
16 of the video. And then at the time that Mr. Madden  
17 testifies, if the appropriate predicate is laid, we  
18 could be -- introduce it then.

19 MS. BLEAU: Were you going to say something  
20 else?

21 MS. TURIN: I don't have anything else.

22 MS. BLEAU: Oh, okay. Sorry.

23 Ms. Richard, did Mr. Fajardo tell you about this  
24 video that Mr. Madden played for him regarding his  
25 interaction with Mr. Goldstein?

1 MS. RICHARD: I don't recall him telling me  
2 about that.

3 MS. BLEAU: And it's your recollection that Mr.  
4 Madden did not deny the interaction with Mr.  
5 Goldstein?

6 MS. RICHARD: Well, my recollection is, I guess,  
7 what I read in his response. And I think it only  
8 devoted maybe two sentences to the Goldstein letter.  
9 And it didn't mention a video. It didn't mention a  
10 recording. It just says, "I didn't threaten Mr.  
11 Goldstein."

12 So, in response to Mr. Goldstein's three, two-  
13 page letter, I think Mr. Madden's response was maybe  
14 one or two lines out of his written response. And, so  
15 had I been aware of it, I certainly would have  
16 considered it.

17 MS. BLEAU: Okay. We'll move on for now. Okay.  
18 Thank you.

19 Let's talk about Mr. Richard Mercedes'  
20 interaction that was described by Luis Hernandez. Did  
21 you ever speak to Mr. Mercedes, who would be one of  
22 the other witnesses to the alleged interaction?

23 MS. RICHARD: I did not.

24 MS. BLEAU: Why not?

25 MS. RICHARD: Because I felt that there was

1 sufficient corroboration from one) the testimony of  
2 Mr. Hernandez, and there were two other witnesses who  
3 witnessed Mr. Madden's behavior towards Mr. Hernandez.

4 MS. BLEAU: Who were those witnesses?

5 MS. RICHARD: George Oliva. And Mr. Oliva may  
6 have referenced another employee that was present at  
7 the time. Oh, yeah, he received an email from an  
8 inspector who was also present at the meeting, stating  
9 that Mr. Madden confronted him. So I --

10 MS. BLEAU: I'm sorry. Where are you looking?

11 MS. RICHARD: I'm under George Oliva's summary  
12 and he was present during the confrontation between  
13 Mr. Madden and Mr. Hernandez. And I think Mr. Oliva  
14 also referenced that there was another inspector who  
15 was also present.

16 MS. BLEAU: Can you read that sentence  
17 specifically, that you're talking about?

18 MS. RICHARD: Yes. "Oliva received an email  
19 from an inspector who was also present at the meeting  
20 stating that Madden confronted him and his office  
21 demanding to know what he said to the property owner.  
22 The employee described Madden as disrespectful and  
23 abusive.

24 MS. BLEAU: Do you know who that employee was?

25 MS. RICHARD: I think there was an email

1 attached to -- the email was attached to Mr. Oliva's  
2 statement, if you can give me one second.

3 MS. BLEAU: Let's look at that.

4 MS. RICHARD: I recall seeing an email. It's  
5 just not jumping out at me right this second.

6 MS. BLEAU: Well, there's no statement from Mr.  
7 Oliva, so we can't look at his statement.

8 MS. RICHARD: Yeah, I think George Oliva is  
9 under Tab 7? I think that's his written statement,  
10 it's signed by him.

11 MS. BLEAU: Okay. Is there anything attached to  
12 that statement?

13 MS. RICHARD: I don't see it, but I have a  
14 recollection of finding some support for that  
15 statement that there was another inspector who was  
16 aware of the incident in the lobby.

17 MS. BLEAU: According to Mr. Oliva, there was an  
18 email. Did you see the email?

19 MS. RICHARD: I want to say that I did. I can't  
20 put my finger on it right now, but I recall reading an  
21 email.

22 MS. BLEAU: Yesterday you said that Mr. Madden  
23 had made a request for all documents related to his  
24 termination. Correct? Public records request?

25 MS. RICHARD: Yes.

1 MS. BLEAU: Did you provide a copy of that email  
2 to Mr. Madden?

3 MS. RICHARD: If I had it, I certainly did  
4 provide it. I don't know why that's -- it's in my  
5 mind that I saw something from somebody.

6 MS. BLEAU: Well, as Patrick will confirm,  
7 everything that's in this notebook is everything that  
8 we received from the City pursuant to our public  
9 records request.

10 MS. RICHARD: That's correct. Yes. That is  
11 correct.

12 MS. BLEAU: So, the email's not in here, Mr.  
13 Madden wasn't provided it. Right?

14 MS. RICHARD: If it's not in here, yes.

15 MS. BLEAU: Okay. And do you recall the name of  
16 the employee who allegedly sent this email?

17 MS. RICHARD: I do not.

18 MS. BLEAU: Did you consider as -- in your  
19 conclusions, did you consider this email that Mr.  
20 Oliva mentioned but didn't provide?

21 MS. RICHARD: I probably just relied more on  
22 primarily Mr. Hernandez' statement himself since he  
23 was the -- on the receiving end of the behavior.

24 MS. BLEAU: And Mr. Hernandez was the Assistant  
25 Building Official who worked at -- with the private

1 provider before coming to the City. Correct?

2 MS. RICHARD: That's my understanding. I think  
3 my mic died.

4 MS. BLEAU: I think it did.

5 CHAIR ADELSON: They're battery operated, those  
6 mics, right? So I guess the battery must have died.

7 [Technical audio difficulties resolved.]

8 MS. RICHARD: I'm ready.

9 MS. BLEAU: My question was, Mr. Hernandez was  
10 another employee who worked for the private provider,  
11 M.T. Causley, prior to his employment with the City.  
12 Correct?

13 MS. RICHARD: That's my understanding. Yes.

14 MS. BLEAU: And your understanding was that Mr.  
15 Madden allegedly made statements about something going  
16 on or being in cahoots. It was with respect to both  
17 the Building Official, John Travers, and the Assistant  
18 Building Official, Luis Hernandez. Correct?

19 MS. RICHARD: Correct.

20 MS. BLEAU: And so, other than you have Mr.  
21 Oliva who called the meeting, according to Mr. Nickert  
22 -- and do you know who he reported to?

23 MS. RICHARD: Mr. Oliva?

24 MS. BLEAU: Yes.

25 MS. RICHARD: I don't know that.

1 MS. BLEAU: You don't know that he reported  
2 directly Mr. Travers?

3 MS. RICHARD: I think that sounds about right.  
4 I don't know for sure.

5 MS. BLEAU: Okay. Fair enough.

6 MS. RICHARD: I think if he's the Chief, he  
7 would report directly to Mr. Travers as well.

8 CHAIR ADELMAN: Is your mic working?

9 MS. RICHARD: I was saying that if Mr. Oliva --  
10 I believe he's the Chief as well, so he would report  
11 directly to Mr. Travers.

12 MS. BLEAU: Okay. Let's talk about the number  
13 of building permits. Who suggested that you look at  
14 the number of building permits reviewed by Mr. Madden?

15 MS. RICHARD: That information was provided to  
16 me by Mr. Travers.

17 MS. BLEAU: And would -- is that what supports  
18 your finding of incompetency, which I think is number  
19 one in your charges?

20 MS. RICHARD: More inefficiency.

21 MS. BLEAU: Incompetency or general  
22 inefficiency.

23 MS. RICHARD: Yeah, it's combined. Yes.

24 MS. BLEAU: So, the inefficiency charges solely  
25 with respect to the permits, right?

1 MS. RICHARD: The number of plans reviews --

2 MS. BLEAU: Yeah, that's one.

3 MS. RICHARD: -- and also the direction to the  
4 staff to enter -- I forget what letter it is in the  
5 Community Plus to sort of stop the flow of plans  
6 reviews being conducted. It's one of those two.

7 MS. BLEAU: Okay. Those two.

8 MS. RICHARD: Yes.

9 MS. BLEAU: As to the number of plans reviewed,  
10 do you know how long it takes to review -- I saw in  
11 your report, you compared how many plans Mr. Madden  
12 reviewed versus the electrical chief versus the  
13 plumbing chief, etc., flood. Do you know how many --  
14 do you know how long it takes to review plans from a  
15 structural building perspective, as opposed to  
16 reviewing plans for electrical purposes, or flood?

17 MS. RICHARD: I don't know that personally. No.

18 MS. BLEAU: Okay. And did you happen to review  
19 the number of permits reviewed by Mr. Madden in the  
20 years prior to 2016 to help you ascertain whether or  
21 not there was an actual issue there?

22 MS. RICHARD: I did not.

23 MS. BLEAU: So if the number of plans reviewed  
24 by the structural chief was the same in the years  
25 prior when, and, in fact, even in 2016, Mr. Madden

1 received above average remarks from John Travers in  
2 June of 2016. Right?

3 MS. RICHARD: That's correct.

4 MS. BLEAU: So would it seem to you that before  
5 these complaints were raised by Mr. Madden in  
6 September or October, 2016, that Mr. Travers thought  
7 the number of plans reviewed by Mr. Madden was an  
8 issue?

9 MS. RICHARD: If that information was provided  
10 to me, it could have been a different outcome. But, I  
11 guess I keep going back to the fact that these types  
12 of questions and this type of evidence was not  
13 presented to me by Mr. Madden at the time and, you  
14 know, if it had been, then that would have been a  
15 consideration in my findings. But at no point did he  
16 say this is the same number of plans reviews I've been  
17 doing my entire career. But if I had that information  
18 available to me then, two and a half years ago, it may  
19 have made a difference.

20 MS. BLEAU: And I don't mean to beat you up on  
21 this, but, you do know that Mr. Travers gave Mr.  
22 Madden an above average review the same year that you  
23 found Mr. Madden guilty of inefficiency in the  
24 performance of his duties? Right?

25 MS. RICHARD: I believe the -- yes, the

1 evaluation period was from maybe 2015 to 2016?  
2 Typically, it goes a year or beyond. Yes. I always  
3 look -- whenever I'm doing an investigation, I always  
4 look at the employee's evaluations. So, yes, I was  
5 aware of that.

6 MS. BLEAU: And the time period that you ran  
7 that report regarding the number of permits reviewed,  
8 what was that time period?

9 MS. RICHARD: I didn't run the report. The  
10 report was provided to me. I have no idea how a  
11 Community Plus works in general and I don't know for  
12 sure what the date was. But when Mr. Travers  
13 mentioned to me, as part of his testimony or witness  
14 statement, that Mr. Madden was not producing at the  
15 same level as the other disciplines, I asked him,  
16 "What proof do you have?" and he provided me the  
17 Community Plus print-out. Had to explain to me what  
18 it meant because, again, I'm not familiar with that  
19 document or how it works.

20 MS. BLEAU: Sure. And so you don't know what  
21 time period that covered?

22 MS. RICHARD: I don't, to be very honest with  
23 you.

24 MS. BLEAU: We'll ask Mr. Travers.  
25 At the time of your investigation, were you

1 aware of Mr. Madden's involvement with the Public  
2 Corruption Unit of the Fort Lauderdale Police  
3 Department and the FBI?

4 MS. RICHARD: No.

5 MS. BLEAU: If Mr. Madden was prohibited from  
6 disclosing certain things at the time of your  
7 investigation, do you think that would justify the  
8 City in upholding his termination today?

9 MS. RICHARD: If you had put me on notice that  
10 there was some prohibition with completely responding,  
11 possibly.

12 MS. BLEAU: All right. I have no further  
13 questions. Thank you.

14 MR. ZALMAN: Just a few for --

15 CHAIR ADELSON: Rebuttal.

16 MR. ZALMAN: -- re-direct.

17 Referring to Mr. Madden's statement, did he ever  
18 address the issues you referred to, the Community Plus  
19 issues?

20 MS. RICHARD: No.

21 MR. ZALMAN: And there was a lot being asked  
22 about Mr. Madden possibly conducting an investigation  
23 of wrongdoing or violations of the building code or  
24 Florida law. Are you aware of any formal  
25 investigation or a formal request by Mr. Madden to

1 investigate anyone within his department, the DSD  
2 Department?

3 MS. RICHARD: I am not aware of that.

4 MR. ZALMAN: Dr. Mr. Madden ever mention in his  
5 statement that he was conducting an investigation?

6 MS. RICHARD: No, and ideally, my personal  
7 preference when doing an investigation is to have the  
8 employee come, sit across the table, we look at each  
9 other, we go through line by line, I can ask follow-up  
10 questions, he can give me a list of witnesses, see if  
11 that person wants me to interview. But the employee's  
12 not required to do that. They can submit something in  
13 writing, or they cannot appear at all, or they can  
14 appear and give me whatever information they want.  
15 Mr. Madden chose to present something in writing; we  
16 had given him a month to do it, with the understanding  
17 that it was a lot of information that was presented.  
18 And I can only go by at the time what was given to me  
19 in writing and none of these issues were raised in his  
20 written response.

21 MR. ZALMAN: And if an employee did have  
22 legitimate concerns about an issue of law, they would  
23 be protected by the Florida Whistleblower Doctrine,  
24 correct?

25 MS. RICHARD: Yes.

1 MR. ZALMAN: Counsel asked you -- it was brought  
2 to your attention, there was a lot going forth about  
3 threats to people's licenses where he -- and it was  
4 clarified that -- there was discussion about that.  
5 And you had stated that an employee would be  
6 encouraged to come forward if they were doing  
7 something unlawful. Correct?

8 MS. RICHARD: Yes.

9 MR. ZALMAN: Is an employee also encouraged to  
10 make -- to spread untruths about City personnel?

11 MS. RICHARD: I'm sorry. Will you repeat the  
12 question?

13 MR. ZALMAN: Is an employee encouraged to spread  
14 untruths about City personnel?

15 MS. RICHARD: Well, no. We don't encourage  
16 that.

17 MR. ZALMAN: So if there was something that was  
18 a legitimate concern on someone's license, they should  
19 come forward through the reporting and be protected by  
20 the Whistleblower Doctrine?

21 MS. RICHARD: Correct.

22 MR. ZALMAN: They shouldn't spread untruths  
23 about City personnel?

24 MS. RICHARD: No.

25 MR. ZALMAN: Or anything unfounded about City

1 personnel?

2 MS. RICHARD: Not at all.

3 MR. ZALMAN: And it was brought up by counsel  
4 that Mr. Cross and Mr. Hernandez had made comments  
5 about Mr. Madden -- something to do with spraying of  
6 bullets and he's off his meds. Those were made in the  
7 course of a private investigation, correct?

8 MS. RICHARD: Yes. Those statements were made  
9 while they were in HR and they were giving their  
10 statements. Yes.

11 MR. ZALMAN: And to your knowledge, those  
12 statements, other than this public forum, weren't  
13 spread throughout the Department about Mr. Madden,  
14 were they?

15 MS. BLEAU: Can I just - I need to object. This  
16 is the City's witness and I've been letting him lead  
17 her for a long time without saying anything, but he's  
18 doing it even about things she's not testified about  
19 and I would object.

20 MR. ZALMAN: One, again, there's no formal  
21 evidentiary rule about the nature of my questioning  
22 and, two, all of this was talked about in her cross-  
23 examination.

24 MS. BLEAU: So, to be clear, I can lead all of  
25 my witnesses without a problem as well?

1 CHAIR ADELSON: Of course, we're going to ask  
2 both counsel to maintain proper decorum and ask  
3 appropriate questions. However, these were questions  
4 that appear to have been asked and the door was opened  
5 to him asking on his re-direct. The method of how  
6 he's doing it, we will, of course, take into account  
7 when we are doing our review.

8 MS. BLEAU: Thank you.

9 MR. ZALMAN: To your knowledge, did the  
10 statements that Cross and Hernandez made in the course  
11 of the investigation spread throughout the Department?

12 MS. RICHARD: To my knowledge, no.

13 MR. ZALMAN: I want to refer you to Tab 13.

14 MS. RICHARD: Yes. I'm there.

15 MR. ZALMAN: And just for the record, what is  
16 this?

17 MS. RICHARD: This is, again, the City's PSM on  
18 Workplace Bullying.

19 MR. ZALMAN: And under Section One, Purpose,  
20 could you read the first sentence?

21 MS. RICHARD: The City has zero tolerance for  
22 workplace bullying.

23 MR. ZALMAN: What does zero tolerance mean?

24 MS. RICHARD: That is something the City doesn't  
25 have any tolerance for. It's a significant issue in

1 the City. If you read throughout the Policy, it  
2 requires an investigation and if there are evidence or  
3 findings of bullying, there can be discipline, I  
4 believe it says, up to and including termination.

5 MR. ZALMAN: So after a thorough investigation,  
6 technically, would you agree with me that one  
7 violation of the Policy could lead to a termination of  
8 a City employee?

9 MS. RICHARD: I think the City, again, has a  
10 zero-tolerance approach to workplace bullying. I  
11 don't know if I can speak for the City as a whole, but  
12 I don't think any employee should have to come to a  
13 work environment where they're subject to ridicule,  
14 you know, yelling, screaming, slamming doors.

15 And if there's even just one instance, could  
16 that amount to a violation? Well, yes, but  
17 particularly when you have a pattern of this type of  
18 behavior, I think that's even more stronger evidence  
19 of bullying and termination.

20 MR. ZALMAN: And did you find a pattern of this  
21 behavior with Mr. Madden?

22 MS. RICHARD: I did.

23 MR. ZALMAN: No further questions.

24 CHAIR ADELSON: Ms. Bleau.

25 MS. BLEAU: A couple follow-up if I might.

1           In Mr. Madden's statements in response to the  
2           allegations, he referenced, did he not, that he had  
3           sent emails to City officials, including Jeff Lucas,  
4           John Travers and others, identifying numerous  
5           violations of the Code that needed to be addressed?  
6           Right?

7           MS. RICHARD: If you can help me with the tab,  
8           sure. What number are you on?

9           MS. BLEAU: Tab 11.

10          MS. RICHARD: Eleven.

11          MS. BLEAU: And as you pointed out, the pages  
12          are not numbered, but it's the fifth page in,  
13          entitled, "Enforcing the Code to the Best of My  
14          Abilities."

15          MS. RICHARD: I think I went too far. Okay.

16          MS. BLEAU: You with me?

17          MS. RICHARD: Yes. I'm on the page.

18          MS. BLEAU: Okay. You see the second sentence  
19          there?

20          MS. RICHARD: Yes.

21          MS. BLEAU: First sentence, "I take my  
22          responsibility for the health, safety and welfare of  
23          others very seriously," and then, "I have sent emails  
24          to City officials including Jeff Lucas, John Travers  
25          and others identifying numerous violations of the Code

1 that need to be addressed." Do you see that?

2 MS. RICHARD: I do.

3 MS. BLEAU: And he continues, "Some of my emails  
4 were met with opposition and merely dismissed. They  
5 include," and then he lists eight emails --

6 MS. RICHARD: Yes.

7 MS. BLEAU: -- that he sent regarding  
8 violations, work without permits, work beyond the  
9 scope of the permit, failed inspections, et cetera.  
10 Right?

11 MS. RICHARD: I do see that, yes.

12 MS. BLEAU: Yeah. Did you obtain those emails?

13 MS. RICHARD: I did not.

14 MS. BLEAU: Why not?

15 MS. RICHARD: Because the scope of my  
16 investigation was, just to be very brief,  
17 insubordination, workplace bullying, and things of  
18 that nature. I don't necessarily have a reason to  
19 disbelieve that Mr. Madden, in fact, sent these emails  
20 where he complained about various Code violations, but  
21 that was not the scope of my investigation. It was  
22 how he interacted in the workplace with his co-  
23 workers. It was how he interacted with Mr. Travers,  
24 Mr. Hernandez, and things of that nature.

25 MS. BLEAU: Mr. Madden continued, "My actions

1 have obviously upset certain people." So, he was  
2 letting you know that he believed that the charges  
3 being brought against him were related to these  
4 complaints. Didn't he?

5 MS. RICHARD: He did include that sentence, but  
6 what I was looking for more was for him to say, "That  
7 didn't happen. I didn't do that to Ms. Arthur. I  
8 didn't say those things to Mr. Cross. I didn't do  
9 these things." That's not anywhere here specifically  
10 in his response. That's what I was looking for.

11 MS. BLEAU: He goes on -- the next sentence,  
12 "Most of the employees that report directly to me and  
13 virtually all of whom I interact with on a daily basis  
14 did not submit a statement to me." Did you speak with  
15 anybody that he worked with that didn't submit a  
16 letter of complaint?

17 MS. RICHARD: No.

18 MS. BLEAU: "The inaccurate statements made  
19 about me are from employees that I have complained  
20 about regarding the performance of their duties and/or  
21 employees whose behavior I have tried to correct in  
22 keeping with my commitment of saving lives and  
23 protecting property." Isn't that a clear denial of  
24 the allegations and pointing you in the direction of  
25 the reason these employees might say these things?

1 MS. RICHARD: In my view, no. It didn't say  
2 these -- there was not a categorical denial that,  
3 "they're all lying; these things never happened; Mr.  
4 Goldstein is lying," none of that. That was not my  
5 interpretation of that statement.

6 MS. BLEAU: "In fact, many of the 'complaints'  
7 about me, the content reveals that the employee did  
8 not like the fact that I either investigated and/or  
9 took action regarding possible conflicts of interest,  
10 abuse of City property or funds, intentional failures  
11 to enforce building codes, or negligent enforcement of  
12 the City Code." Again, you didn't take that as a  
13 denial or an invitation to look in the motivations of  
14 some people that were complaining?

15 MS. RICHARD: Actually, I sort of took that as  
16 an admission that these things happened, but it's  
17 because they were potentially doing something wrong  
18 that he interacted with these people in the manner as  
19 described by the employees.

20 MS. BLEAU: So when somebody puts quotes around  
21 a word, that doesn't suggest to you that there's a  
22 question about the validity?

23 MS. RICHARD: Well, I mean, you could put --  
24 well, yeah. But the people did make complaints. You  
25 can put quotes around the word. It doesn't change the

1 fact that they are complaining about something.

2 MS. BLEAU: So, beginning on the next page, the  
3 label "Private Providers," without reading everything  
4 on the record to the Board, do you recall that Mr.  
5 Madden went through his support of the Private  
6 Provider Program, which contradicts Mr. Travers'  
7 claims; and his -- the fact that private providers  
8 have been happening in the City for ten years, but  
9 that there is a need for oversight in audits and that  
10 that's an important process. And that Mr. Travers has  
11 said that audits of private providers is no longer  
12 necessary and personally circumvented the process.  
13 You see that?

14 MS. RICHARD: Yes, and I believe I included  
15 that, actually, in my report, that Mr. Madden was part  
16 of the House Bill, that he supported Private  
17 Providers, that -- I did actually put that part in my  
18 report. So, yes, I did read that.

19 MS. BLEAU: Okay, but you testified earlier that  
20 you found in your investigation, based solely on Mr.  
21 Travers' claim, that Mr. Madden was trying to -- was  
22 inputting things in this Program that you don't really  
23 understand -- the C-plus program. Frankly I don't  
24 either, so I'm not disparaging you. That Mr. Madden  
25 was putting something in the C-plus program, according

1 to Mr. Travers, that was keeping these audits from  
2 being conducted and these inspections from being  
3 conducted. And Mr. Madden is telling you the  
4 contrary. That he was trying to have the inspections  
5 conducted and the audits conducted, and Mr. Travers  
6 was the one that was saying it was no longer  
7 necessary. Right?

8 MS. RICHARD: Right. I don't want to speak for  
9 Mr. Travers. I'm sure he'll do a much better job.  
10 But how it was explained to me by Mr. Travers is, "I'm  
11 the Building Official. Doing these things are within  
12 my authority, under my name, so if anything goes  
13 wrong, it falls on my shoulders. So when I'm giving  
14 these instructions, I expect them to be carried out as  
15 the Building Official."

16 Like I said, Mr. Travers can probably explain it  
17 much better than I can, but that's what -- what came  
18 across to me is that, "This is on my watch," so to  
19 speak.

20 MS. BLEAU: And the rest of Mr. Madden's written  
21 response on that page all provides significant detail  
22 regarding 2900 Riomar, the empty Causley project,  
23 different permits, the fact that a phase permit was  
24 permitted when the policy prevented it. None of this  
25 made you question whether or not the information you

1 were receiving from Mr. Travers and Mr. Hernandez was  
2 credible?

3 MS. RICHARD: I trusted Mr. Travers in his  
4 explanation to me as to what he can do and not do as  
5 building official and I trusted his testimony that he  
6 felt that his instructions were not being followed out  
7 -- carried through.

8 MS. BLEAU: Okay. The rest of the report speaks  
9 for itself.

10 MS. RICHARD: Yes, it does.

11 MS. BLEAU: -- belabor the point. I have no  
12 further questions. Thank you.

13 CHAIR ADELSON: So, from the Board, does anyone  
14 have any questions? Okay.

15 MR. BALDWIN: Ms. Richards, thank you. I think  
16 you did a good job and you sound like you really care  
17 about the employees.

18 MS. RICHARD: Thank you.

19 MR. BALDWIN: And that certainly is one of your  
20 jobs here, I'm sure. It's hard being a City Manager,  
21 because you rely your people under you to give you  
22 good information, and the main person you want are  
23 your department heads to do their jobs --

24 MS. RICHARD: Correct.

25 MR. BALDWIN: -- and then the HR Department is

1 there to protect the employees. From what I'm hearing  
2 from you, I think you're trying to give a fair  
3 determination to what occurred.

4 I don't want to get stuck on this point, but I  
5 keep going back before 2016, because what I'm trying  
6 to -- I think the answer I was given is, nothing  
7 before 2016 is considered in this termination, yet it  
8 keeps coming up. If it's coming up, then it must have  
9 something to do with the termination. So, that's  
10 really where my concern is. And if I can dispense  
11 with whatever occurred before 2016 when the new  
12 Department Director started, then that gives me a  
13 little different view. But, you said that, I believe  
14 yesterday, that your recommendation, your report was  
15 really based upon 2016 on. Is that correct?

16 MS. RICHARD: Well, I didn't consider 2013,  
17 because there were issues raised by some -- there were  
18 some grievances filed in 2013. Again, I was not here  
19 at the City in 2013 and that had been resolved two  
20 Directors ago, under Director Greg Brewton. In the  
21 interim there's been two directors, Jenni Morejon was  
22 a Director of DSD and then currently, Mr. Fajardo.

23 When this first came on my radar at Employee  
24 Relations, it was in 2016, and what was told to me by  
25 Mr. Fajardo, and I think is referenced in his memo

1 that there were some issues in 2013. Things had sort  
2 of settled down and then they sort of started again.  
3 They ratcheted up a little bit, to the point where he  
4 wanted to request a formal investigation from my  
5 office. And employees came forward, he identified  
6 employees, we interviewed them, and they told their  
7 stories. So, I can't give you a definitive date as to  
8 when it started up again in terms of the conflict that  
9 employees reported with Mr. Madden, but I do know I  
10 was not going to consider anything that happened in  
11 2013, because in my mind that had been resolved.

12 MR. BALDWIN: Okay, so the statements that the  
13 employees made really referred to things that occurred  
14 after Mr. Fajardo had started the investigation?

15 MS. RICHARD: They were made -- my understanding  
16 was that they were to him. Employees had been coming  
17 to him for a while raising concerns about Mr. Madden  
18 and he felt that, I guess, there were significant  
19 concerns and he wanted to -- 'cause sometimes  
20 departments will handle issues, you know, at the  
21 departmental level.

22 And I think that's what happened in 2013. If  
23 you read Mr. Brewton's letter, the Department did an  
24 investigation. There's nothing necessarily wrong with  
25 that. You know, if you go to the department, you work

1 it through your chain of command. The department  
2 reaches some kind of resolution. But, when it gets to  
3 a point where you want to potential issue some  
4 discipline against the employee, that's when my office  
5 gets involved.

6 And then that's when Mr. Fajardo contacted my  
7 boss. He didn't contact my boss until October of  
8 2016, but presumably there had been issues that had  
9 been brewing within the Department which compelled him  
10 to write that memo to HR.

11 MR. BALDWIN: Well, if you go back to Mr.  
12 Brewton's memo, and he was very complimentary of Mr.  
13 Madden, he says here that "I want you to know how much  
14 I value your employment with this Department and I  
15 truly feel that you are dedicated and committed to the  
16 investment and vision of the Department." We all have  
17 this. It's just this particular memo, but he says  
18 that, "Please let this letter serve as the  
19 Department's official notice to an investigation of  
20 the grievances filed by several members of our staff  
21 involving alleged disruptive behavior." But I don't  
22 see anything where Employee Relations was notified of  
23 anything. It seems like it stopped here.

24 MS. RICHARD: I don't see -- again, I wasn't  
25 with the City in 2013, so I was not notified, but --

1 and you're correct. We're not even cc'd, you know, on  
2 the memo. So this was not something that was in my  
3 files. So, again, this was maybe an example of  
4 something that's handled at the departmental level and  
5 not escalated to Employee Relations, HR.

6 MR. BALDWIN: I don't even know if I can ask  
7 HIPAA, and all that, whether -- it says here that Mr.  
8 Madden was referred for anger management. Can I ask  
9 whether he attended anger management, or EPA, or does  
10 anyone know whether that occurred? He was supposed to  
11 have weekly meetings and that he was to seek anger  
12 management counseling.

13 MS. RICHARD: I think I -- well, Mr. Brewton has  
14 long been retired, so I couldn't ask him. I may have  
15 inquired with the department and I want to say -- the  
16 problem is the people that I inquired weren't in the  
17 positions that they're in now back in 2013, but I  
18 think he did go to some classes and may have had some  
19 one-on-one meetings. I don't know if they were  
20 weekly, but I can say definitively there was a change  
21 in Mr. Madden's behavior after this memo. And I think  
22 some of the witnesses testified that after this  
23 incident occurred, there was a change, but then things  
24 went --

25 MR. BALDWIN: After Mr. Brewton's memo?

1 MS. RICHARD: Yeah, after Mr. Brewton's memo,  
2 2013, I think some witnesses testified there was a  
3 noticeable change in his behavior, but then the change  
4 didn't last for very long.

5 MR. BALDWIN: Because it appears he was hired as  
6 a building inspector in 2007, and then he was promoted  
7 to Chief Building Inspector in 2013. The memo written  
8 by Mr. Brewton is 2013.

9 MS. RICHARD: Yes.

10 MR. BALDWIN: So he was promoted. Then he was  
11 promoted again after the memo was written. In 2010 he  
12 was promoted, and 2014 to Building Official on a  
13 temporary basis.

14 MS. RICHARD: Correct. Yes.

15 MR. BALDWIN: So, that's giving me some -- I  
16 guess I'd call that an enigma.

17 CHAIR ADELSON: [inaudible] for a moment. When  
18 did you start?

19 MS. RICHARD: I started in March of 2014.

20 CHAIR ADELSON: So you were not involved in  
21 anything previous to [inaudible].

22 MS. RICHARD: I was not, and if I were here, I  
23 would have asked for this letter, memo to be written  
24 differently to kind of explain more what happened. I  
25 don't even know what the grievances were raised at the

1 time, but I was not here. But I think, I guess to  
2 answer your question -- I may have said this on my  
3 direct -- is that no one doubts or raised a concern  
4 about Mr. Madden's technical ability as an inspector.  
5 It's his temperament, his interaction with co-workers.  
6 And I think -- I don't want to speak for Mr. Travers,  
7 but I'm sure Ms. Bleau will bring out the fact that he  
8 gave him ones and twos in his evaluation -- but it's  
9 just the way that he interacts with employees to the  
10 fact that they felt intimidated and they felt abused.

11 CHAIR ADELSON: And just one more question about  
12 the timeline. And I know that this was discussed.  
13 When did he go out on FMLA leave?

14 MS. RICHARD: I think that pre-dated my  
15 employment as well. I want to say that was in 2013.

16 MS. TURIN: If the witness knows or she doesn't  
17 know.

18 CHAIR ADELSON: No. If you don't --

19 MS. RICHARD: I don't know.

20 CHAIR ADELSON: I'm trying to get this timeline  
21 a little bit more squarely in light of Mr. Baldwin's  
22 questions.

23 MR. BALDWIN: So the pattern -- you said there  
24 was a pattern of behavior? This pattern you're  
25 talking about, from your perspective, occurred after

1 2016. It's not talking about a pattern prior to your  
2 involvement?

3 MS. RICHARD: No, I said to me, the pattern  
4 would have started, you know, as the witnesses started  
5 coming forward. October 2016, is when the information  
6 was brought to my attention to investigate, but the  
7 experiences happened before then. And so my finding  
8 was in talking to the witnesses, they all had a story  
9 to tell of their negative interaction with Mr. Madden.  
10 And then on top of that, we then get this letter from  
11 Goldstein saying, okay, he's also interacted, you  
12 know, with my employees as well. So in my conclusion  
13 in my report was that this bad behavior -- if that's  
14 the right word -- on the part of Mr. Madden, was not  
15 just confined to the workplace, it's also spread out  
16 into the community, which reflects negatively on the  
17 City.

18 MR. BALDWIN: And if it occurred before you got  
19 involved, it was continuing to occur until the  
20 termination -- the recommendation for termination?

21 MS. RICHARD: Well, he was put on administrative  
22 leave when we did the investigation, with pay, so I  
23 think - I don't remember the date. And even that --  
24 the reason why that was done because employees were  
25 reluctant to even come and talk to us about their

1 experience and they weren't going to do it if he was  
2 still on site. Because, normally we don't put  
3 employees on administrative leave with pay. We don't  
4 like to pay people not to work, but in this case, the  
5 reluctance of the employees to come forward -- I said,  
6 "Well you can come to my office. You can see me.  
7 He's gonna be at DSD, which is around the corner."  
8 "No, if he's still on site, it'll get back to him,"  
9 and it really sort of shut down their willingness to  
10 come talk to me. So that's why we put him on admin  
11 leave to sort of stop the behavior from continuing,  
12 and I think that admin leave happened -- is referenced  
13 in my report, so I can give you the exact date.

14 Yes, so as soon as we received the memo from Mr.  
15 Fajardo, October 12, 2016, Mr. Madden was placed on  
16 admin leave with pay on October 13, 2016.

17 MR. BALDWIN: Okay, I also wanted to ask you, is  
18 Mr. Madden a management employee?

19 MS. RICHARD: Correct. He is the -- yes, the  
20 Chief Building -

21 MR. BALDWIN: So he is in management?

22 MS. RICHARD: He was the Chief Building  
23 Inspector. Yes, management.

24 MR. BALDWIN: In all the -- the position he's  
25 currently at --. Oh, sorry -- that he was in before

1 he was terminated, was that a management before?

2 MS. RICHARD: Yes.

3 MR. BALDWIN: Was his position the Chief Plans  
4 Examiner, structural? Somebody said that.

5 MS. RICHARD: He was the Chief Building  
6 Inspector. So, I guess all of the --

7 MR. BALDWIN: -- Plans Examiner, structural.

8 MS. RICHARD: So, I may have misspoke.

9 MR. BALDWIN: I don't know who that was.

10 MS. RICHARD: Yeah. So he was the Chief  
11 Building Inspector.

12 MR. BALDWIN: Okay. He is a management  
13 employee. And was there a work -- was there a  
14 bullying policy in place before the one provided to us  
15 on May 11, 2016?

16 MS. RICHARD: No. That's the new --

17 MR. BALDWIN: This is the first one adopted in  
18 2016?

19 MS. RICHARD: Correct.

20 MR. BALDWIN: Okay. I don't have any other  
21 questions.

22 CHAIR ADELSON: I have one follow-up question.  
23 During the time period for the response from Mr.  
24 Madden, do you know whether he was represented by  
25 counsel?

1 MS. RICHARD: Yes, because Ms. Bleau contacted  
2 me, requesting additional time for him to prepare his  
3 response.

4 CHAIR ADELSON: I have no further questions.

5 MS. SMITH: I'm sorry. Board member Baldwin had  
6 questions about records about any classes or courses  
7 that he took. If he took them through the City, that  
8 information can be, I guess, ascertained for you, if  
9 you need it.

10 MR. BALDWIN: Okay. You don't need to do any  
11 investigation. I was curious whether [inaudible].

12 MS. GIALLUCA: I just have a question. I'm  
13 going to stick with Bob on this. If back in 2013  
14 there was discipline given and that was all finished  
15 in 2013. And now in 2016, there's not really kind of  
16 an official letter, or maybe there are records of  
17 discipline that we don't see, but it seems like it was  
18 just a letter to investigate. See there was ongoing  
19 discipline or if it was -- it just happened and he was  
20 suspended immediately, or was there a progression  
21 during this 2016 time frame?

22 MS. RICHARD: Well, he does not have any prior  
23 formalized, formal discipline. The 2013 Resolution, I  
24 don't think that's disciplinary at all. And in the  
25 interim, there were no records of discipline. I

1 think, you know, in this case, we, as in me, Employee  
2 Relations, and the Department decided to sort of skip  
3 the steps of progressive discipline and we felt that  
4 the conduct was so sufficiently severe in this case  
5 that it warranted termination.

6 CHAIR ADELSON: And is there a policy with  
7 regarding to the ability to skip progressive  
8 discipline in the event of serious misconduct?

9 MS. RICHARD: Yes, we do have a disciplinary  
10 policy and it talks about the concept of progressive  
11 discipline. And, I believe -- and I can provide that  
12 to the Board members later -- there is a statement in  
13 there that says if conduct is so sufficiently severe,  
14 you can skip some of the steps.

15 MS. GIALLUCA: But he didn't threaten anyone  
16 with violence or -- I think you said that yesterday.

17 MS. RICHARD: We do have a violence in the  
18 workplace policy, but we did not charge him with that.

19 MS. GIALLUCA: Okay. Thank you.

20 MS. TURIN: To the Chair, I don't know if you  
21 wish to inquire of the counsels -- if they're going to  
22 be recalling any witnesses, have they instructed them  
23 not to discuss testimony. I understand we have a  
24 group of people sitting in the lobby, so I don't know  
25 if they were told, or --.

1 MR. ZALMAN: Our witnesses were told that.

2 MS. TURIN: Your witnesses have already been  
3 instructed. You've already talked to yours?

4 MS. BLEAU: Yes. I actually have one follow up  
5 as a result of the Board's questions. Sorry, real  
6 brief.

7 Ms. Richards, I was confused in response to Mr.  
8 Baldwin's questions, I thought you said that Mr.  
9 Madden was placed on leave because of concerns from  
10 some employee that didn't want to come talk to you.  
11 But then you looked at the dates and you saw that you  
12 got Mr. Fajardo's letter one day and you put Mr.  
13 Madden on leave the next day. So, would that suggest  
14 that what you thought you recalled was not accurate?

15 MS. RICHARD: No, because the Departments, they  
16 have to go through -- I guess, through me to put  
17 someone on admin leave with pay. And after I read Mr.  
18 Fajardo's memo, we talked about him on leave with pay.  
19 And initially, I was like, "Well, that's not something  
20 at we routinely do," but Mr. Fajardo expressed to me  
21 concerns that his employees had. Because, apparently,  
22 there's no secrets in DSD. There's a lot of gossip  
23 and he was concerned that the investigation would not  
24 be confidential, it would get back to Mr. Madden and  
25 sort of have a chilling effect on employees wanting to

1           come forward.

2           MS. BLEAU: So it wasn't an employee that told  
3 you, "I don't want to come talk to you," it was Mr.  
4 Fajardo saying, "I think that the employees will be  
5 more willing to talk to you if we put Mr. Madden on  
6 leave."

7           MS. RICHARD: Employees did not speak to me?  
8 This is what Mr. Fajardo expressed to me, that he  
9 thought that that was the right way --

10          MS. BLEAU: The better way to handle it.

11          MS. RICHARD: -- the better way, and to do the  
12 investigation early and as expeditiously as possible.

13          MS. BLEAU: Okay. Thank you. Thank you for the  
14 time.

15          MR. ZALMAN: I just have one. Just to make it  
16 very clear for the record, is the bullying policy one  
17 of those policies where the City could, if it deems  
18 it's warranted, forego progressive discipline and  
19 terminate the employee?

20          MS. RICHARD: It may actually say that in the  
21 policy.

22          MR. ZALMAN: Could you turn to Tab 13 and look  
23 at it for me.

24          MS. RICHARD: So, I know we put that -- because  
25 I know for sure it was in our Violence in the

1 Workplace Policy, but it may be in this policy.

2 MR. ZALMAN: I'll help you out, just bear with  
3 me. If you look under Section 1, "Purpose," in the  
4 second paragraph, it's only one sentence. You could  
5 read it for the Board, please.

6 MS. RICHARD: Where?

7 MR. ZALMAN: So there's Section One, "Purpose,"  
8 and there's a large paragraph and then there's a  
9 second paragraph that's only one sentence. Just read  
10 the one sentence.

11 MS. RICHARD: Oh, where it says, "Employees  
12 found in violation of this policy may be subject to  
13 disciplinary action up to and including termination."

14 MR. ZALMAN: Thank you. No. more questions.

15 MS. RICHARD: I'm done?

16 CHAIR ADELSON: You are free to go.

17 MS. RICHARD: Thank you.

18 CHAIR ADELSON: Oops, sorry. Mic not on --  
19 there we go.

20 MS. SMITH: I'm not really sure how the issue  
21 with counsel and the recording was resolved. Just to  
22 get it ready, we have a tech here from IT who, if we  
23 were going to take a break, I just to know at what  
24 point -

25 CHAIR ADELSON: So the issue with regard to the

1 recording is that we are going to await Mr. Madden's  
2 testimony and see if he lays a predicate for the  
3 admission of it and/or the weight that we will give to  
4 it if it is, in fact, viewed.

5 MS. SMITH: I just wanted to make sure that we  
6 have the equipment operable by the time they get ready  
7 if it's allowed.

8 MS. GIALLUCA: I'm sorry, before she goes, I  
9 just have one more question.

10 CHAIR ADELSON: So the witness was dismissed,  
11 however, one of the Board Members has an additional  
12 question.

13 MS. GIALLUCA: I have one more question and it  
14 was sparked after Patrick had his question. Because I  
15 just need to clarify on the second page of the policy,  
16 on number three, the reporting procedure, it says,  
17 "All reports of incidents will be reviewed and follow  
18 this reporting policy." If a bullying, such as he's  
19 being alleged with, is reported, as we reviewed, could  
20 he be terminated without going through these reporting  
21 procedures?

22 MS. RICHARD: Can you give me the tab, please.

23 MS. GIALLUCA: Oh, I'm sorry.

24 CHAIR ADELSON: Go back to 13

25 MS. GIALLUCA: Thirteen on the second page of

1 the policy, Item 3. So that I know on page 1, it says  
2 he could be terminated for any type of bullying, but  
3 on page 3, the remaining part of the policy says that  
4 there's a procedure to follow.

5 MS. RICHARD: Yes, correct. There's always --  
6 there's a reporting procedure and it's sort of two  
7 steps. The first attempt should be with the immediate  
8 [inaudible], but it doesn't prevent investigated by  
9 HR.

10 CHAIR ADELSON: Of course, that brings me to  
11 another question. In that same reporting procedure,  
12 what were the consequences, or are there any  
13 consequences to a supervisor who fails to report  
14 bullying or that type of behavior to HR when they have  
15 knowledge or are aware of it?

16 MS. RICHARD: I think there's actually something  
17 in here -- "Supervisors who fail to comply with the  
18 policy or knowingly fail to enforce it, allowing the  
19 bullying behavior to continue in the workplace, may  
20 themselves be subject to disciplinary action." So  
21 this is further evidence that the City takes it very  
22 seriously, so as a supervisor you become aware of it  
23 and you don't do anything, you yourself can be  
24 disciplined, if you allow the bullying to continue.

25 CHAIR ADELSON: So from your perspective, that

1 is an equalizing -- is it from your perspective, an  
2 equalizing factor in terms of, I will say, false  
3 reporting or incorrect reporting, or making sure that  
4 things are reported within the City, not just against  
5 the employee that is being reported against, but also  
6 the supervisor?

7 MS. RICHARD: Yes.

8 CHAIR ADELSON: I have no further questions.  
9 Could we dismiss -- are we dismiss? Okay, you are  
10 dismissed. Then again, subject to being recalled,  
11 obviously, by your attorneys. I'm letting you know  
12 that, excuse me, the attorney who called you as a  
13 witness, as long as everybody knows what we're up to,  
14 that would be great.

15 MS. RICHARD: Okay. Thank you.

16 CHAIR ADELSON: Okay. For the City, do you have  
17 your next witness?

18 MR. ZALMAN: Yeah, but do you want to take a  
19 break or anything?

20 CHAIR ADELSON: Oh, you want to take a break?  
21 Do you want to take a [inaudible]? Let me just be  
22 clear, if anyone needs a break at any time, just let  
23 us know. It is a long day and it is actually lunch  
24 time, so I don't know if you want to take, you know --  
25 we started on time, so I think 20 minutes for a soda,

1 run across the street to get a bite to eat.

2 MR. ZALMAN: Yeah, that's what I was -- if we  
3 started are we gonna stop for -- last time we had a, I  
4 think a 15, 20 minute break.

5 CHAIR ADELSON: So why don't we stop for half an  
6 hour, and if this is the appropriate time to do so,  
7 that works for us. Everyone in agreement? I guess at  
8 12:30 be back, please.

9 MR. ZALMAN: Thank you.

10 [Break taken from Proceedings at 12:00 pm.]

11 [Hearing resumed at 12:20 p.m.]

12 CHAIR ADELSON: I just wanted to get an idea from  
13 both sides where we are in terms of witnesses, so that  
14 we can see where we are in terms of potentially  
15 finishing today by 4:00. So, City?

16 MR. ZALMAN: We have, including our next  
17 witness, we have seven more witnesses.

18 CHAIR ADELSON: Okay. Counsel? For direct.

19 MS. BLEAU: We subpoenaed a number of witnesses  
20 and depending on the completion of their case, we will  
21 call some or all of them, but basically --

22 CHAIR ADELSON: How many do you think there is?

23 MS. BLEAU: Well, there are fifteen, but I told  
24 them all to go away, that it was pretty clear we  
25 weren't going to even get to them today. I think the

1 best we're going to hope for is finish the City today.

2 CHAIR ADELSON: Okay. All right folks, let's  
3 get started. City, call your next witness.

4 MS. TURIN: Do you want to just maybe then save  
5 a few minutes at the end of the day to discuss  
6 calendars?

7 CHAIR ADELSON: Yes.

8 MS. TURIN: I know we have to get Chambers and -  
9 -

10 CHAIR ADELSON: That's a great idea, so why  
11 don't we reserve fifteen minutes at 3:45, so that's  
12 when we will conclude.

13 MR. MILLER: That's what I was going to raise.  
14 I didn't know if we were being kicked out of here  
15 again right at the stroke of four, so if we could save  
16 some time discuss all of that if we're not -- that  
17 would be preferable.

18 CHAIR ADELSON: So, we will conclude today at  
19 3:45 to discuss continued dates and any other issues  
20 that procedurally we need to address. Okay.

21 MR. ZALMAN: The City calls John Travers.

22 MS. SMITH: To the Chair, I'm sorry, because you  
23 raised the issue of witnesses -- before Mr. Travers  
24 gets started -- it's a holiday week starting for City  
25 employees as of next week, so if anybody -- if we

1 don't know our dates -- I know that sooner than later,  
2 and I'm only saying that because it's Friday -- people  
3 will start being out next week, so I don't know if we  
4 want to address that, because some of the witnesses,  
5 even though they are under subpoena, we won't have a  
6 way of reaching out to them until they get back.

7 CHAIR ADELSON: I think if we address that now,  
8 we might be able to grab them now before, for next  
9 week.

10 MS. SMITH: To at least make notification if we  
11 have a date certain. But we also need to look at  
12 scheduling.

13 MS. BLEAU: All of the witnesses who showed up  
14 for us today, I have their cell numbers.

15 MS. SMITH: I'm only saying that because you may  
16 call them to come in and they may be on vacation,  
17 because vacation gets pre-approved in advance, or  
18 employees may not be in the City. And that will be  
19 disruptive to the case. We'll be here and nobody will  
20 be available.

21 MS. BLEAU: Gotcha.

22 MS. SMITH: Because they are City employees and  
23 I am aware of the fact that employees are taking from  
24 Monday through January off, if we know a date, if it's  
25 going to be before that time, we need to let the

1 employees know so they can make decisions, or the  
2 Board can make decisions, and the attorneys can make  
3 decisions. And I do know that some of the attorneys  
4 will not be available because they have depositions  
5 and things scheduled for next week. So, I just want  
6 to put that out there so we don't say we're doing it  
7 this day and expect the subpoena to be viable. Okay?  
8 Before Mr. Travers gets started, I just want to give  
9 that to the Board.

10 CHAIR ADELSON: So, let's see about picking a  
11 date now. Mr. Travers, if you don't mind, you can  
12 either sit there before I swear in, or go back. It's  
13 going to take us a couple minutes to now get through  
14 this process of figuring out when the next date is.  
15 So, make yourself comfortable wherever it pleases you.  
16 And I'm going to swear you in then.

17 MS. SMITH: I need to get you -- I'm sorry. To  
18 the Chair, I need to get dates for you for the room to  
19 make sure it's available first. That's the first  
20 thing. I'll do that first.

21 CHAIR ADELSON: So, if we are looking at next  
22 week for another full day, is what I'm hearing, at  
23 least to preserve that, I have Friday available next  
24 week.

25 MR. BALDWIN: I only have Thursday next week.

1 CHAIR ADELSON: I have a scheduled mediation  
2 that I cannot postpone or adjourn. Is it possible to  
3 see about moving whatever you may have?

4 MR. BALDWIN: There's no way [inaudible].

5 CHAIR ADELSON: Okay.

6 MS. TURIN: What about the 23rd, Monday?

7 CHAIR ADELSON: No, I'm up in Palm Beach Gardens  
8 that day on a pre-committed event, so I have no --

9 MS. TURIN: What about Wednesday, the 18th?

10 MR. BALDWIN: I can't.

11 MS. ARTHURS: Community Court, no Chambers.

12 MR. BALDWIN: If you want to set it for the  
13 20th, I can try to change --

14 CHAIR ADELSON: I can't do the 20th.

15 MS. ARTHURS: On the 20th they have a scheduled  
16 maintenance for the room. [Inaudible -- not speaking  
17 into microphone]

18 MR. ZALMAN: If it could be just suggested if  
19 the Court -- if Ms. Arthurs wants to, we could shout  
20 out the dates and we could write it down and people  
21 could then say what day they think they're available,  
22 and we can coordinate that way?

23 MS. ARTHURS: I'm past December, unfortunately.

24 CHAIR ADELSON: For actual dates --

25 MS. GIALLUCA: Do we have to meet in this room?

1 Do we have to meet in this room?

2 MS. SMITH: Yes, for the recording, the  
3 redundancy with the recording.

4 CHAIR ADELSON: So where are you now?

5 MS. ARTHURS: We're going into the New Year.  
6 So, now we're going into the New Year.

7 MS. TURIN: We could do the 13th of January.

8 CHAIR ADELSON: Do you have -- nothing sooner?

9 MR. ZALMAN: Can you just -- I'm sorry. Just  
10 say all the dates for January.

11 MS. ARTHURS: Okay. January there is Friday the  
12 10th.

13 CHAIR ADELSON: Okay. Why don't we stop with  
14 that. Is everyone available Friday the 10th of  
15 January? I am.

16 MS. TURIN: Ten to four, yes.

17 MS. BLEAU: Yes.

18 [UNKNOWN]: Yes.

19 CHAIR ADELSON: Counsel, Mr. Madden? I'm  
20 waiting for Mr. Baldwin, but --. We can start at ten.

21 I hear him. Sometimes hearings are at 8:45 and  
22 they can be done --.

23 MR. BALDWIN: I've got a special set two-hour  
24 hearing from 9:45 to 11:45 that morning. Assuming by  
25 that I'm [inaudible] if I'm not available on that day.

1 CHAIR ADELSON: What if we go from twelve to  
2 four? Do you think that's enough time, or not?  
3 Sometimes --

4 No, I'm asking time, going twelve to four  
5 instead of ten to four, because your hearing's over at  
6 11:45, but that's not enough time.

7 MR. BALDWIN: [Inaudible]

8 CHAIR ADELSON: I don't know.

9 MS. BLEAU: Ms. Turin said the week of the 13th.  
10 Are there dates available that week?

11 MS. ARTHURS: Maybe Monday the 13th.

12 MS. BLEAU: That works for me.

13 MS. ARTHURS: We have to shut off at 2:00  
14 because there's a [inaudible].

15 MS. GIALLUCA: What's the next good day for the  
16 Chambers [inaudible].

17 CHAIR ADELSON: Full day.

18 MS. ARTHURS: You're all agreeing. [inaudible]

19 MS. GIALLUCA: Well, they're setting up and they  
20 don't start setting up until 3:30 or [inaudible]

21 MS. ARTHURS: Okay, the January 13, but we'd  
22 have to conclude by at least three.

23 CHAIR ADELSON: I have a question. I want to go  
24 back to the 10th. If we start at eleven or eleven-  
25 fifteen to accommodate your hearing in the morning, I

1 know it's going to be a very busy day counselor, but -  
2 - and then go later on Friday, is that a possibility?  
3 Are we allowed to not stop at four, but may stop at  
4 five - give you the full amount of time?

5 MS. TURIN: It was 9:45 to 11:45, so if we  
6 started like at 12:30 --

7 CHAIR ADELSON: Right.

8 MS. TURIN: Where's your Court? In Fort  
9 Lauderdale or Miami?

10 MR. MILLER: Fort Lauderdale.

11 CHAIR ADELSON: Start at 12:30. 5:30, 6:00. I'm  
12 okay with that too.

13 MS. SMITH: That's fine. We just have to be  
14 careful, although we do know how Court goes. If  
15 everything goes well, and by the time you get out,  
16 will you -- do you think you'll be done and over here  
17 by that time? Because we have to notice the hearing.

18 MR. MILLER: I'll be here by 12:30.

19 MS. SMITH: 12:30?

20 MR. MILLER: I'll be here by 12:30.

21 MS. SMITH: So, we just need to notice it.

22 CHAIR ADELSON: Okay, so that date is a  
23 possibility at this point, since it seems it's the  
24 only full day you guys have available.

25 MS. SMITH: Sorry.

1 CHAIR ADELSON: That's all right.

2 MS. SMITH: Start time and finish time we just  
3 need to know.

4 MS. TURIN: If we were to go till 6:30, is it  
5 open to get in and out? Is the building security --  
6 is the building actually --

7 MS. ARTHURS: The building is open, yes.

8 MS. TURIN: And there's electricity?

9 MS. ARTHURS: Yes.

10 MS. GIALLUCA: Are people, are the witnesses  
11 going to come at 6:00 at night?

12 MS. TURIN: They're not coming. They would be  
13 here at 12:30 --

14 MS. GIALLUCA: Oh, at 12:30?

15 MS. TURIN: You might have one or two that are  
16 still sitting there at 6:30.

17 CHAIR ADELSON: Do they get paid overtime?

18 MS. TURIN: They're under Subpoena.

19 MS. SMITH: Yes.

20 CHAIR ADELSON: They have to get paid overtime.  
21 Okay, so that's an issue.

22 MS. SMITH: And we're taking it past their  
23 workday.

24 CHAIR ADELSON: Right. Okay. So, what if we  
25 had twelve to five?

1 MS. SMITH: Yes. I was going to say that.

2 CHAIR ADELSON: And if we have to continue for  
3 closings --

4 MS. BLEAU: What was the problem staying late?  
5 I'm sorry.

6 CHAIR ADELSON: Overtime and out of work hours  
7 for non-exempt employees.

8 MS. BLEAU: Been a while since I was an in-house  
9 lawyer for the County.

10 CHAIR ADELSON: Okay.

11 MS. SMITH: I'm just saying, because  
12 operationally we don't know where -- what's happening  
13 with those particular employees. It's one thing for  
14 me to make sure it's available.

15 CHAIR ADELSON: When's the next full day?

16 MS. GIALLUCA: How about two days? Is there two  
17 days together also? A full day or two days?

18 MS. BLEAU: I think we said there was time on  
19 the 13th. Why don't we do the 10th and the 13th.

20 CHAIR ADELSON: We had to shut off early on the  
21 13th, right?

22 MS. ARTHURS: Yes, the 13th, unless we start  
23 early.

24 CHAIR ADELSON: But if you combine it with the  
25 half of day on the 10th.

1 MS. ARTHURS: We would have to be out by 3:00  
2 p.m.

3 MS. TURIN: Yeah 3:00.

4 MS. GIALLUCA: If we come in at nine.

5 MS. TURIN: I can't. I have to get my daughter  
6 at school.

7 MS. GIALLUCA: Oh shoot. That's right.

8 CHAIR ADELSON: Is ten to three better than  
9 twelve to five?

10 MS. BLEAU: No, I'm suggesting we do the 10th  
11 and the 13th.

12 MS. TURIN: I actually -- I can't do a kitty-  
13 corner that week -- a Friday and a Monday.

14 CHAIR ADELSON: Okay. So, the question is  
15 Friday or Monday, is that what you're saying?

16 MS. TURIN: Or another day. The only thing with  
17 that -- I'm just going to throw my two cents in -- is  
18 if we wait until the 10th and we realize at three or  
19 four in the afternoon, "Oh we need another day," that  
20 calendar's going to be filled up by then.

21 MS. ARTHURS: We're going to block the day, but  
22 just in terms of --

23 CHAIR ADELSON: No, she's talking about the  
24 13th, if we have to move on to another day.

25 MS. TURIN: But what about the 14th?

1 CHAIR ADELSON: Here's what I can do. If we  
2 have to run over to the 13th, I can get in the morning  
3 till noon.

4 MS. SMITH: The 14th isn't available.

5 MR. ZALMAN: We're not available on the 13th.

6 CHAIR ADELSON: You're not?

7 MR. ZALMAN: No, we're not. I have a deposition  
8 scheduled.

9 CHAIR ADELSON: Okay. Fine. So that doesn't  
10 work anyway.

11 MS. GIALLUCA: The 20th and the 21st.

12 CHAIR ADELSON: I can't do any Tuesdays.

13 MS. ARTHURS: Friday the 24th? Friday the 24th?

14 CHAIR ADELSON: What happened to the 20th? I  
15 heard 20?

16 MS. SMITH: The 20th is a holiday.

17 CHAIR ADELSON: What holiday?

18 MS. ARTHURS: Martin Luther King.

19 MS. SMITH: It should be wide open.

20 CHAIR ADELSON: People would be pissed at us.  
21 Let me tell you.

22 MS. ARTHURS: What about Friday the 24th? The  
23 24th is wide open.

24 CHAIR ADELSON: 24th?

25 MS. ARTHURS: The 24<sup>th</sup>.

1 CHAIR ADELSON: I am available the entirety of  
2 the day.

3 MR. ZALMAN: We're not available the 24th.  
4 Sorry. January, like, we have a trial the end of  
5 January, so.

6 MS. TURIN: What about a half a day? I mean,  
7 you're doing a lot on the 10th.

8 MR. ZALMAN: So far, just blocked off on the  
9 calendar is a deposition approximately from 10:00 a.m.  
10 to 3:00 p.m.

11 MS. BLEAU: Let's take the 10th.

12 MS. SMITH: No, we're not going through --

13 CHAIR ADELSON: Let's take the 10th.

14 MS. ARTHURS: Okay.

15 CHAIR ADELSON: Let's start at noon. Let's take  
16 it till five o'clock.

17 UNKNOWN FEMALE: I'm sorry, what day?

18 CHAIR ADELSON: The 10th, twelve to five, and  
19 then we'll go from there. At this point. There's too  
20 many people -- there's too many schedules to try to  
21 coordinate. I know the room's going to start getting  
22 blocked out, but if we need another date it'll  
23 probably be easier to try and get a full day.

24 MS. SMITH: And in the meantime, Kerry, if you  
25 can look at the additional days so we can just write

1           them down and give them to the Board after the  
2           meeting.

3                   CHAIR ADELSON:   Perfect.

4                   MS. ARTHURS:   Okay.

5                   CHAIR ADELSON:   I'd like to get moving.

6                   MS. SMITH:   The 10th, twelve to five, is it?

7                   CHAIR ADELSON:   Yes, twelve to five.   Yes.

8                   All right, so we are on the record.   We are  
9           going to continue this hearing until January 10th,  
10          from 12:00 to 5:00 p.m.   Obviously, notice will go out  
11          from the City.   At the conclusion of today, this will  
12          be continued through to the 10th.   Everyone in  
13          concurrence?   Head nods?   Yes?   Just double checking.

14                   All right, so we are going to swear Mr. Travers  
15          in.   All right, good afternoon.   Do you swear the  
16          testimony that you're going to give today will be the  
17          truth -- do you swear or affirm the testimony you're  
18          going to give today will be the truth, the whole truth  
19          and nothing but the truth?

20                   MR. TRAVERS:   I do.

21                   CHAIR ADELSON:   Thank you.   The City may  
22          proceed.

23                   MR. ZALMAN:   Mr. Travers, can you please state  
24          your full name for the record.

25                   MR. TRAVERS:   My name is John Travers.   T-R-A-V-

1 E-R-S.

2 MR. ZALMAN: And what is your position with the  
3 City of Fort Lauderdale?

4 MR. TRAVERS: I'm the Building Official for the  
5 City.

6 MR. ZALMAN: How long have you been employed by  
7 the City of Fort Lauderdale?

8 MR. TRAVERS: Just over five years.

9 MR. ZALMAN: And how long have you been the  
10 Building Official?

11 MR. TRAVERS: I received my first Building  
12 Official Certification in 1994 and it was upgraded to  
13 Full Building Official in 2003.

14 MR. ZALMAN: Describe your qualifications to be  
15 the Building Official.

16 MR. TRAVERS: I have certification from a Board  
17 with the State of Florida known as BCAIB, as a  
18 Building Code Administrator. I've also been certified  
19 by the Broward County Board of Rules and Appeals as a  
20 Building Official.

21 MR. ZALMAN: Are you qualified to interpret the  
22 Florida Building Code?

23 MR. TRAVERS: Yes.

24 MR. ZALMAN: In your employment history, have  
25 you ever served in a similar capacity?

1           MR. TRAVERS: Yes, I served briefly as the  
2 Building Official for Monroe County, the Florida Keys.

3           MR. ZALMAN: Did you ever serve in the military?

4           MR. TRAVERS: Yes, I am a veteran of the United  
5 States Air Force. I served for four years. I spent  
6 one tour in Southeast Asia during the Vietnam  
7 Conflict.

8           MR. ZALMAN: Could you explain the employment  
9 relationship between the Building Official and the  
10 Chief Building Inspector.

11          MR. TRAVERS: The Chief Building Inspectors,  
12 there are four of them, building, mechanical,  
13 electrical and plumbing, along with the Assistant  
14 Building Official, are what I consider my command  
15 staff. These are the people that I rely on to give me  
16 interpretations and opinions in order for me to help  
17 enforce the Florida Building Code, as it's covered in  
18 Section 104.11.

19          MR. ZALMAN: Would the Building Official be  
20 considered the supervisor of the Chief Building  
21 Inspector?

22          MR. TRAVERS: Yes.

23          MR. ZALMAN: When John Madden was employed by  
24 the City of Fort Lauderdale were you his supervisor?

25          MR. TRAVERS: Yes.

1           MR. ZALMAN: Could you briefly describe --  
2 because this has come up a number of times -- the  
3 City's policy regarding private providers as a method  
4 of alternate plans review and inspections under the  
5 Florida Building Code?

6           MR. TRAVERS: Yes. There is a section in State  
7 Statute, which is 553.791, that authorizes the  
8 stakeholders of a project to use alternative plan  
9 review and inspections. It basically allows them to  
10 hire plans examiners and inspectors to review the  
11 compliance of the drawings that are presented by the  
12 designer of record to affirm that those drawings meet  
13 the compliance of the Florida Building Code, and then  
14 to submit those drawings to the local municipality  
15 having jurisdiction over the area.

16           It also includes the use of inspectors who are  
17 registered to the City through a program that we  
18 developed so that they are performing the inspections  
19 on the job site, and the City crew performs what's  
20 known as audit inspections to visit the job sites  
21 briefly, to take a look at the logbooks as they're  
22 being filled out, not only by the inspectors for the  
23 private provider, but any additional logbooks that  
24 might also be required, such as a special inspector  
25 logbook or a threshold inspector logbook.

1           MR. ZALMAN: Was there a policy and procedure  
2 regarding private providers in place when you became  
3 the Building Official at the City of Fort Lauderdale?

4           MR. TRAVERS: There may have been some policy,  
5 but it was not written down. There was no actual,  
6 recorded, nor memorialized policy. I couldn't find  
7 that anywhere in the City's ordinances, so I made it  
8 one of my first tasks to try to develop an actual  
9 written policy with guidelines and requirements as  
10 required in 553.791.

11           MR. ZALMAN: And describe your efforts in  
12 creating the policy and procedure regarding private  
13 providers. I'll just repeat. Describe your efforts  
14 in creating the policy and procedure regarding private  
15 providers.

16           MR. TRAVERS: In order to have standardization  
17 in the way that the private provider or the permit by  
18 affidavit plan was being administered, we needed to  
19 have written guidelines and written requirements, not  
20 only for our staff, but also for the stakeholders of  
21 the projects to understand what the responsibilities  
22 would be of the private providers in terms of plan  
23 review and also of inspections.

24           The guidelines basically spelled out several  
25 different areas where we would have initial meetings,

1 we would receive documentation from the private  
2 provider as to the certifications of the plans  
3 examiners and the inspectors that they would be using,  
4 and we had a procedure by which they needed to have an  
5 individual call into the Building Services Division,  
6 or what we would call the Building Department, to let  
7 us know that the private provider would be performing  
8 an inspection at that job site.

9 MR. ZALMAN: Was this procedure different than,  
10 for lack of a better term, the standard procedure?

11 MR. TRAVERS: I'm not sure I understand. Can  
12 you repeat?

13 MR. ZALMAN: So was there a difference then, if  
14 the City were to use or a project were to use private  
15 providers, was there a different procedure than if  
16 there was no private provider use?

17 MR. TRAVERS: The private provider basically is  
18 tasked with performing the same required inspections  
19 that are found in Chapter One of the Broward Edition  
20 of the Florida Building Code. The only difference is  
21 that the private provider is required to keep a  
22 logbook on the job site, whereas if the inspections  
23 were being performed by the City's staff, those  
24 results would be entered into the laptops that they  
25 use and possibly being notated on the permit card, on

1 the back side of the permit card. There's an  
2 opportunity for the City's inspectors to put their  
3 initials and the date of the inspection.

4 MR. ZALMAN: Was the Private Provider Program an  
5 attempt to privatize by the City?

6 MR. TRAVERS: No.

7 MR. ZALMAN: Was privatization a concern among  
8 City employees?

9 MR. TRAVERS: I had heard discussions from time  
10 to time that there was thought being given to  
11 privatization. Most of that discussion came basically  
12 from the floor and the staff members. I never really  
13 heard that conversation at all from management, from  
14 the City Manager's office or from any of the  
15 Commission or the Mayor.

16 MR. ZALMAN: And how did you address any concern  
17 from the City employees about privatization?

18 MR. TRAVERS: The term privatization and the  
19 term Private Provider are not synonymous.  
20 Privatization is when the City hires an outside staff  
21 to perform all of its inspections, whereas Private  
22 Provider is the owner -- the stakeholders of the  
23 project -- deciding to use outside inspectors for  
24 inspections or outside plans examiners for the review  
25 of the drawings.

1           MR. ZALMAN: What is your recollection of Mr.  
2 Madden's attitude towards Private Providers?

3           MR. TRAVERS: I'm aware that Mr. Madden was part  
4 of a committee that originally looked at the formation  
5 of the Private Provider or the Permit by Affidavit  
6 Statute. I'm not real sure what his attitude was. I  
7 kinda heard from the floor or staff that there was  
8 concern by Mr. Madden that privatization was something  
9 that was going to be encountered within the City.

10          MR. ZALMAN: Is it your belief that -- Well, do  
11 you have a recollection of Mr. Madden's attitude  
12 towards your policy and procedure for use of Private  
13 Providers?

14          MR. TRAVERS: I believe I may have had  
15 discussions with John on that. Again, since there was  
16 no formal written policy on it, I felt that it was  
17 incumbent upon me to create a standard and to operate  
18 by the standard so that we were applying the use of  
19 Statute .791 equally to any of the Private Providers  
20 that registered with us for any of the projects within  
21 the City.

22          MR. ZALMAN: Can I ask you to turn -- it's  
23 actually, to help out, it's red Tab 1. And everyone  
24 should have a red Tab 1.

25          CHAIR ADELSON: Yes, it's helpful.

1           MR. ZALMAN: Specifically, I want to refer Mr. -  
2           - I could see your binder. I think you're -- you've  
3           got to go one back to where the red tab is actually  
4           on.

5           MR. TRAVERS: I see.

6           MR. ZALMAN: Yeah. So right where the tab is,  
7           the bottom of the page, it begins an email chain.  
8           Could you tell me -- then going onto the second page -  
9           - what this email chain regards?

10          MR. TRAVERS: So the email chain at the bottom  
11          of the first page of Tab One is from John Madden.  
12          It's addressed to Mohammed Malik, Victor Blanco, Burt  
13          Ford, Alexander Mankus, George Oliva, Bobby Masula,  
14          Frank Eragony [phonetic], Alejandro Del Rio, Jose  
15          Abin, Barry Fein, Dan Rinkus, George Gonyea, Greg  
16          Hamilton and then the next page also has several other  
17          names attached to it. Do I need to repeat them for the  
18          record?

19          MR. ZALMAN: No, that's okay. So, well I want  
20          to go to the beginning of the chain which is, if you  
21          look at the number -- the page numbers at the bottom  
22          of these emails, it actually starts on page 4, because  
23          email chains are in reverse in time. So, the very  
24          first email, what is this email regarding? It says  
25          number 4 at the bottom.

1           MR. TRAVERS: So, the very email I see is  
2 someone by the name of Juan Ferial [phonetic] sent to  
3 me and also sent to Roland Lebold [phonetic]. The  
4 subject is "Jet Smarter." The body of that email  
5 says, "This morning at the job site, I met with Mr.  
6 Madden from your office during a drywall screw  
7 inspection. At that time, Mr. Madden told me that  
8 there were two failed plumbing inspections due to the  
9 work Ben concealed at the time of your inspection.  
10 Attached please find copies of the inspection reports  
11 done by us, M.T. Causley, Inc. We are the private  
12 providers for this job. Please let me know if there  
13 has been a violation of the Florida Statutes, Chapter  
14 553.791, or the City of Fort Lauderdale Rules and  
15 Regulations. If not, please have these failed  
16 inspections approved. If you feel that we need to  
17 meet, please let me know at your earliest convenience  
18 when and where, or if I do not hear from you by Monday  
19 and you have no objections to the contractor's  
20 representative, and I will see you on Tuesday morning  
21 at 7:30 a.m., in your office to clarify any issues  
22 related to this matter. Thank you very much and have  
23 a nice weekend."

24           MR. ZALMAN: And if you go to the page before,  
25 number three, there's an email from yourself. Who is

1 that directed to?

2 MR. TRAVERS: At the top of page 3, there's an  
3 email from me dated Friday, May 13, 2016, at 5:06  
4 p.m., to John Madden, Scott Dry, Joe DeMaio, Tony  
5 Sadolf, with copies going to Mark Liebowitz, Cheryl  
6 Felder, Alfred Battle, Christopher Lagerbloom.  
7 Subject is Jet Smarter, 500 East Broward Boulevard,  
8 19th Floor, and the permit is 15120361.

9 MR. ZALMAN: Does this appear to be a reply or  
10 response to your department from the previous email  
11 you read?

12 MR. TRAVERS: Yes, it does.

13 MR. ZALMAN: Could you summarize the context of  
14 this email, and if you need to review it first for  
15 your recollection before summarizing, you can go  
16 ahead.

17 MR. TRAVERS: Thank you. I do need a moment to  
18 review it.

19 So, for the Board, if I can summarize what is  
20 discussed in this email, it is instructions to the  
21 Chief Instructors of the various disciplines. I did  
22 not include at that time the Chief Mechanical  
23 Instructor, but rather Tony Sadolf, who's a Mechanical  
24 Plans Examiner. I believe that might be because we  
25 had appointed Mr. Sadolf as an Interim Chief

1 Mechanical while we were seeking to fill that position  
2 within the City.

3 I also cc'd Mark Liebowitz, who at the time was  
4 the Manager of the Intake Clerks. Cheryl Felder  
5 worked directly under him and then, as a matter for  
6 information, I was letting the Deputy Director, Al  
7 Battle, and also the Assistant City Manager at that  
8 time, Chris Lagerbloom, know that we were setting up  
9 this Permit by Affidavit process. These would be the  
10 expectations that I would require from our staff.

11 It also spelled out the requirements of the  
12 Private Provider in keeping logs and also inspecting  
13 the logs of the Threshold Inspector, and it mentioned  
14 that Statute still requires that any Certificate of  
15 Occupancy, Temporary Certificate of Occupancy, Partial  
16 Certificate of Occupancy, or Certificate of Completion  
17 still had to be issued by the Building Official of the  
18 City of Fort Lauderdale.

19 It also mentions in paragraph four that Private  
20 Providers are not allowed to do inspections in the  
21 following categories: fire, zoning, landscaping,  
22 flood, and threshold.

23 I go on in the next paragraph to mention that a  
24 special or separate threshold inspector is required as  
25 to the identification of a threshold building in the

1 Florida Building Code. And, without getting into the  
2 weeds, once a building exceeds a certain height or a  
3 certain number of floors, a certain square footage, or  
4 a certain number of occupants, it's classified as a  
5 threshold building and it needs special threshold  
6 inspectors that may not be part of a city's team.  
7 That's a certified inspector through the DBPR.

8 It says the owner can also choose to use a  
9 Private Provider for plan review in those categories  
10 that I mentioned above, and those categories again  
11 would be building or otherwise known as structural,  
12 mechanical, electrical, and plumbing.

13 I included the section in the Florida Statute  
14 that authorizes the use of a Private Provider; and,  
15 once again, that would be Statute 553.791. Once the  
16 owner has made the Building Official aware that  
17 Private Provider services are going to be used on the  
18 project, I then in the next paragraph instruct Mark to  
19 let his clerks know how to identify applications for  
20 building permits that come in that are going to use  
21 Private Provider.

22 The last paragraph on that page says, "This  
23 method will help with our plan review and inspection  
24 load. I expect more projects, particularly around the  
25 Executive Airport and the Port," and that would be

1 Port Everglades, "to come through our lobby. Do not  
2 view this as an attempt to privatize. It is not that.  
3 It is the right of the property owner to choose this  
4 alternative method as long as the requirements in the  
5 Statute are being met."

6 And then on the following page, I thank all of  
7 those that I included in the addresses on my email.

8 MR. ZALMAN: Does this appear to be what you  
9 expected the individuals you name -- you sent this  
10 email to -- your expectations of the Private Provider  
11 system?

12 MR. TRAVERS: Yes. Again, as I mentioned  
13 earlier, the Chief Inspectors -- in this case, John  
14 Madden, Scott Dry, Joe DeMaio and quite probably  
15 Interim Chief Mechanical, Tony Sadolf -- they're my  
16 command staff, and I was giving them instructions on  
17 how we were going to implement and standardize this  
18 policy so that it all would be memorialized, and we  
19 would be applying it in an equal basis if there were  
20 future projects that were going to be coming to us  
21 utilizing the Permit by Affidavit process.

22 MR. ZALMAN: And now the email on the first  
23 page, which the body of it is actually on the second  
24 page, but the email with the Tab One on it, who is  
25 that from?

1 MR. TRAVERS: So, the page that has the red Tab  
2 One in the middle of the page, there's an email from  
3 John Madden, and it is addressed to Alexander Mankus,  
4 Barry Fein, Charles Nickert, Dan Rinkus, David Dunchy.  
5 There's an entire list of people are listed in that.  
6 And the subject is, "Private Provider Permits Florida  
7 Statutes 553.791."

8 MR. ZALMAN: Are you included on this, who it  
9 was sent to?

10 MR. TRAVERS: I don't see my name in the "to"  
11 column, nor do I see my name in the cc column, and I  
12 have no idea if there was any blind cc on this, but it  
13 doesn't appear that I was included.

14 MR. ZALMAN: I'm going to direct your attention  
15 on page 2, still part of the body of this email.  
16 Underneath structural plan review, and there's a  
17 numbered list and the sentence right after that  
18 numbered list. What does that say? It starts with  
19 "If you have."

20 MR. TRAVERS: So the sentence says, "If you have  
21 not reviewed/audited the plans, do not sign and/or put  
22 your initials on anything related to the permit."

23 MR. ZALMAN: Would that statement by John Madden  
24 comply with your expectations on the Private Provider  
25 system?

1 MR. TRAVERS: No, my instructions in the  
2 memorialized guideline that we had would be that we  
3 were going to perform audit reviews of the plans and  
4 audit reviews of the inspections. So an audit review  
5 of the plans would be mostly to review each  
6 appropriate page for your particular discipline to see  
7 that the Private Provider had reviewed those plans and  
8 that they had signed off, or put their initials on the  
9 back of those pages.

10 MR. ZALMAN: And I'm going to direct you to --  
11 if you could flip yourself -- after all the emails  
12 chains, there's a packet that contains two, what  
13 appears to be two policies. Do you see that? Still  
14 under the same tab. Keep on going. I think you're on  
15 it.

16 MR. TRAVERS: Okay. That page begins with page  
17 1 of 16?

18 MR. ZALMAN: Yes. And there's a -- what does  
19 this packet represent?

20 MR. TRAVERS: This was a set of instructions  
21 that Luis Hernandez and I worked together. I want to  
22 give him most of the credit for actually putting it  
23 together and then bringing it to me for me review to  
24 edit, to request changes if necessary.

25 It basically explains for two types of projects

1 that are seeking to use the Private Provider  
2 permissions from 553.791. The first one mentioned is  
3 PXA 1 and the second one is PXA number 2. Those  
4 terms, as we entered them in Community Plus, which was  
5 our permitting software program, stood for "P" permit,  
6 "X" by, "A" affidavit, number one; and then PXA,  
7 permit by affidavit, number two.

8 Under the first type, PXA number 1, that  
9 notified everybody that the Private Provider would be  
10 performing job site inspections only, and the second  
11 type, PXA number 2, would inform everybody that the  
12 Private Provider would be doing both plan review and  
13 job site inspections.

14 MR. ZALMAN: And when was this disseminated to  
15 your staff?

16 MR. TRAVERS: The revision date shown here is  
17 July 14th of 2016, at the top right-hand side of the  
18 page.

19 MR. ZALMAN: And before it was disseminated, how  
20 would you inform your staff of the direction they were  
21 to follow regarding Private Providers?

22 MR. TRAVERS: I believe that, and again, I don't  
23 have the exact chronology of the dates, but I believe  
24 we may have had a project at 2900 Riomar, which has  
25 been mentioned by counsel from time to time, whereby

1 we did not have this process in place. And we also  
2 did not have some of the necessary forms available or  
3 in place at the time, so we were scrambling to try and  
4 get the process underway, even though we didn't have  
5 some of the forms and some of the format. So we were  
6 kind of building the ship as we were sailing it for  
7 that project. But one of those forms would have been  
8 on the back of a Private Provider project.

9 We had a peel and stick label of a special color  
10 that identified that project was being either reviewed  
11 and inspected or inspected only by a Private Provider.  
12 And that was a key to notify my plans examiners and my  
13 inspectors that only audit inspections or audit plan  
14 review was necessary to see that the Private Provider  
15 had signed off on the compliance of the drawings, or  
16 that the Private Provider was doing the onsite  
17 inspections and noting those inspections in the  
18 logbook that's required as per 553.791.

19 MR. ZALMAN: So I want to know the methods of  
20 communication to your staff. Was it through meetings,  
21 or emails, or all of the above?

22 MR. TRAVERS: I would have to say it was all of  
23 the above. I know that we had some meetings. We also  
24 distributed emails. I think we actually had some sit  
25 down sessions on this, and again, this is over three

1 years ago, so my memory may not recollect exactly the  
2 order or how it was done, but I know that there was a  
3 lot of effort put into this to make sure that the  
4 Chiefs would disseminate the proper information down  
5 through their staff.

6 MR. ZALMAN: So, the email you summarized  
7 before, dated May 13th, 2016, would that be one  
8 example of how you were conveying the Private Provider  
9 directives to your staff?

10 MR. TRAVERS: Yes.

11 MR. ZALMAN: And I'm just gonna take you back to  
12 that red Tab 1, in case you left it. And if you go to  
13 page 2 and the body of John Madden's email that we  
14 were discussing previously, I want to direct you to  
15 where it says -- there's a typo -- computer results,  
16 unless that's a technical term.

17 MR. TRAVERS: No, I think that that's a typo.

18 MR. ZALMAN: What is John Madden stating in this  
19 email under computer results?

20 MR. TRAVERS: The sentence reads, "If you are  
21 notified via a scheduled inspection, enter C and  
22 include in the notes the following statement: This  
23 inspection was performed by a Private Provider as per  
24 Florida Statutes 553.791. I have not inspected or  
25 audited this inspection."

1           MR. ZALMAN: And just to clarify for the Board,  
2 what is the entering of C into?

3           MR. TRAVERS: That would be in our permit  
4 software program, Community Plus, or short term C  
5 Plus, as we call it. It's an inspection result that  
6 gets entered into the program.

7           MR. ZALMAN: And just briefly, what exactly is  
8 Community Plus?

9           MR. TRAVERS: Community Plus was the permit  
10 software program that we were operating under at this  
11 time. It's a way to enter permit applications into  
12 the software system to track the plan review, to track  
13 the inspection records, and to be able to request  
14 reports at the end of a project so that I, as Building  
15 Official, or the Assistant Building Official, could  
16 sign off on some type of an occupancy level, whether  
17 it be Certificate of Occupancy, Temporary, or Partial.

18           MR. ZALMAN: And this directive by John Madden  
19 to these emails, is this something -- was this part of  
20 your directive for the Private Provider system?

21           MR. TRAVERS: No. I had -- both Luis and I had  
22 set up through coordination with Valerie Arthur a way  
23 to enter a different series of letters into the system  
24 so that it would identify number one, the project  
25 would be identified as a Private Provider Project, and

1 the letters that we were asking to be used would not  
2 slow down or hamper the inspection process.

3 MR. ZALMAN: And what affect would entering a C  
4 into the software have on the job site.

5 MR. TRAVERS: So, entering a C into Community  
6 Plus, it basically cancels an inspection and could  
7 have the effect of not allowing subsequent inspections  
8 to be carried out until it was corrected or a new  
9 entry was put in there.

10 MR. ZALMAN: Was this an efficient use of time  
11 and resources?

12 MR. TRAVERS: Not in my eyes, no.

13 MR. ZALMAN: Why?

14 MR. TRAVERS: Well, because it slowed down the  
15 construction process and, again, we were coming out of  
16 an economic period where suddenly there was a boom of  
17 construction. We were understaffed and way behind. I  
18 needed to make sure that we were able to respond to  
19 the needs of the construction community in terms of  
20 plan review and inspections.

21 MR. ZALMAN: I want you to turn to the red Tab  
22 2, and specifically the bottom of that page, going  
23 onto the next page. What is that email?

24 MR. TRAVERS: So, about two-thirds of the way  
25 down the page there's the terminology "original

1 message." It's an email from me. It's to John  
2 Madden, Scott Dry, Joe DeMaio and at this time, Robert  
3 Gonzalez, George Oliva. So, what we see here now is  
4 Robert Gonzalez has now taken the role of the Chief  
5 Mechanical Inspector, Tony Sadolf is no longer the  
6 Interim Chief. George Oliva - it's copied to Luis  
7 Hernandez, Francine Weber, Mohammed Malik, Burt Ford,  
8 Victor Blanco, and the subject is "Audit inspection  
9 for Permit by Affidavit."

10 My wording on that was, "Please disseminate the  
11 following guideline once again to your inspection  
12 teams. Apparently, there is some confusion as to what  
13 is to be performed during an audit inspection as per  
14 553.791."

15 MR. ZALMAN: I'm going to just stop you there.

16 MR. TRAVERS: Yes, sir.

17 MR. ZALMAN: You say disseminate once again, so  
18 this directive has already been sent out to your  
19 staff?

20 MR. TRAVERS: So, the date on this email is  
21 September 29th of 2016. I believe in your previous  
22 questions to me, we established that the written  
23 policy was presented to them in July of 2016.

24 MR. ZALMAN: And you refer to confusion. What  
25 confusion are you referring to?

1 MR. TRAVERS: I believe it would be the  
2 confusion as to what the actual role or responsibility  
3 of our inspectors were on a Private Provider project.  
4 Were they to be re-inspecting something that was  
5 already inspected by the Private Provider or were they  
6 merely to be checking the logs to see that the  
7 inspection had been performed and that it had been  
8 passed by the Private Provider.

9 MR. ZALMAN: And why would this be considered  
10 confusion?

11 MR. TRAVERS: Well, the Statute actually says  
12 that the responsibility for plan review and  
13 inspections is handed over to the Private Provider,  
14 but the local municipality has the ability to perform  
15 what's known as audit inspections. In other words, to  
16 visit the plans or to visit the job site occasionally  
17 to make sure that the inspections that are being done  
18 by the Private Provider are in line with those  
19 required inspections that appear in Chapter One of the  
20 Broward Edition of the Florida Building Code.

21 I think I go on to in that email, now in  
22 italics, under the word inspecting, my email says,  
23 "DSD will perform audits periodically of the subject  
24 property/project at its discretion. The Private  
25 Provider shall keep a log of inspections readily

1 available to the Building Official and the inspectors  
2 on the job site."

3 On page 2, under item 2, I go on to say, "An  
4 approved and updated set of construction plans with  
5 all current revisions must be kept on site and made  
6 readily available to the City of Fort Lauderdale  
7 inspectors or the Building Official/Assistant Building  
8 Official for review during normal hours."

9 And again .3, "City inspectors will mark the  
10 Community Plus system" -- again, that is our permit  
11 software system that we enter our results in - "while  
12 visiting the Permit by Affidavit project as N, if  
13 quality assurance audit for the third party  
14 inspections result in normal and acceptable, or R, if  
15 the quality assurance audit for the third party  
16 inspection is refused or repudiated. Comments must be  
17 entered in C Plus under the notes section when either  
18 is required. If N, then from the last inspection in  
19 the logbook, note the name of the inspector for the  
20 third party that performed the inspection. That date,  
21 that result, the area or item that was inspected, and  
22 the license number of that inspector. If R, then  
23 state what is the reason that warrants correcting or  
24 any other pertinent information."

25 So again, I'm reiterating the instructions to

1       our team that if you find that the logbooks are in  
2       order and that inspections are being performed in a  
3       proper method, then you can enter the letter N.  If  
4       you find some sort of a deficiency in the logbooks or  
5       that an area may not have a log assigned in the  
6       logbook, then you can enter an R, meaning that you  
7       need to revisit the site and you need to instruct the  
8       Private Provider that the log for a particular area is  
9       not in the logbook.

10               And then finally I close out this email by  
11       saying, "For your convenience, the entire procedure  
12       guideline has been attached to this email.  An earlier  
13       decision by me, not to allow permit by affidavit and  
14       phase permitting to be used jointly has come under  
15       some question from the industry.  They're asking for a  
16       revisit to this policy.  I would ask that each Chief  
17       and Supervisor provide me with input as to broadening  
18       this to allow phase permits or limited scope phase  
19       permits, such as foundation or shell, to proceed under  
20       the direction of the Private Provider."

21               MR. ZALMAN:  I'll stop you right there.  So,  
22       just to reiterate, there was confusion among your  
23       staff.  Who among your staff was expressing or showing  
24       confusion with the system you were trying to  
25       implement.

1           MR. TRAVERS: I believe it would have been the  
2 field inspectors, not sure of what they were to be  
3 entering into Community Plus: to enter the R, as I  
4 had stated in policy, along with the help of Luis; or  
5 C, as had been stated in the email from Mr. Madden.

6           MR. ZALMAN: Is it your belief that Mr. Madden  
7 was one of the people that were confused about your  
8 directives?

9           MR. TRAVERS: I'm not sure exactly what that  
10 would be. Mr. Madden sat in the committee that  
11 originally formulated some of the requirements for  
12 .791, so I don't know if he was confused or not.

13          MR. ZALMAN: And if he did have confusion, this  
14 email is telling him you welcome his suggestions,  
15 correct?

16          MR. TRAVERS: I did. I asked each of the Chiefs  
17 to give me input. I think I stated that earlier in  
18 that email. I even said in that email, "I've asked  
19 each of the Chiefs and the supervisor to provide me  
20 with input under the -- as to broadening this to allow  
21 phase permits or limited scope phase permits." So, I  
22 did notify the Chiefs that I was looking for their  
23 input.

24          MR. ZALMAN: I want to take you back to Tab 2,  
25 the actual page with the tab on it and above your

1 email, there's an email from John Madden. Do you see  
2 that?

3 MR. TRAVERS: Yes, it's in the first third of  
4 the page from John Madden sent on September 29th at  
5 1:42 p.m. and it is to Ron Gardner, Joe Pascarello,  
6 Richard Thompson, and so on and so forth.

7 MR. ZALMAN: Are you part of that email?

8 MR. TRAVERS: No, I don't see my name in that,  
9 nor do I see a cc on that email.

10 MR. ZALMAN: I want to call your attention to  
11 the second sentence. What does that say?

12 MR. TRAVERS: The sentence reads, "This being  
13 said, each licensee is accountable for their actions  
14 as they relate to the Code and the interpretation  
15 thereof."

16 MR. ZALMAN: And what did you take from that?  
17 How do you interpret that?

18 MR. TRAVERS: I would think that that is  
19 notifying each of the people mentioned in the "to"  
20 portion of the email that they need to be cognizant of  
21 what their licenses require and to be accountable for  
22 their actions.

23 MR. ZALMAN: And then going back to your email  
24 from earlier on the 29th at 11:56, the one you were  
25 reading from, did you believe that Mr. Madden was

1 challenging your directive at any time? It won't be  
2 in the email.

3 MR. TRAVERS: No, no.

4 MR. ZALMAN: I'm just asking from your email  
5 that you were reading, do you believe that this  
6 directive was later challenged by Mr. Madden?

7 MR. TRAVERS: Well his instructions for his  
8 inspectors to enter C in the C Plus system, in the  
9 Community Plus system, was contrary to the N and the R  
10 that was originally in the procedures that we talked  
11 about earlier and, again, reiterated in the email  
12 that's at the bottom of page 1 and continues on to  
13 page 2 of the red Tab 2.

14 MR. ZALMAN: I'm going to change topics. Could  
15 you describe your interactions with Mr. Madden  
16 regarding the project called Tiffany House.

17 MR. TRAVERS: I'm not sure that we had a whole  
18 lot of interaction on it. Again, I'm having some  
19 trouble recollecting where we actually had meetings  
20 about it. I do recall that there was question as to  
21 the permit number that was assigned to it, the way  
22 that the permit was released. There was some action  
23 that occurred at the job site in terms of providing a  
24 stop work order that was not directed by me, and I  
25 believe there were some actions for, or some threats

1 of action of notice to appear, or NTA's, that may have  
2 been disseminated to some of the individuals on that  
3 job. Again, it's been over three years, so I'm not  
4 recollecting every detail of that.

5 MR. ZALMAN: I'm going to have you turn to the  
6 beginning of Tab 14, and just flip the page, I  
7 believe, the fourth page from the beginning. Do you  
8 recognize this email chain?

9 MR. TRAVERS: I want to make sure I'm on the  
10 right page. Does it start out, it says, "Luis  
11 Hernandez," and then "from John Madden, September  
12 5th." Is that it?

13 MR. ZALMAN: Yes.

14 MR. TRAVERS: Okay.

15 MR. ZALMAN: And if you look through the chain,  
16 you'll see a number of pictures. You see that?

17 MR. TRAVERS: Yes I do.

18 MR. ZALMAN: Okay. You recall this email?

19 MR. TRAVERS: I don't recall the email  
20 specifically. I do recall the picture that's shown.  
21 Actually, it would be the third picture. It's on page  
22 3. Looks like that's me over in the right hand side.

23 MR. ZALMAN: Did you mention this specific email  
24 during your statement to HR?

25 MR. TRAVERS: I'd have to review my statement.

1 I'm not sure if I did or not, Counselor.

2 MR. ZALMAN: Sure, that's on Tab 1 on page 2.

3 MR. TRAVERS: All right. I'm on page 2 of 10 in  
4 Tab 1.

5 MR. ZALMAN: You can take your time and refresh  
6 your recollection.

7 MR. TRAVERS: So, in paragraph number 5, which  
8 begins with the words, "In a written response," the  
9 second sentence reads, "In the same email, he attached  
10 a photograph of Travers and City officials at the  
11 groundbreaking ceremony. Madden copied the BMEP  
12 Chiefs" -- that would have been building, mechanical,  
13 electrical and plumbing -- "and inspectors on the  
14 email. According to Travers, the email and the  
15 photographs was a deliberate attempt to embarrass him  
16 in front of his staff."

17 MR. ZALMAN: And did you feel that the attaching  
18 of that photograph embarrassed you?

19 MR. TRAVERS: I didn't really understand what  
20 the relevance of that photograph had in terms of the  
21 project itself. In addition to that, there are  
22 several City officials included in those photographs  
23 and, again, the relevance to the application of  
24 553.791 doesn't appear to need any photographs to be  
25 attached to it.

1           MR. ZALMAN: Staying on that page of your  
2 statement, if you go to the fourth paragraph down,  
3 could you review that paragraph to yourself?

4           MR. TRAVERS: Paragraph 4 reads, "Travers  
5 believes Madden improperly interfered with directives  
6 given by him on a project known as Tiffany House. The  
7 project was initially submitted for full review, but  
8 because of delays in plan review, the owner requested  
9 to use a Private Provider. This request came around  
10 the same time Travers began formulating the Permit by  
11 Affidavit process. Travers approved the switch to  
12 Private Provider."

13           MR. ZALMAN: Those parts of your statements, do  
14 you now recall interactions you had with Madden about  
15 Tiffany House?

16           MR. TRAVERS: Again, the specific dates or  
17 conversation, I don't recollect. It appears in my  
18 statement that was given in the investigative report  
19 relates to some of the interaction between Mr. Madden  
20 and myself.

21           MR. ZALMAN: I'm gonna ask you to turn to the  
22 red Tab 3. Beginning with the email at the bottom of  
23 the page from you, who are you sending this to?

24           MR. TRAVERS: That email starts about almost  
25 halfway down the page from me. It was sent on

1 Wednesday, September 7, 2016, and it was to John  
2 Madden, Joe DeMaio.

3 I apologize. I'm trying to be clear and  
4 understandable to the Board. Okay. Returning to page  
5 4 on Tab 3 --

6 MR. ZALMAN: Yes.

7 MR. TRAVERS: Starting in the middle of the  
8 page, there's an email from me, Wednesday, September  
9 7, 2016. It's addressed to John Madden, Joe DeMaio,  
10 Scott Dry, Robert Gonzalez. Again, these would have  
11 been the four command staff, the Chief Inspectors.  
12 Richard Benton, Floodplain Manager; George Oliva,  
13 Building Enforcement Supervisor; and it's copied to  
14 several other people, Victor Blanco from Zoning; Alex  
15 Sheffer from Engineering; Kimberly Pearson from  
16 Landscaping; Mohammed Malik, who was the Zoning  
17 Administrator; Charles Nickert, who was kind of a  
18 plans router and organizer; Cheryl Felder oversaw the  
19 operations of the intake clerks; Luis Hernandez is at  
20 this time my Assistant Building Official; Francyne  
21 Webber was working with him on the Private Provider  
22 Program; and Jorge Maura, that would be, Officer Jorge  
23 Maura.

24 The subject of the letter is 2900 Riomar,  
25 Tiffany House, and I state in this email, "Please see

1 the attachments for review of the meetings on 9/6/2016  
2 and clarifications and instructions. This now  
3 memorializes the progress and expectations for this  
4 project. These actions need to be accomplished ASAP  
5 in order to issue the permit card and allow the  
6 contractor to return to work."

7 MR. ZALMAN: Okay. And on the page 4, page 3,  
8 at the bottom of the page, there's another email, it's  
9 from John Madden. Do you see that?

10 MR. TRAVERS: So again, I'm on page 3. I see an  
11 email from John Madden sent Wednesday, September 7th  
12 at 1:48 p.m. It is sent to myself, Joe DeMaio, Scott  
13 Dry, a list of people there, and it's copied to Victor  
14 Blanco, Alex Sheffer, another list of people, and the  
15 subject matter is 2900 Riomar, Tiffany House.

16 In that email, John says, "I'm not sure if I  
17 fully understand the attached documents, so I have the  
18 following questions: Are we going to audit the plans  
19 as noted in Plan Reviews, Page 7 of the City of Fort  
20 Lauderdale Policy Process for Projects Seeking to  
21 Proceed as Permit by Affidavit?

22 MR. ZALMAN: And so Mr. Madden is expressing  
23 some concerns about your directives regarding this  
24 project?

25 MR. TRAVERS: He's asking me, "Are we going to

1 do audit to the plans?" And that was covered in the  
2 policy and procedures that we set up for the PXA 2  
3 type of Permit by Affidavit, where the Private  
4 Provider would be doing both plan review and the  
5 inspections. Under a PXA 1, where they were only  
6 doing inspections, we would have actually done the  
7 plan review in-house with our own staff.

8 MR. ZALMAN: And the email above that, do you  
9 address Mr. Madden's concerns?

10 MR. TRAVERS: The email at the top of the page  
11 from me on September 7th at 4:00 in the afternoon,  
12 it's to Mr. Madden with a copy to Francyne Webber.  
13 Once again, Ms. Webber was the clerk that was managing  
14 or maintaining all of the information concerning the  
15 Private Provider projects at that time. So the body,  
16 again, the subject 2900 Riomar, Tiffany House. The  
17 body says, "As to item 1, let our audit review verify  
18 that the Private Provider has reviewed and approved  
19 each page applicable to our BMEP disciplines." Again  
20 that's building, mechanical, electrical, plumbing. "A  
21 full review by us moves us into the liability group  
22 and I want that responsibility clearly on the  
23 Provider. The Threshold Inspector is delivering the  
24 Inspection Compliance letter and the acceptance of the  
25 RFI on the DEAL to Francyne shortly. She will make it

1 part of our office file documents.”

2 MR. ZALMAN: So in this email, are you  
3 explaining your directives and addressing the concerns  
4 of Mr. Madden from the previous email?

5 MR. TRAVERS: Yes.

6 MR. ZALMAN: And then on the page before that,  
7 page 2, at the bottom of the page there's an email  
8 from Mr. Madden. You see that?

9 MR. TRAVERS: At the bottom of the page, the  
10 email from John Madden dated 9/7/16 at 4:39 p.m. It's  
11 addressed to me, to Ralph Riles, George Oliva, Frank  
12 Eragony [phonetic], again subject 2900 Riomar, Tiffany  
13 House, and the body beings with, "Thanks, John. We  
14 will comply. Ralph, do not perform any reviews on  
15 this project and remove any double, quadruple fees.  
16 For building plan review, enter N and place the  
17 following comments: This has not been reviewed by the  
18 City of Fort Lauderdale for compliance with the  
19 Florida Building Code, as per Building Official John  
20 Travers. Please attach this email to the Master  
21 Permit. Thank you."

22 MR. ZALMAN: So does it appear that this email  
23 is a response to your previous email?

24 MR. TRAVERS: Well, it does in the first  
25 sentence when he replies, "Thanks, John. We will

1       comply.”

2               MR. ZALMAN:   And Mr. Madden, he does appear to  
3       be complying with your explanation from the previous  
4       email?  He says, “We will comply.”

5               MR. TRAVERS:   Yes.

6               MR. ZALMAN:   If you go -- flip forward to page 1  
7       of that chain -- the whole page is an email from John  
8       Madden to you.  Do you see that?

9               MR. TRAVERS:   Yes.  It’s dated Thursday,  
10       September 8th, now 7:56 a.m.  It’s to me with copies  
11       to Anthony Fajardo, who’s the Director, Al Battle, the  
12       Deputy Director, and then a laundry list of people  
13       within the department itself.  Again, the subject  
14       matter is 2900 Riomar, Decision to Remove Hold  
15       Penalties and Issue Permit.

16               MR. ZALMAN:   I want to refer you back to your  
17       statement in Tab 1.

18               MS. BLEAU:   Can you tell me where the email was  
19       that you --

20               MR. ZALMAN:   Oh, so, red Tab 3 and then, which  
21       starts on page 4, the beginning of the email chain,  
22       going to number 1 is the end of the email chain.

23               MS. BLEAU:   Okay.  Thank you.

24               MR. ZALMAN:   At the bottom of page 3 could you  
25       read to yourself that paragraph that goes onto the

1 next page.

2 MR. TRAVERS: I want to make sure we're in the  
3 right place.

4 MR. ZALMAN: No, no. On your statement in Tab  
5 1.

6 MR. TRAVERS: Oh.

7 MR. ZALMAN: Yeah. See what I mean?

8 MR. TRAVERS: Okay, I'm on Tab 1, which is the  
9 investigative report. And on page 2 of 10, under  
10 Witness Interviews, that begins with me.

11 MR. ZALMAN: All right. So on page 3 --

12 MR. TRAVERS: Page 3?

13 MR. ZALMAN: Yep. It's the middle paragraph --  
14 well, bottom middle paragraph. It begins, "Travers  
15 believes." Do you see that?

16 MR. TRAVERS: So the paragraph reads --

17 MR. ZALMAN: Well, hold on. Okay. You say,  
18 "Travers believes" - well, in this restatement,  
19 "Travers believes Madden improperly interfered with  
20 directives given by him," meaning you, "on a project  
21 known as Tiffany House." How did he improperly  
22 interfere with your directives?

23 MR. TRAVERS: I believe in his emails he had  
24 stated to use letter C in the entries for Community  
25 Plus, rather than the N or the R that were part of my

1 instructions that were included in the original  
2 handout and also reiterated in a follow-up email.

3 MR. ZALMAN: And continuing with your statement  
4 regarding Tiffany House, that last paragraph it says,  
5 "Originally Madden accepted Travers explanation and  
6 the next day Madden sent an email to Travers, the  
7 Director, Deputy Director and the Chiefs, accusing  
8 Travers of knowingly violating the Building Code." Do  
9 you see that? It goes onto the next page.

10 MR. TRAVERS: I do.

11 MR. ZALMAN: Are the emails we just reviewed,  
12 are those the emails that you were referring to in  
13 this statement?

14 MR. TRAVERS: Yes.

15 MR. ZALMAN: And can you expand on -- do you  
16 consider this a form of insubordination?

17 MR. TRAVERS: Mr. Madden made an accusation that  
18 I was knowingly violating the Florida Building Code.

19 MR. ZALMAN: Did you?

20 MR. TRAVERS: No.

21 MR. ZALMAN: Did you permit Tiffany House to  
22 proceed with appropriate permits?

23 MR. TRAVERS: No, we scrambled a little bit to  
24 get the right permit to it. There was some technical  
25 things involved. Tiffany House originally was going

1 to be a boutique hotel and a remodeling of an existing  
2 historically preserved portion. At that time the  
3 contractor was going to do both projects.

4 They then came in and let us know that they  
5 would want to bifurcate the two projects so that they  
6 could continue with the tower and get it to completion  
7 and occupancy without encumbering that by not being  
8 able to do the improvement on the historic side for, I  
9 believe it was either a two- or a three-story  
10 building. So we did have some cancellation of permits  
11 and reissuing of new permits to bifurcate those two  
12 projects to allow each of them to progress  
13 independently.

14 MR. ZALMAN: And you heard Ms. Richard, the  
15 Employee Relations Manager, testify that she was using  
16 your statement to sustain that Mr. Madden had  
17 committed a violation of a reasonable regulation,  
18 which amounted to in short, insubordination. Could  
19 you provide the Board with examples of how you believe  
20 Mr. Madden was insubordinate.

21 MR. TRAVERS: Well, his emails with instructions  
22 to his inspectors contradicted the policy that I had  
23 set up and the expectations of those inspectors for  
24 the Private Provider Projects in the way that they  
25 were to make entries.

1 MR. ZALMAN: So the emails were an example of a  
2 countermand or not complying with your directives?

3 MR. TRAVERS: Yes.

4 MR. ZALMAN: And you said previously, entering a  
5 C into Community Plus was also not part of your  
6 directive?

7 MR. TRAVERS: No. In the printed directive that  
8 I prepared along with Luis and also in the email that  
9 reiterated the expectations and responsibilities, the  
10 two letters that were to be used were either N for  
11 normal, or R for repudiated, meaning that there was a  
12 deficiency of some kind noted in the logbook of the  
13 inspections that the Private Provider was providing.

14 Nowhere did I mention to use the letter C for  
15 cancelled, and nowhere did I tell the inspectors to  
16 enter in the notes column, "This inspection was not  
17 performed by City of Fort Lauderdale inspectors."

18 MR. ZALMAN: And you said by entering C,  
19 essentially created inefficiency at that work site?

20 MR. TRAVERS: It would cause the system,  
21 Community Plus, to demand some other action occur  
22 before future inspections could be entered into the  
23 system requests.

24 MR. ZALMAN: I'm going to have you turn to Tab 4  
25 of our binder. Not the red one, just the regular Tab

1 4.

2 MR. TRAVERS: Tab 4.

3 MR. ZALMAN: It's okay. Do you recognize this  
4 document?

5 MR. TRAVERS: This is a report generated by  
6 Community Plus, the permit software program that we  
7 were using, and it identifies the plan reviewers and  
8 the various types of plan reviews that they were  
9 performing.

10 MR. ZALMAN: And you heard Ms. Richard talking  
11 about this, that she used this to help her sustain the  
12 violation that Mr. Madden was unproductive or  
13 inefficient. Could you explain exactly what this  
14 document shows and how Mr. Madden appeared to be  
15 inefficient?

16 MR. TRAVERS: Column number 3 is identified by  
17 the word "quantity." It talks about the number of  
18 plans that were reviewed by different individuals.  
19 So, if you go through the pages of this report, the  
20 names of the Plans Examiners are in alphabetical  
21 order. So somewhere around page 5 or so, two-thirds  
22 down the way of the page, you'll see total for MADDJ.  
23 This is a shortened entry into Community Plus. J  
24 being the first initial, John, and then MADD being the  
25 first four letters of his last name.

1           You see that there's a total of 16 inspections  
2 under the quantity problem -- quantity column, and  
3 then to the right of that is time spent. In the  
4 Community Plus program there were increments that were  
5 entered into the program for each 15-minute segment  
6 that you spent reviewing plans. So, the number that  
7 you see there, 10.15, would indicate that Mr. Madden  
8 entered into the system ten 15-minute increments, plus  
9 a little bit more than that.

10           If we look at one of the other Chief Inspectors,  
11 and on the previous page where you see GONZRO, that  
12 stands for Roberto Gonzalez, who was the Chief  
13 Mechanical Inspector. You'll notice that there are  
14 1,049 entered into the quantity section for plan  
15 review.

16           And then, going back another page, you'll see  
17 under DRYS, which stands for S for Scott Dry, Chief  
18 Electrical, there were 4,421 plans reviewed. And  
19 you'll notice a surprisingly high number in the next  
20 column under time spent and that's because Mr. Dry  
21 always entered those increments every time he did a  
22 plan review.

23           Quite often inspectors -- I'm sorry -- Plans  
24 Examiners, or Chiefs, wouldn't always enter the amount  
25 of increments, and so that's why you may see a lot of

1 plans being reviewed, but a relatively small amount of  
2 time involved. As a matter of fact, if you move  
3 further up the page to DEMAJ, that stands for Joe  
4 DeMaio who was the Chief Plumbing Inspector, you'll  
5 notice that Mr. DeMaio reviewed over 1,500 plans, but  
6 that he only has 8.95, 15-minute increments. That,  
7 again, some of the Plans Examiners wouldn't complete  
8 the bracketed time entries for each 15-minute segment,  
9 but not entering that wasn't really that detrimental.  
10 The quantity column is still accurate as to the number  
11 of plans that they assigned their inspector or plans  
12 examiner number to, that they did the reviews.

13 MR. ZALMAN: So, you referred to Mr. Madden's  
14 productivity on this data sheet. Could you turn to  
15 his entry?

16 MR. TRAVERS: Yes, sir.

17 MR. ZALMAN: And just so the Board could follow  
18 along, it's highlighted in what would be gray in your  
19 notebook, MADDJ. Did I say that correctly, Mr.  
20 Travers?

21 MR. TRAVERS: Yes.

22 MR. ZALMAN: And you noted that he had six --  
23 the quantity was 16, correct?

24 MR. TRAVERS: Yes.

25 MR. ZALMAN: What's the time spent? What does

1 that number signify?

2 MR. TRAVERS: Again, to my knowledge, that  
3 stands for the 15-minute increments, so it would have  
4 been ten, 15-minute increments.

5 MR. ZALMAN: And his average time spent in the  
6 next column? What was that?

7 MR. TRAVERS: That would be Community Plus's way  
8 of averaging out how much time was spent on each of  
9 the reviews.

10 MR. ZALMAN: Did these two units of measurement  
11 also appear to be low?

12 MR. TRAVERS: Yes.

13 MR. ZALMAN: So, across the board, Mr. Madden's  
14 productivity seemed to be low?

15 MR. TRAVERS: Yes, but again, I'm not sure that  
16 every Plans Examiner was entering in the exact 15-  
17 minute increments as it pertained to their plan  
18 review. However, with only reviewing 16 plans under  
19 the span of this report, it appears that that might  
20 have been an accurate entry by John Madden as far as  
21 how much time he actually spent doing plan review.

22 MR. ZALMAN: Do you know the time frame for when  
23 those 16 plan reviews occurred, like what year?

24 MR. TRAVERS: No, I can look at the date that  
25 the report was printed, which was November 21, 2016.

1 It would lead me to believe that we asked for a period  
2 of review prior to that actual date that the report  
3 was printed.

4 MR. ZALMAN: Did you initiate an investigation  
5 of Madden because he was complaining you violated the  
6 Building Code?

7 MR. TRAVERS: No.

8 MR. ZALMAN: And did you hear Mr. Madden's  
9 attorney tell the Board you were attempting to do away  
10 with audits on Private Payor jobs?

11 MR. TRAVERS: Private Provider jobs.

12 MR. ZALMAN: Private Provider Jobs?

13 MR. TRAVERS: Yes, I do recall, counsel, seeing  
14 that.

15 MR. ZALMAN: Did you ever do that?

16 MR. TRAVERS: No, sir.

17 MR. ZALMAN: In your supervisory role as the  
18 Building Official, did your staff or other City  
19 employees come to you regarding complaints or  
20 grievances they had about Mr. Madden?

21 MR. TRAVERS: You know, there was probably floor  
22 talk that circulated around. I believe maybe Mr.  
23 Oliva may have at one time actually come to my office  
24 to complain about some interference that John may have  
25 been doing in terms of how he was supervising his

1 building enforcement section. Again, it's over three  
2 years ago, so I'm not really clear on exactly when  
3 people may have come into my office, but I didn't ask  
4 to initiate any investigation.

5 MR. ZALMAN: Could you turn to red Tab 4, red  
6 Tab. Do you recognize this email?

7 MR. TRAVERS: I don't recollect it from when it  
8 was originally sent. I can review it now if you would  
9 like.

10 MR. ZALMAN: Sure. And in the context of is  
11 this -- you mention Mr. Oliva -- is this email  
12 memorialized, the interaction you were describing?

13 MR. TRAVERS: The email is from John to Mr.  
14 Oliva and it copies Anthony Fajardo, the Director, Al  
15 Battle, the Deputy Director, myself, two of the Chief  
16 Inspectors, Joe DeMaio and Scott Dry, and then another  
17 laundry list of people, plans reviewers and inspectors  
18 within the Building Services Department. And again,  
19 the subject is 2900 Riomar, Meeting in John Travers  
20 Office, 9/6/16. And then there's a permit issued -- a  
21 permit number, 16060868.

22 MR. ZALMAN: And do you know the context, after  
23 reviewing the email?

24 MR. TRAVERS: So, in the first paragraph, John  
25 Madden is instructing George that his name appears as

1 the Plans Examiner for this permit. He questions  
2 whether or not George is certified as a Plans Examiner  
3 through the State of Florida and BORA -- BORA, the  
4 Board of Rules and Appeals for Broward County.

5 MR. ZALMAN: Was Mr. Oliva under your direction  
6 to enter in the notes that Mr. Madden's referring to?  
7 And was that acceptable by Mr. Oliva?

8 MR. TRAVERS: Again, I don't recall the exact  
9 order of things here, but it may have come from a  
10 directive from me to have the entries into the system  
11 for the project, 2900 Riomar, put to a point that  
12 would allow for future inspections to be called in by  
13 the Private Provider to the City of Fort Lauderdale.

14 MR. ZALMAN: I'm gonna take you back to Tab 1,  
15 in your statement to Ms. Richard, on page 4,  
16 specifically. Do you see the first actual paragraph,  
17 starting with Travers directed?

18 MR. TRAVERS: Yes, I do.

19 MR. ZALMAN: Could you review that paragraph.

20 MR. TRAVERS: So, that paragraph identifies the  
21 fact that when we were renumbering the permits, and I  
22 believe this would have been because we were  
23 bifurcating the historical portion of the building  
24 away from the boutique hotel tower, that we were  
25 transferring the Plans Examiner notes from one project

1 to the other. The first sentence says that I directed  
2 George Oliva to transfer plan review notes from one  
3 project to the other.

4 "Upon seeing Oliva's notes in C Plus, which  
5 clearly indicate he's acting on Travers' request,  
6 Madden chastised Oliva by asking if he was a Certified  
7 Plans Examiner through the State of Florida or BORA.  
8 He told Oliva that only Certified Plans Examiners can  
9 change plan reviews and since he was not, he was  
10 barred from making such changes."

11 Last sentence is, "Travers cites this incident  
12 with George Oliva as another example of Madden  
13 interfering with his authority to administer Permit by  
14 Affidavit projects and supervise his staff." And  
15 again, this was just transferring the already  
16 completed reviews that had been done into a new permit  
17 number that had been created in order to segregate  
18 these projects into two different projects.

19 MR. ZALMAN: So, we have you review emails that  
20 went back and forth during your testimony and we had  
21 you review your statement. Could you briefly  
22 summarize the concerns you had about Mr. Madden's  
23 behavior in the workplace.

24 MR. TRAVERS: I really need my command staff to  
25 be my allies to help me do an effective job, and it

1 was becoming apparent to me that John was frustrated  
2 and was issuing directives that were counter to some  
3 of the directives that I had issued in order to  
4 formulate this Permit by Affidavit program that had  
5 been around in the City, but had really no written  
6 policy or procedure ever memorialized.

7 So, there was a lot of flexing. I asked for a  
8 lot of input from the Chiefs to help me in preparing  
9 this directive, and we came up with a plan that we  
10 thought worked best in order to standardize the  
11 procedure, to give clear instructions to not only our  
12 staff in-house, but also to the Private Provider staff  
13 as to what their responsibilities were.

14 And in addition to that, we established some key  
15 contact points so that we wouldn't have various  
16 contractors from the job site all trying to call in to  
17 say that they were requesting inspections from the  
18 Private Provider. We really wanted to establish a  
19 focal point of one-on-one between the Private Provider  
20 and the City of Fort Lauderdale so that we had direct  
21 communication with the Private Provider to help us  
22 when we performed our audit inspections on a job site.

23 Now Statute itself says that the Building  
24 Official can determine the level of audits that need  
25 to be done, and that can be based upon any of the

1 deficiencies, or the inaccuracies that are being  
2 entered into the logs by the Private Provider.

3 I'm not sure, but I believe that the policy at  
4 hand prior to my arrival might have been a 100% audit,  
5 meaning that City inspectors were going to visit the  
6 job site every single time a Private Provider  
7 inspected that job site. Although Statute would allow  
8 that if there was a deliberate deficiency that was  
9 recurring, my instructions to the inspectors were, if  
10 things appear to be progressing at a normal rate, you  
11 can establish with the Private Provider how often your  
12 jobsite visits should be, whether it be once a week or  
13 once every two weeks. You're there to check the logs.  
14 You're also there to check to see if the Private  
15 Provider is checking the logs of the threshold or the  
16 Special Inspector, and if you notice a deficiency,  
17 then you can increase the amount of times that you  
18 visit the jobsite until you see the deficiency  
19 corrected.

20 I never instructed them not to perform audit  
21 inspections and I never instructed them not to perform  
22 audit plan review. I wanted to make sure that we had  
23 a set of documents that were reviewed by the Private  
24 Provider that had the initials on the back side of the  
25 Private Provider saying that the drawings were, to the

1 best of their knowledge, compliant with the Florida  
2 Building Code.

3 Now, those drawings have a lot of extra pages in  
4 them, so if we look at the picture that was submitted  
5 earlier in the opening statement by Mr. Madden's  
6 counsel, she showed you a picture of a stamp on the  
7 back of a page that did not have any initials on it.

8 There's a number of reasons that that could have  
9 happened. Number one, normally the first page of a set  
10 of drawings is the architect's concept of what the  
11 final building would be, the address, and also the  
12 designer's information. There's really nothing to  
13 review on that page.

14 Additionally, the last page of a complete  
15 document set of prints can often be a blank page  
16 because those prints get moved around, handled,  
17 opened and closed a lot, so quite often the  
18 architectural firm will include a totally blank page  
19 on the back to act as kind of a buffer or a filter so  
20 that an actual page with data on it doesn't get  
21 damaged, ripped, torn or smudged in any way.

22 And then, additionally, even some designers will  
23 insert blank pages to differentiate between the  
24 different disciplines to create kind of a tab effect  
25 so that when you move out of structural to electrical,

1           there could be a blank page in there.

2                     At any rate, whether it would be our inspectors  
3           or the Private -- I'm sorry, our Plans Examiners or  
4           the Private Provider's Plans Examiners, if there was  
5           nothing of merit on that page, there would be no  
6           reason for them to enter any initials on that page.

7                     MR. ZALMAN: Any other concerns?

8                     MR. TRAVERS: Could you be more specific, sir.

9                     MR. ZALMAN: No, I just want you to summarize  
10          your concerns that you had when Mr. Madden was under  
11          your supervision.

12                    MR. TRAVERS: Well, there was an occasion or two  
13          where I actually -- I saw Mr. Madden lose his  
14          composure. I heard a lot of talk from other people  
15          about that. I wasn't directly involved in that, but  
16          there was an occasion where I actually witnessed  
17          myself Mr. Madden becoming very irate.

18                    MR. ZALMAN: Could you describe that occasion?

19                    MR. TRAVERS: Yes. The City has an annual bean  
20          bag toss that we go through where all the different  
21          departments compete with each other and we had  
22          established a team in the DSD to compete. We were  
23          going to set up some bean bag toss bars or platforms  
24          and bean bags so that we could practice to become more  
25          proficient at that.

1           I recall in front of Mr. Dry's office one day  
2 when we opened up the box that had the bean bags in  
3 it, they were actually replicas of the American flag,  
4 and Mr. Madden became quite upset with that. And then  
5 further, I think he noticed that there was a tag on  
6 them that said, "Made in China" and I recall him  
7 saying, "The Chinese are laughing at us because we're  
8 throwing our flag on the ground."

9           While I share his concern that the bean bags  
10 were part of what resembled the American flag, I don't  
11 share the same amount of passion or loss of temper  
12 that Mr. Madden exhibited that day. But as a result  
13 of how he felt about that, I directed that we're going  
14 to get another set of bean bags so that we are not  
15 tossing these around as if it were the American flag  
16 being thrown towards the ground. So, this was an  
17 example where he kind of completely came unglued over  
18 this, and while I can sympathize with his passion for  
19 that and his passion for his service, I didn't think  
20 that it was appropriate to take it to the level that I  
21 saw, that we were going to correct it anyway.

22           MR. ZALMAN: Any other concerns?

23           MR. TRAVERS: I have concerns that I see in a  
24 letter from Midguard which, by the way, the first  
25 portion of the M on that letter from Mr. Goldstein got

1 cut off and the term was actually Midguard, not  
2 Widguard. But I have a concern that Mr. Madden, in  
3 that letter, that Mr. Goldstein stated that Mr. Madden  
4 was going to see that I was removed, see that the City  
5 Manager was removed. I also have a concern that when  
6 I gave a set of clear directions on how the Private  
7 Provider process was to be handled by us, and then I  
8 reiterated that in an email, that there was still  
9 comment by Mr. Madden directing his staff to do  
10 something that was different than what my instructions  
11 were.

12 I do need to say this about Mr. Madden. He's  
13 very technically proficient. I noted that in his  
14 annual performance report. He's an extremely  
15 intelligent person when it comes to the structural  
16 portion of a building. As his counsel has stated, my  
17 forte is electrical. But as Building Official, that's  
18 why I have a command staff to give me instructions and  
19 guidance in those areas that I don't feel competent  
20 in.

21 However, the section that I mentioned earlier,  
22 Section 104.1.1, clearly states that the Building  
23 Official shall be the primary enforcement official of  
24 this Code, meaning the Florida Building Code.  
25 Further, in the picture that Mr. Madden posted to

1 everybody showing me with a shovel in my hand at the  
2 Tiffany site at 2900 Riomar, does have some  
3 construction equipment shown in the background and  
4 there was a section of the Florida Building Code,  
5 105.12, that says, "When plans are delayed for review,  
6 the Building Official has the authority to allow for  
7 equipment, materials, sheds, and fencing and so forth,  
8 to be put on the jobsite in preparation."

9 And, it further states that, "Work can begin on  
10 the jobsite and progress to the point of first  
11 required inspection." So, it would not have been a  
12 violation of the Florida Building Code to see  
13 workplace equipment on that site.

14 As a matter of fact, we issued a phase permit  
15 for the foundation in order that the Civil Engineer  
16 and the Structural Engineer could determine the exact  
17 placement and the number of pile that needed to be put  
18 in the ground in order to stabilize the building  
19 itself.

20 So, while all of that was presented in counsel's  
21 opening statement, there was some back story to those  
22 things that I felt that this Board should know about.

23 MR. ZALMAN: Can you think of anything else  
24 because now's your time to summarize those concerns.

25 MR. TRAVERS: It's been alluded by counsel and

1 the terms that have been used were "on the take" or  
2 "in cahoots." There's even some talk of taking  
3 bribes. None of that has been apparent. Yes, I did  
4 work for that Private Provider for three years before  
5 I became the Building Official for the City of Fort  
6 Lauderdale, but in working for the Private Provider, I  
7 gained a lot of knowledge on the exact way that  
8 Statute 553.791 was to be applied, both by the  
9 municipality and the responsibilities of the Private  
10 Provider.

11 And additionally, I have never taken any kind of  
12 bribe or compensation or anything of that nature from  
13 any Private Provider. As a matter of fact, in a  
14 meeting that I had with our inspectors and our plans  
15 examiners, I reiterated to them that they are all  
16 professionals, that they know better, and that beyond  
17 accepting a bottle of water on a jobsite from the  
18 contractor, I won't permit that. I have zero tolerance  
19 to that because quite often the perception of a  
20 wrongdoing can be as damning as the wrongdoing itself.

21 So I had concerns that Counsel, acting upon  
22 direction from Mr. Madden, has insinuated that there  
23 is impropriety here, due to the fact that I worked for  
24 the Private Provider. In my tenure with the City of  
25 Hialeah, 21 years, I spent the last six years as a

1 Director of four divisions. One of those divisions  
2 was the Building Division.

3 After Hurricane Wilma, I recognized that we were  
4 not going to be able to meet the demands of all the  
5 repairs that were coming in from damage from Wilma.  
6 So, the City Attorney and I enlisted the aid of a  
7 Private Provider to provide us with staffing. So, in  
8 this case, it wasn't the exact same as a Private  
9 Provider doing the inspections in lieu of us, but we  
10 asked the Private Provider to give us staff members  
11 that would work with my inspectors and plans  
12 examiners. That provider was M.T. Causley.

13 After we got caught up with all of the repairs  
14 and permits from Wilma, I decided to retire from the  
15 City of Hialeah and I let that Private Provider know  
16 that, even though I was retiring from Hialeah, my wife  
17 made it clear to me that I was not going to hang  
18 around the house under her feet. So, I let them know  
19 that if there was something in mind that they had to  
20 do, I liked the way that M.T. Causley performed, the  
21 professionalism, every one of their inspectors and  
22 plans examiners was certified by the State through  
23 DBPR, through a Board known as the Building Code  
24 Administrators and Inspectors Board. I liked their  
25 operation. So, yes, I did work for them. However, I

1 left them to become the Building Official for the City  
2 of Fort Lauderdale and I've never been in cahoots,  
3 accepted any money, accepted any kind of numeration  
4 [sic] of any kind.

5 I've always looked at the fact that the reason  
6 that Private Provider or Permit by Affidavit is in  
7 State Statute is that if jobs are being held up  
8 because of slow plan review or slow response for  
9 inspections, the Legislature itself actually created a  
10 work-around for that by creating the Permit by  
11 Affidavit or the Private Provider process.

12 At this time in the City of Fort Lauderdale, I  
13 believe we have about nine registered Private  
14 Providers and probably about 18 to 20 different job  
15 sites that are being overseen by those Private  
16 Providers. We're doing our audit inspections. We're  
17 doing our audit reviews.

18 As a matter of fact, recent legislation in House  
19 Bill 7103 has broadened the authority of Private  
20 Providers and further restricted us in our ability to  
21 do audits where we were able in the past to go out to  
22 the job site on a weekly or a biweekly basis to do  
23 audit inspections. The new Statute that was signed  
24 into law by Governor DeSantis of this July now  
25 restricts us to four audits a year per provider, not

1 per project. So, if a provider has four projects  
2 going on in the City --

3 MS. BLEAU: Can I just interject?

4 MR. ZALMAN: He's answering a question.

5 MS. BLEAU: We are -- he's not answering the  
6 question. And we are so afield of anything relevant  
7 here. It's 2:30 in the afternoon. We scheduled a  
8 two-day Civil Service hearing and the City is on its  
9 third witness and claimed to have seven, so if we can  
10 stick to the issues, I would request the direction  
11 from the Chair.

12 MR. ZALMAN: It's inappropriate to interrupt the  
13 witness in the middle of their testimony.

14 MS. BLEAU: It's not inappropriate to talk --  
15 excuse me. It's not appropriate to interrupt somebody  
16 when their talking --

17 MR. ZALMAN: I know.

18 MS. BLEAU: -- and counsel is talking and the  
19 witness is talking about something that happened now,  
20 which cannot possibly be relevant to something that  
21 happened three years ago.

22 CHAIR ADELSON: [inaudible]

23 MR. TRAVERS: Yes, ma'am.

24 MR. ZALMAN: Thank you.

25 MR. TRAVERS: And I'll summate at this time.

1 It's important, as Mr. Madden knows, that we have  
2 clear oversight on construction projects. Whether it  
3 be from the City itself, or from the Private  
4 Providers, we need to be able to do those audit  
5 inspections.

6 We were performing those audit inspections three  
7 years ago under my direction at the convenience of the  
8 Chiefs and their instructions to the inspectors. And  
9 that is that, if they needed to visit the jobsite more  
10 than once a week or more than every two weeks, there  
11 were no problems with that. However, at no time did I  
12 ever tell any of my Chiefs that we were not going to  
13 do audit inspections or audit reviews. And with that,  
14 sir, I'll close.

15 MR. ZALMAN: Do you feel that Mr. Madden's  
16 temperament, that you described before, had an effect  
17 on your department?

18 MR. TRAVERS: I personally believe that there  
19 was an intimidation factor, there was a fear of  
20 workplace hostility that was fed by some of Mr.  
21 Madden's actions.

22 MR. ZALMAN: Do you have any concerns of Mr.  
23 Madden returning to the workplace?

24 MR. TRAVERS: I would welcome Mr. Madden's  
25 expertise in structural back to the workplace,

1           however, I have serious reservations about the way  
2           that he would deliver his messages. Intimidation  
3           rather than cooperation and coordination just isn't  
4           the way that I think the division, the department  
5           should be run.

6           MR. ZALMAN: Thank you. No further questions at  
7           this time.

8           CHAIR ADELSON: [Inaudible]

9           MR. TRAVERS: Please. I was about to. Thank  
10          you.

11         [Thereupon a short recess was taken]

12         [Hearing Resumes]

13         CHAIR ADELSON: All right. Are we back on?

14         [UNKNOWN FEMALE]: Yes you are.

15         CHAIR ADELSON: All right. City have you  
16         concluded your questions of this witness?

17         MR. ZALMAN: At this time.

18         CHAIR ADELSON: Okay. Ms. Bleau.

19         MS. BLEAU: Thank you, ma'am, Madam Chair.

20         CHAIR ADELSON: Oh, and just, for more  
21         preliminary -- for procedural, we are going to stop at  
22         about ten minutes to four because it looks like we  
23         might have gotten some more dates. So, that's one of  
24         the things she was doing as well. So, this way we can  
25         see if we can get a full day so that maybe we can get

1 this wrapped up since you haven't even finished with  
2 your witnesses. The City has not finished with their  
3 witnesses either. Okay. All right. Sorry. I didn't  
4 mean to --

5 MS. BLEAU: No absolutely. That's fine. Thank  
6 you.

7 Good afternoon, Mr. Travers.

8 MR. TRAVERS: Good afternoon, ma'am.

9 MS. BLEAU: How are you? So one of the things  
10 that you testified under direct is that Mr. Madden was  
11 guilty in your mind of insubordination and I think you  
12 repeated it, I don't know, three or four times that he  
13 was instructing his people to enter a C into the C  
14 Plus system after you and the policy both had  
15 indicated to enter an R or an N. Is that right?

16 MR. TRAVERS: Correct.

17 MS. BLEAU: Can you go to the tab with the email  
18 regarding entering the C Plus.

19 MR. TRAVERS: Can you direct me please.

20 MS. BLEAU: I believe it is -- try Tab 1. Yeah,  
21 go to the red Tab 1, I believe. See if you see that  
22 email in that string that you believe was  
23 insubordinate.

24 MR. TRAVERS: Under red Tab 1, page 2, there is  
25 instruction under Structural Plan Review that says,

1 "Do not stamp or sign or enter result in the computer  
2 for any of the following: If you had reviewed or  
3 audited the plans, do not sign in or put your initials  
4 on anything related to that permit."

5 MS. BLEAU: Okay. And I think [inaudible].

6 CHAIR ADELSON: One moment, please. Technical  
7 difficulties.

8 MS. BLEAU: Hello. Okay. Sorry about that.  
9 So, and I think down below there, under Computer  
10 Results, or next to Computer Results with the typo  
11 pointed out, that's where Mr. Madden says to enter C.  
12 Right?

13 MR. TRAVERS: Correct.

14 MS. BLEAU: What's the date of that email?

15 MR. TRAVERS: On the previous page 1, let me see  
16 -- hold on. Yes. There's a date of September 23,  
17 2016, 8:09 a.m. Oh, I'm sorry. The bottom of the  
18 page, May 20, 2016, 2:00 p.m.

19 MS. BLEAU: In that same, behind that same Tab  
20 1, counsel directed you to the Permit by Affidavit  
21 policy that's the few pages back. Just keep going  
22 until you -- three or four pages back, then you'll  
23 come to your policy, right? There you go. What's the  
24 date of the policy?

25 MR. TRAVERS: The date of the revision to the

1 policy was July 14, 2016.

2 MS. BLEAU: Where in any of this that you  
3 reviewed under Counsel's questions, is a direction to  
4 enter that R and N that predated May of 2016? Whether  
5 in the policy that's included in this tab or any of  
6 the emails that have been reviewed.

7 MR. TRAVERS: I'm not sure I understand the  
8 chronology that you're asking about. Can you repeat  
9 that, please?

10 MS. BLEAU: Sure, let me help you out. At Tab  
11 1, going back to the beginning of red Tab 1, we looked  
12 at the email on page 1 which is at the bottom. If you  
13 go a couple pages back, in that whole email chain, is  
14 there anything where you are directing staff to enter  
15 the R or N code that you referenced? Any of those  
16 emails in that packet?

17 MR. TRAVERS: I apologize. I had an encounter  
18 with a pair of scissors last night.

19 So, the policy that you see that begins with  
20 page 1 of 16, was actually a revision. I don't see  
21 the original policy included in here. We may -- more  
22 than likely, what we were doing was we were refining  
23 the process, so while you have the process for these  
24 projects, it's actually a revision, which suggests to  
25 me that there may have been a policy, or there was a

1 policy prior to that, that we fine-tuned or that we  
2 revised.

3 MS. BLEAU: Well, I mean, I can tell you then  
4 all of our discovery to the City, no such earlier  
5 policy was ever produced, no email was ever produced.  
6 But more importantly, that July policy is what  
7 requires the R and N, right? That's part of your  
8 policy that updated or revised policy that was issued  
9 in July, required the entry of the R and N for Private  
10 -- or R or N, I guess I should say to be correct --  
11 for Private Providers. Correct?

12 MR. TRAVERS: I'm looking for it.

13 MS. BLEAU: You're not familiar enough with the  
14 policy to know?

15 MR. TRAVERS: It's 16 pages so I would like the  
16 opportunity to at least review it.

17 MS. BLEAU: I actually don't know if it's in  
18 here. I know that on direct, you had testified, I  
19 think repeatedly, that it was your email and the  
20 policy that required the R or N, so I actually just  
21 assumed it was in here somewhere. But, you don't know  
22 if it is or not?

23 MR. TRAVERS: No, I haven't had time to peruse  
24 through the entire 16 pages here and --

25 MS. BLEAU: What was the basis of your testimony

1 on direct examination, more than once, that the policy  
2 required the R and N entries?

3 MR. TRAVERS: There was an email from myself  
4 giving instructions to the Chiefs as to how that was  
5 to be entered.

6 MS. BLEAU: Okay. So, when you said the policy,  
7 you were just referring to your email, not the actual,  
8 physical Permit by Affidavit 1 and Permit by Affidavit  
9 2 policies? Is that right?

10 MR. TRAVERS: Again, I'm not able to confirm. I  
11 don't want to take the Board's time to review the  
12 entire policy here. I do know that it was stated in  
13 the email.

14 MS. BLEAU: Yeah. Really, I'm just trying to  
15 clarify your own testimony, with all due respect, sir.  
16 You had said more than once that the requirement to  
17 enter the R or N was your policy or in the policy and  
18 that Mr. Madden countermanded that. So, I just want  
19 to clarify, as you sit here right now, you don't  
20 really know if it was in the policy? Right?

21 MR. TRAVERS: No, I don't know if it's in this  
22 policy revision that's part of this packet.

23 MS. BLEAU: Okay. And your email that was  
24 referenced in your testimony was a September 2016  
25 email. Do you recall that?

1 MR. TRAVERS: You'll have to get me the tab  
2 number so I can refer to it, please.

3 MS. BLEAU: So, not really to answer my  
4 question. My question is, do you recall that it was a  
5 September email? And is the answer no? You don't  
6 know?

7 MR. TRAVERS: I would need you to tell me which  
8 tab you'd like me to go to for that email.

9 MS. BLEAU: Okay. So, you just don't recall off  
10 the top of your head? That's fine. Let me see if I  
11 can help you find it again. Sure, go to Tab 3, if you  
12 would.

13 MR. TRAVERS: This is red?

14 MS. BLEAU: Actually, I'm sorry, go to Tab 2.  
15 It's the very beginning of Tab 2. Tab 2 contains the  
16 email from Mr. Madden and the beginning of that email  
17 chain was from you directing your staff to input the R  
18 and N. Correct?

19 MR. TRAVERS: So, at the lower portion of the  
20 page is the email from myself on September 29 at 11:56  
21 a.m., and then on the following page under part 3,  
22 there's the instructions on entering the N and the R.

23 MS. BLEAU: Okay. So, there are two emails,  
24 ignoring Mr. Oliva's email to you at the top, where he  
25 forwards the email to you. Other than that, there's

1 one email from Mr. Madden and there's an earlier email  
2 from you. Yes or no?

3 MR. TRAVERS: Yes.

4 MS. BLEAU: Okay. And the earlier email from  
5 you contains the instruction to enter the R and the N,  
6 and that email was sent by you on September 29, 2016.

7 MR. TRAVERS: Yes.

8 MS. BLEAU: And that email is subsequent to the  
9 email from Mr. Madden regarding his direction to his  
10 staff to enter C into the C Plus system. Correct?  
11 September is after July. Correct?

12 MR. TRAVERS: Yes, September is after July.

13 MS. BLEAU: Okay. So, this email in September  
14 containing the direction occurred after Mr. Madden's C  
15 Plus direction? Am I correct about that?

16 MR. TRAVERS: Yeah. If you notice on page 1 of  
17 Tab 2, the first sentence of my email says, "Please  
18 disseminate the following guideline once again to your  
19 inspection teams. Apparently, there is some confusion  
20 as to what is to be performed during an audit  
21 inspection."

22 MS. BLEAU: Okay. Now, are you testifying here  
23 today before this panel that what is to be performed  
24 during an audit inspection is the same as your  
25 directions regarding what to enter in the C Plus

1 system? Or didn't your email contain two items: One,  
2 a description of what is to be performed during an  
3 audit inspection, and secondly, how to enter the  
4 information into the C Plus system?

5 MR. TRAVERS: So, the email does give  
6 instructions on how to enter it into the C Plus  
7 system, under item 3 of that email that begins on page  
8 1.

9 MS. BLEAU: Yes, that is true. But that is not  
10 the only thing. It seems obvious because it's  
11 designated number 3. It's not the only thing  
12 discussed by you in that email. Correct?

13 MR. TRAVERS: Correct.

14 MS. BLEAU: And what you were reiterating as  
15 referenced and described specifically by you in your  
16 email was regarding, "What is to be performed during  
17 an audit inspection as per 553.791." Correct?

18 MR. TRAVERS: Yes.

19 MS. BLEAU: So, there's nothing in this email  
20 that says I'm reiterating how to put R and N into a  
21 system. Right?

22 MR. TRAVERS: I don't know that I agree with  
23 that.

24 MS. BLEAU: Okay. Well, if there are words in  
25 this email that suggest that you are repeating that

1 instruction, please point them out to me. Thank you.

2 MR. TRAVERS: Again, sentence number one,  
3 "Disseminate the following guideline once again to  
4 your inspection teams."

5 MS. BLEAU: Okay. Apparently, there's been some  
6 confusion as to what is to be performed during an  
7 audit inspection. Let me ask it this way. This email  
8 from you on September 29, if you were, as you believe,  
9 repeating the guideline that was previously announced,  
10 that would be the guideline set forth in the July,  
11 2016, policies and procedures regarding Private  
12 Providers. Right?

13 MR. TRAVERS: I believe it implies that, yes.

14 MS. BLEAU: Okay. So, either way, either you  
15 were issuing this direction for the first time or you  
16 were reiterating it based on the policy that was  
17 adopted and updated in July. Either way, the  
18 instructions were post the email from Mr. Madden  
19 regarding entering C into the C Plus system. Right?

20 MR. TRAVERS: You'll notice on page 7 of the  
21 directive -- it's further back in the tab, under item  
22 number 3, this is page 7 of 16 --

23 MS. BLEAU: I'm sorry. 7 of who? Oh, uh-huh  
24 [affirmative].

25 MR. TRAVERS: It's page 7 of 16. It is item

1 number 3.

2 MS. BLEAU: Uh-huh [affirmative].

3 MR. TRAVERS: You'll notice that the policy  
4 says, "City inspectors will mark in the Community Plus  
5 system the results of visits to the Permit by  
6 Affidavit job or project as quality assurance audit or  
7 quality assurance audit corrections are needed."

8 So while I may not have mentioned the use of N  
9 or R, it does give them instructions to either accept  
10 the logs that have been kept by the Private Provider  
11 or to ask for corrections to be done in those logs, or  
12 to ask for information that might not have been  
13 provided in the logs to be provided.

14 MS. BLEAU: Right. So, in this July policy,  
15 that direction to enter QAAA or QAACN was actually  
16 different than your later instruction to enter an R or  
17 an N. Wasn't it?

18 MR. TRAVERS: It's a different instruction, but  
19 the results we're asking for the same, whether or not  
20 the audit was a successful audit, or whether there  
21 were corrections that needed to be done.

22 MS. BLEAU: What does N generally designate, not  
23 just with respect to Private Providers, but what is N  
24 used for in the C Plus system, generally speaking?

25 MR. TRAVERS: The letter N as entered into C

1 Plus can stand for "not required" or "not needed." It  
2 was one of the only categories that we had available  
3 to us in the C Plus system to allow for an audit  
4 inspection to be entered without actually performing a  
5 full site inspection. And the N implied or we  
6 instructed that that N meant that the audit inspection  
7 found nothing irregular in the logs that the Private  
8 Provider was keeping on the jobsite.

9 MS. BLEAU: So, your decision as the Building  
10 Official was to have entered into the C Plus system,  
11 which is designed to track for in perpetuity building  
12 permits and the inspections and reviews of building  
13 permits, was to enter N, which can simultaneously mean  
14 not needed or -- what did you say N stands for in  
15 Private Provider -- normal. So, it's either not  
16 needed or normal. Right?

17 MR. TRAVERS: Right. Meaning that there were no  
18 corrections that were noted by the inspector that  
19 needed to be completed.

20 MS. BLEAU: Okay. And we can leave the wisdom  
21 of that decision to another day, but that's your  
22 decision. You're the Building Official. And Mr.  
23 Madden, in the email following your directive, tells  
24 his staff that that is a decision for you, and they  
25 should enter the R and N as directed and capture any

1 information relevant in the notes to clarify, I would  
2 assume for one thing, that it's -- whether it's an N  
3 for not needed or an N for normal. Is there anything  
4 wrong with Mr. Madden's instructions?

5 MR. TRAVERS: No. There's nothing wrong with  
6 that statement in that particular email that he sent.

7 MS. BLEAU: Okay. And did you take exception --  
8 you mentioned in the direct examination of Mr.  
9 Madden's sentence above that where he makes sure his  
10 staff knows that each licensee is accountable. Is  
11 there an issue that you took with Mr. Madden's  
12 statement in that regard?

13 MR. TRAVERS: Again, while the statement may be  
14 factual, the delivery of that statement by Mr. Madden  
15 is somewhat intimidating. He's putting everybody on  
16 notice that "you're accountable for your actions."

17 MS. BLEAU: And as the Chief Building Inspector  
18 for the City of Fort Lauderdale, you think that's a  
19 bad thing?

20 MR. TRAVERS: I'm sorry, are you trying to put  
21 words in my mouth? I don't think it's a bad thing. I  
22 think that it's an intimidating factor.

23 MS. BLEAU: So, intimidating is a good thing?

24 MR. TRAVERS: I think you're trying to take me  
25 through words here to prove a point, Counselor. No, I

1 don't think it's neither bad or good. I think it's  
2 intimidating.

3 MS. BLEAU: Okay, well, as Mr. Madden's  
4 supervisor, is this statement that you believe is  
5 intimidating, do you think it was appropriate for Mr.  
6 Madden to make that statement, or inappropriate for  
7 Mr. Madden to make that statement? I'm still unclear  
8 of your opinion, which is what I'm trying to  
9 ascertain.

10 MR. TRAVERS: My opinion is that the wording of  
11 this sentence, if I were reading it as an inspector,  
12 puts me on notice that I'm accountable for everything  
13 that I do. There's nothing wrong with that. However,  
14 because of past performance and past way that messages  
15 were delivered, I believe there's an intimidation  
16 factor in the way that this is stated.

17 MS. BLEAU: Did anybody ever tell you they  
18 thought that statement -- that they found that  
19 statement intimidating?

20 MR. TRAVERS: I did not have anyone come to me  
21 about this particular statement and tell me that they  
22 were intimidated.

23 MS. BLEAU: All right. Let's move on. Tell me  
24 what you were instructing your plans examiners to do -  
25 - no, excuse me -- the inspectors to do when they went

1 to the site. If it's a Private Provider, are they  
2 able to still review the construction and make sure  
3 that it's in accordance with the plans, or were they  
4 limited to reviewing the logbooks to make sure that  
5 they were filled out correctly? Under your policy?

6 MR. TRAVERS: Right. So an audit inspection was  
7 to check the logbooks to make sure that the required  
8 inspections, as mentioned in Chapter 1 of the Florida  
9 Building Code, were being done by the Private  
10 Provider; and if those inspection logs were  
11 satisfactory to the audit inspection being performed  
12 by our team, then they were to note that in Community  
13 Plus.

14 If they discovered a deficiency, or there was  
15 something glaring that they may have noticed, then  
16 they had the ability to enter the letter R, meaning  
17 that there was a correction of some sort needed.

18 MS. BLEAU: So, the first emails that we looked  
19 at, I think they're on Tab 1, red Tab 1. There was an  
20 email exchange regarding Jet Smart, wasn't it? Was  
21 that the one? Yeah, the third page back, page 3. The  
22 email from you is titled, "Jet Smarter." Do you see  
23 that?

24 MR. TRAVERS: Yes, ma'am.

25 MS. BLEAU: Okay. And the first email in that

1 chain, you said was "by a gentleman named Juan Feriole  
2 [phonetic]. You know this gentleman, right?

3 MR. TRAVERS: No, I do not.

4 MS. BLEAU: You've never met him?

5 MR. TRAVERS: I mean, I may have met him back at  
6 the time, but I don't recall who he is. I can't put a  
7 face to the name.

8 MS. BLEAU: Okay. This Jet Smarter project was,  
9 as noted in the signature block by Juan, this was an  
10 M.T. Causley project, correct?

11 MR. TRAVERS: Yes, his signature block has that  
12 information.

13 MS. BLEAU: Okay. And this was the project that  
14 was where M.T. -- Mr. Madden discussed with you the  
15 fact that M.T. Causley was only inspecting certain  
16 construction that was going on regarding office, but  
17 there was construction obviously going on the site  
18 where exterior walls, I believe, and other things were  
19 being constructed that was not being inspected by M.T.  
20 Causley. And when Mr. Madden addressed that with M.T.  
21 Causley's representative, they said, "Our contract  
22 tells us what it is we're going to inspect, and that's  
23 all we're going to inspect." Do you recall that  
24 conversation with Mr. Madden?

25 MR. TRAVERS: No.

1 MS. BLEAU: None of this sounds familiar to you  
2 at all?

3 MR. TRAVERS: No, again I would remind you this  
4 has been over three years ago, so, I'm not recalling  
5 that specific conversation.

6 MS. BLEAU: And you don't recall anything about  
7 the Jet Smarter project and the construction that was  
8 being done that was not being inspected by anybody,  
9 the City of Fort Lauderdale or M.T. Causley?

10 MR. TRAVERS: I don't know that it was not being  
11 inspected by anybody. I don't know the scope of the  
12 job based on the material that's in here. I can't  
13 even remind myself of what went on there.

14 MS. BLEAU: In the response email to the email  
15 from the gentleman from M.T. Causley, is a very long  
16 email from you, starts on page 3, ends on page 4. You  
17 are instructing your staff, are you not, that they are  
18 basically limited to checking the logs for inspections  
19 as part of the audit process? Right?

20 MR. TRAVERS: Is that a question?

21 MS. BLEAU: Yes.

22 MR. TRAVERS: Yeah, these were instructions.  
23 Yes.

24 MS. BLEAU: To limit their inspection to look at  
25 the logs, period.

1 MR. TRAVERS: Now as I stated earlier, their  
2 primary purpose was to inspect the logs, but again I  
3 also stated that if they noticed something out of the  
4 ordinary that they could enter an R in there that  
5 meant that there was a correction required.

6 MS. BLEAU: Well, your first sentence in the  
7 third paragraph of your email says, "By way of this  
8 email, please instruct the inspectors that when they  
9 see a note in the remarks column that a project is  
10 under Permit by Affidavit or by a Private Provider, or  
11 that a Private Provider has been correctly identified  
12 by the owner to the building official that compliance  
13 liability now becomes their responsibility and we will  
14 randomly check the logs of inspections through audits  
15 during the job progress. Did I read that correctly?"

16 MR. TRAVERS: Yes, you did.

17 MS. BLEAU: Okay. What about plans reviews,  
18 when you have a Private Provider project, did you  
19 prohibit your inspectors from reviewing the plans,  
20 other than determining whether or not a Private  
21 Provider says they reviewed the plans?

22 MR. TRAVERS: Well, first of all the Private  
23 Provider would register with us to say whether or not  
24 it was a PXA 1, which would be inspections only, or a  
25 PXA 2, where they would be doing both plan review and

1 the inspections. So, I don't recall right now if this  
2 project was a PXA 1 or a PXA 2, but if we did the  
3 reviews and they were only doing the inspections, then  
4 we would have already approved the drawings for this  
5 project.

6 MS. BLEAU: So, for the PXA 2 project, where the  
7 Private Provider is doing plans review, did you  
8 prohibit your inspectors from reviewing the plans?  
9 The plans examiners, excuse me, from reviewing the  
10 plans?

11 MR. TRAVERS: All right. Again, the  
12 instructions were that the initials on the back of the  
13 plans that affirmed compliance with the Florida  
14 Building Code, put the responsibility on the Private  
15 Provider and that we were to audit those pages to make  
16 sure that they had reviewed them and put their  
17 initials on the back of them; that the responsibility  
18 now had been handed over to the Private Provider.

19 MS. BLEAU: So, yes, you instructed your plans  
20 examiners to just check that the plans had been  
21 reviewed, period. They weren't allowed to go behind  
22 that at all and see whether or not the plans were  
23 actually in accordance with Code. Correct?

24 MR. TRAVERS: I never instructed them that they  
25 could not review the plans. I merely instructed them

1 that the audit review was just to check to see that  
2 the Private Provider had completely reviewed and put  
3 their initials on the back of each of the plan pages  
4 that were appropriate. I never issued instructions  
5 that they could not do a review.

6 MS. BLEAU: Did you ever approve or instruct a  
7 plans examiner to approve plans that the plans  
8 examiner had identified deficiencies for?

9 MR. TRAVERS: I don't recall that I ever did.  
10 No.

11 MS. BLEAU: Did you ever instruct your  
12 inspectors to approve a project where your inspector  
13 had specifically notified issues with the project?

14 MR. TRAVERS: Again, I don't recollect ever  
15 submitting those, those kinds of demands on the  
16 inspectors. As I stated earlier, if the inspectors  
17 noticed something out of the ordinary or noticed a  
18 deficiency, that they were to note that in C Plus and  
19 to ask for the corrections.

20 MS. BLEAU: You testified, and I believe you  
21 also told Ms. Richard that one of your main objections  
22 -- actually you told Ms. Richard one of your main  
23 objectives when you came to the City was to develop  
24 the Private Provider policy and you testified under  
25 direct today that one of your first tasks was to

1 develop this Private Provider policy. Why did you  
2 feel like that was such a priority, that it was your  
3 main objection, or first task?

4 MR. TRAVERS: I don't know that I said it was my  
5 main task. I did say that there wasn't any written  
6 policy to follow as a guideline when I arrived here  
7 and because the construction was becoming robust once  
8 again in the City, and my staffing had not been caught  
9 up to the level to be able to perform properly, that  
10 we needed to set a policy and to get it recorded and  
11 standardized so that as the Private Providers began to  
12 register with us, we would have a standard way of  
13 requiring what they needed to do, according to  
14 Statute.

15 MS. BLEAU: Sorry. I was trying to find that  
16 reference by Ms. Richard. It's in the report.

17 Do you know how many projects M.T. Causley had  
18 with the City of Fort Lauderdale before you started  
19 working with the City?

20 MR. TRAVERS: No.

21 MS. BLEAU: Did you ever have any projects with  
22 the City of Fort Lauderdale when you worked for M.T.  
23 Causley?

24 MR. TRAVERS: I believe I did do the electrical  
25 inspections on an insurance company that was

1 performing alterations to an existing office.

2 MS. BLEAU: So, that one project in the three  
3 years that you worked for M.T. Causley?

4 MR. TRAVERS: I believe that may have been the  
5 only one that was up in Broward County.

6 MS. BLEAU: And then after you came to the City,  
7 you hired an Assistant Building Official, correct?

8 MR. TRAVERS: Yes. I hired Luis Hernandez to  
9 fill the role of Assistant Building Official.

10 MS. BLEAU: And you worked with Mr. Hernandez at  
11 M.T. Causley?

12 MR. TRAVERS: Mr. Hernandez worked for me at the  
13 City of Hialeah. After Hurricane Wilma, he was  
14 dispatched from M.T. Causley to do plan review for us  
15 to help with all of the roofing repairs that were  
16 coming into our office. When I left the City of  
17 Hialeah and worked for M.T. Causley, there were a few  
18 projects that Mr. Hernandez and I worked on together,  
19 he doing the structural and myself doing the  
20 electrical. Subsequently, Mr. Hernandez left M.T.  
21 Causley and went to work for a company called NV5  
22 before he became employed by the City of Fort  
23 Lauderdale.

24 MS. BLEAU: When he started working for the City  
25 of Fort Lauderdale, what were his certifications,

1 licenses?

2 MR. TRAVERS: He's certified with BCAB, the  
3 Building Code Administrators and Inspectors Board, as  
4 structural inspector and a structural plans examiner;  
5 he went through the certification process with BORA  
6 for those; he entered into a provisional status for  
7 Assistant Building Official, incumbent upon his  
8 passing a series of exams with the State of Florida.  
9 I believe he had passed one or two of those and he  
10 still had one to do in order to attain full status as  
11 Building Official; however, the Certification of  
12 Provisional by the Broward County Board of Rules and  
13 Appeals is given to someone who is actively pursuing  
14 to get the full certification from the State of  
15 Florida BCAB Board.

16 MS. BLEAU: So, at the time that Ms. Richard  
17 interviewed Mr. Hernandez in 2016, he was still not  
18 qualified to actually be a Building Official. He was  
19 still in that, that -- I'm in that process. Right?

20 MR. TRAVERS: Well, he wasn't assimilating to  
21 the position of Building Official. He was hired to be  
22 the Assistant Building Official.

23 MS. BLEAU: I'm sorry, did I misspeak? I didn't  
24 -- my question was, as to Mr. Hernandez'  
25 qualifications to be an Assistant Building Official,

1 which is to step in for you as a Building Official  
2 when you're not able to perform your duties, right?  
3 That's part of the job requirements?

4 MR. TRAVERS: Yes.

5 MS. BLEAU: He couldn't do that when he -- at  
6 the time he was interviewed by Ms. Richard, he was  
7 still not -- he didn't hold those qualifications or  
8 certifications. Is that correct?

9 MR. TRAVERS: I don't know what the timeline was  
10 on that. I do know that he had applied for the  
11 provisional status and was in the process of taking  
12 exam to become certified by the State as a Building  
13 Official, but again I don't know what that timeline is  
14 in relation to the time when he was interviewed by the  
15 Employee Relations Manager.

16 MS. BLEAU: According to Ms. Richard, he said in  
17 his statement, "The Board of Rules and Appeals has not  
18 provided me with a provisional license." So he didn't  
19 even have a provisional license yet.

20 If you look at F of Tab 16 -- you have to go way  
21 back. I'm not looking at his summary. I'm looking at  
22 his statement. Keep going. Tab F, page 2, right at  
23 the very top there. You see that? "BORA, Board of  
24 Rules and Appeals in Broward County has not provided  
25 me with provisional license. I am in the process of

1 getting that. I have passed two of the required three  
2 exams and have to study and sit for the third exam."  
3 Did I read that correctly?

4 MR. TRAVERS: Yes, you did. Mr. Hernandez was  
5 able to become certified by BORA as a Structural Plans  
6 Examiner and a Structural Inspector in the interim  
7 while he was waiting to take the exam for the Building  
8 Official certification from the State of Florida.

9 MS. BLEAU: As a structural plans examiner, and  
10 what was the other one, structural who?

11 MR. TRAVERS: Structural Inspector.

12 MS. BLEAU: Inspector. Are those above, equal  
13 to, or below a Chief Building Inspector?

14 MR. TRAVERS: In the hierarchy, they would be  
15 below the Chief Inspector.

16 MS. BLEAU: As between anything that Mr.  
17 Hernandez thought in his capacity or qualifications as  
18 a structural plans reviewer or inspector, and what Mr.  
19 Madden thought as a Chief Building Inspector, whose  
20 opinion, as you understand the rules in Broward  
21 County, would prevail with respect to a building  
22 matter?

23 MR. TRAVERS: Well, I would ask the opinion of  
24 both of them; however, on the organizational chart,  
25 Mr. Madden as the Chief Structural Inspector would

1 have a position that was higher than Mr. Hernandez.

2 MS. BLEAU: So, even though Mr. Hernandez was  
3 the Assistant Building Official regarding building  
4 matters, Mr. Madden's position is of a higher  
5 authority. Correct?

6 MR. TRAVERS: Right. Again, I would ask for  
7 their opinions before I formulated answers and process  
8 for myself.

9 MS. BLEAU: Why is that? You're certified in  
10 electrical. Are you qualified to overrule Mr.  
11 Madden's interpretation of the Code regarding  
12 structural matters and Building Code matters?

13 MR. TRAVERS: Again, I would refer to Section  
14 104.1.1 that says that I am the Principal Enforcement  
15 Officer of the Code. It also in Chapter One goes on  
16 to state that I'm allowed to rely on the  
17 interpretations by the Chief Inspectors. It doesn't  
18 necessarily mean that I'm always going to agree with  
19 them, but I'm allowed to rely on them; that they have  
20 interpretive power, and that helps me formulate my  
21 decisions.

22 MS. BLEAU: 104.1.1 in the Chapter One of the  
23 Broward County version of the Building Code. Have you  
24 ever looked at what Broward County -- how Broward  
25 County defines "Building Official"?

1 MR. TRAVERS: I think it would be in Chapter Two  
2 under definitions. I've understood my role as an  
3 administrator, what I'm supposed to do.

4 MS. BLEAU: You remember in my opening, we  
5 looked at some slides that showed that under Chapter  
6 One, Building Official or Building Code Administrator  
7 is defined as the individual that has responsibility  
8 for direct supervision of the plans examiners of  
9 reviewing plans, inspecting projects, and enforcing  
10 the Code. Correct?

11 MR. TRAVERS: That was in your opening  
12 statement.

13 MS. BLEAU: And did you see the slide where that  
14 provision of Chapter One was reflected?

15 MR. TRAVERS: I may have. I'm not recalling it  
16 right now. But, yes.

17 MS. BLEAU: Well under that definition, then you  
18 would agree that Mr. Madden is actually the "Building  
19 Official" or "Building Code Administrator" under  
20 Chapter One. Right?

21 MR. TRAVERS: No, I do not agree with that.

22 MS. BLEAU: You believe that you are responsible  
23 for the direct supervision and enforcement and  
24 inspection of the Building Code in Broward County.

25 MR. TRAVERS: Yes, I do, as per 104.1.1.

1 MS. BLEAU: 104.1.1 said "there shall be  
2 appointment by a governmental AHJ." What does that  
3 stand for?

4 MR. TRAVERS: Authority Having jurisdiction.

5 MS. BLEAU: "A person qualified as set forth in  
6 104.1.3 to serve as Building Official. To be  
7 eligible, the appointment as a Building Official, such  
8 person shall be certified by BORA, the Building  
9 Official shall have the principal enforcing officer in  
10 this Code -- or shall be. Based on current  
11 technology, the Building Official does not have to be  
12 personally present, blah, blah, blah." Okay.

13 So, it says the Chief Enforcement Official, but  
14 you sat in on the BORA proceeding where they said,  
15 "That doesn't mean that the Building Official can  
16 interpret the Code over the Chief Building Inspector."  
17 Right? You heard that?

18 MR. TRAVERS: I was only at the second day and,  
19 to be truthful, I don't know if that was discussed in  
20 the first day or the second day. I remember you  
21 presenting that in your opening statements, but again,  
22 I reflect back to that section that you just quoted  
23 that the Chief Enforcing Officer is the Building  
24 Official.

25 MS. BLEAU: So, you were there the second day

1 which was -- it was only two days, it was actually a  
2 day and a half hearing -- and you were there day two  
3 when closing arguments occurred and the Board  
4 deliberated and ruled. Right?

5 MR. TRAVERS: Yes.

6 MS. BLEAU: And you were there when we argued  
7 that the Building Official is the one that has the  
8 interpretive authority because the ability to delegate  
9 to the Chiefs under 104.1.2, the Chief can delegate  
10 its authority, but it says only in categories in which  
11 it is not certified. Are you familiar with that  
12 provision?

13 MR. TRAVERS: Yes.

14 MS. BLEAU: And you recall that in the BORA  
15 proceeding, we argued that what that says is that  
16 limits the ability of the Building Official to  
17 delegate its authority to Chiefs, only to the extent  
18 that the Building Official himself is not -- or not  
19 possess those certifications. Do you recall that?

20 MR. TRAVERS: No, I don't recall that during  
21 that proceeding.

22 MS. BLEAU: Okay. Do you recall that the  
23 attorney for BORA argued in that hearing, and the  
24 Board ultimately agreed, that each Chief in Broward  
25 County is the sole authority, the authority having

1 jurisdiction in Broward County with respect with their  
2 area of certification. Do you recall that?

3 MR. TRAVERS: I don't recall the attorney --  
4 that discussion. It may have occurred, but I'm not  
5 recollecting.

6 MS. BLEAU: Do you recollect me pointing you out  
7 in the audience and saying, "Mr. Travers is here and  
8 he holds an electrical certification and he has  
9 overruled Mr. Madden many times, and he, in fact, has  
10 disciplined Mr. Madden for challenging his authority."  
11 Do you remember that?

12 MR. TRAVERS: I do remember you.

13 MR. ZALMAN: Excuse me. We're going to object  
14 to this line of questioning. We're not sure how this  
15 is relevant. It doesn't appear to be relevant to this  
16 proceeding, to why Mr. Madden was terminated. I don't  
17 even know the date of this hearing that she's  
18 referring to.

19 CHAIR ADELSON: Well, let's go a little bit  
20 further and then let's see if we can figure out where  
21 this ties back into this particular hearing in your  
22 case.

23 MS. BLEAU: Sure. Thank you. You do recall  
24 that, you said?

25 MR. TRAVERS: I seem to recall that you did

1 point me out and you also, I believe, pointed out  
2 Richard Benton as being at the meeting as well. That  
3 part I do remember.

4 MS. BLEAU: Are you aware as you sit here today  
5 that BORA Board agreed with BORA staff that John  
6 Madden is the sole authority and that his failure to  
7 overrule his Building Official, even though the  
8 Building Official possessed the same qualifications,  
9 made him guilty of malfeasance?

10 MR. TRAVERS: I'm not recalling exactly what the  
11 decision of the Board was.

12 MS. BLEAU: During Mr. Madden's employment --  
13 before the ultimate termination of Mr. Madden and then  
14 subsequent BORA hearing -- during his employment, he  
15 was under charge by the BORA officials as a result of  
16 an investigation. Did you know that when Mr. Madden  
17 worked with you?

18 MR. TRAVERS: I'm sorry. Can you repeat that  
19 again?

20 MS. BLEAU: While Mr. Madden was still employed  
21 by the City of Fort Lauderdale, were you aware that  
22 BORA had brought charges against him for failing to  
23 overrule his Building Official?

24 MR. TRAVERS: I believe Mr. Madden may have come  
25 to me to tell me that circumstances were going to be

1 occurring and he asked me to notify BORA to remove him  
2 as the Building Official Certification for the City of  
3 Fort Lauderdale.

4 MS. BLEAU: Okay. You recall that. Do you  
5 recall what I asked you, which is that Mr. Madden was  
6 under charges of malfeasance by the Board of Rules and  
7 Appeals because he did not overrule the Building  
8 Official, Chief Chris Augustin, who possessed a  
9 structural certification, the same as Mr. Madden?

10 MR. TRAVERS: I don't recall the particulars of  
11 that, no. Sorry.

12 MS. BLEAU: As between you and Mr. Madden, do  
13 you believe, as the person certified in electrical,  
14 that Mr. Madden had the right to overrule an  
15 interpretation of yours regarding a building  
16 structural issue?

17 MR. TRAVERS: I've often acknowledged that my  
18 forte, my expertise, is not in structural and I relied  
19 often in discussions with John on his opinion.

20 MS. BLEAU: Okay. Thanks, but can you answer my  
21 question, please?

22 MR. TRAVERS: I think I did.

23 MS. BLEAU: With all due respect, you didn't.  
24 My question is, if you disagree with Mr. Madden, can  
25 he, in your opinion as his superior, can he overrule

1 your opinion with respect to building and structural  
2 issues or is that insubordination?

3 MR. TRAVERS: No, he's the one that's charged  
4 with the interpretation of structural issues, so as  
5 far as overruling me, I don't recall that he ever  
6 actually came to me and said, "I need to overrule you  
7 on this."

8 MS. BLEAU: Okay. I think the first part of  
9 that was the answer to my question, but I just want to  
10 be clear. If, in fact, you two disagreed and he  
11 overruled you, that is not insubordination because he  
12 is the person charged with interpreting the Code on  
13 those issues, not you? Right?

14 MR. TRAVERS: Okay, that's directed from, I  
15 guess, the answer that you said BORA provided on the  
16 second day. Mr. Madden is the one that has the  
17 authority to interpret the structural portion of the  
18 Building Code.

19 MS. BLEAU: And it would not be insubordination  
20 for him to overrule a Building Code or structural  
21 issue, even though you disagree?

22 MR. TRAVERS: All right. If he brought that to  
23 me, I would work with him on that. However, I believe  
24 the situation that you may be inferring to was more of  
25 an administrative policy as to how to enter things

1 into the computer, not an actual structural issue.

2 CHAIR ADELSON: So, before you ask your next  
3 question, it's 3:40, so we're going to go to 3:50 so  
4 we can get some more dates, I believe. [Inaudible]  
5 Okay. So, ten more minutes for questioning and then  
6 we're going to need to conclude for today.

7 MS. BLEAU: The 2900 Riomar, were you  
8 embarrassed by the pictures that Mr. Madden sent  
9 around?

10 MR. TRAVERS: I didn't see where there was any  
11 appropriateness to send those pictures to the entire  
12 staff. I wasn't necessarily embarrassed by it, but I  
13 didn't see how it was relevant to the emails that it  
14 was attached to. I participated in many  
15 groundbreaking ceremonies at the request of either the  
16 stakeholders or the City Manager.

17 MS. BLEAU: So, when it states in the personnel  
18 report that you thought Mr. Madden did that to  
19 embarrass you, that was not correct? You just didn't  
20 think they were relevant.

21 MR. TRAVERS: No, I did think it was a  
22 deliberate attempt to bring some sort of embarrassment  
23 to me. But like I said, I didn't feel embarrassed,  
24 but I thought that was his attempt.

25 MS. BLEAU: Why would Mr. Madden think that

1 would embarrass you if it didn't?

2 MR. TRAVERS: I can't speak for Mr. Madden.

3 MR. ZALMAN: Objection. Thank you.

4 MS. BLEAU: Okay. This groundbreaking that you  
5 were attending, you didn't tell your assistant before  
6 you went that you didn't want to go because they  
7 didn't have a permit at Riomar?

8 MR. TRAVERS: I don't recall that.

9 MS. BLEAU: Do you recall not wanting to go to  
10 the groundbreaking because you knew they were  
11 constructing without a permit?

12 MR. TRAVERS: No, I don't recall that that was  
13 the situation.

14 MS. BLEAU: Do you recall that they were  
15 constructing without a permit, or you don't recall  
16 that either?

17 MR. TRAVERS: No. They had a foundation permit.

18 MS. BLEAU: The -- you know what? We'll get  
19 into that next time.

20 I think we're going to let it stop here today if  
21 you want. It's probably a good breaking point.

22 CHAIR ADELSON: All right. So, we are  
23 concluding at 3:43.

24 We have tentatively, I believe, selected a date  
25 to continue onto January 10th. However, I'm aware

1 that the City might have some more dates open for us  
2 when we might have availability.

3 TARLESHA SMITH: Yes. To the Chair, we have  
4 dates but they are in February. There are no more  
5 January dates available.

6 CHAIR ADELSON: Okay.

7 MS. SMITH: I asked a question that I presented  
8 to the Clerk's office for reservation of the Chambers,  
9 was for any full days that would be available and they  
10 provided me with February 17th, need to be out by 5:00  
11 p.m.; February 24th; February 21st, need to be out by  
12 6:30 p.m.; and possibly February 27th.

13 MR. ZALMAN: Could you say those dates again.  
14 I'm sorry.

15 CHAIR ADELSON: Long day.

16 MS. SMITH: The 17th, the 24th, the 21st.

17 MS. GIALLUCA: All day?

18 MS. SMITH: Yes.

19 MS. TURIN: And the 27th?

20 MS. SMITH: Yes, and possibly the 27th. I know  
21 that I am not available on the 27th, but I don't know  
22 if my deputy can come in my stead. But, the 27th is  
23 on here as well.

24 MS. BLEAU: It sounded like -- and you said the  
25 24th and 21st. So it's really the 17th, 21st -- to do

1           them in order, 17, 21, 24?

2                   MS. SMITH: I read them the way that she  
3 presented. I didn't even realize that. Forgive me. I  
4 missed all of my coffee today.

5                   MS. BLEAU: That's all right. 17th, 21st, 24th.

6                   MS. SMITH: And 27th.

7                   MS. BLEAU: Okay.

8                   MS. TURIN: And those are all full days, right?

9                   MS. SMITH: Yes, these are all full days. Out  
10 every day by 5:00 p.m.

11                   MR. ZALMAN: Ms. Smith?

12                   MS. SMITH: Yes.

13                   MR. ZALMAN: I think the 17th is President's  
14 Day. Do you know if that's a government holiday?

15                   MS. SMITH: Maybe that's why it's available.  
16 Sorry. Not here. We work on President's Day. Yes.  
17 The City is open. I mean, if you want to advocate for  
18 that, and I can take that back to the Manager.

19                   CHAIR ADELSON: So, here's from my perspective,  
20 I don't imagine we're going to finish in even a third  
21 day, so I would like to see this continue to proceed.  
22 I think we should take the 10th and then schedule a  
23 second date thereafter, so that we ensure we have this  
24 concluded in the next -- by February. We're into  
25 February. So, if everyone could tell availability for

1 those dates that were presented.

2 MS. BLEAU: Madam Chair, the 17th, the 21st and  
3 the 27th are fine with us. The 24th is not.

4 CHAIR ADELSON: Okay. I am good on the 17th as  
5 well. We're not going to finish, because we don't  
6 have dates in January that everyone can make. So, I'm  
7 available on the 17th. Okay, how about we do it this  
8 way. Who is available on the 17th of February?

9 MS. TURIN: Everybody's available on the 17th?

10 CHAIR ADELSON: Well, let's look. I'm just  
11 checking. All right. It looks like the 17th of  
12 February. I apologize that it's President's Day;  
13 however, I'm working and everyone's available. So,  
14 let's get that on the calendar for a ten to --

15 MS. TURIN: Five?

16 CHAIR ADELSON: Five.

17 MS. TURIN: Okay and then we'll still have  
18 January 10th, 12th.

19 CHAIR ADELSON: Correct. Okay. That's why we  
20 move along the City, the City should be able to close  
21 and then we'll be able to then move towards your  
22 direct case, and hopefully conclude it in one day  
23 depending on, I guess, the witnesses that the City  
24 presents on the 10th.

25 MS. BLEAU: Right.

1 MR. ZALMAN: Seeing how, I think, there's twice  
2 as many witnesses for Mr. Madden's case, we're not  
3 available the 21st, but I think we are available the  
4 24th if we want to take another day.

5 CHAIR ADELSON: I have the 24th and the 27th.

6 MR. ZALMAN: I misspoke. I'm sorry.

7 MS. BLEAU: Didn't work for us anyway.

8 KENNETH MILLER: Let's just leave the two days  
9 for now and can gauge at the end of the next date in  
10 January. If we really think we're [unintelligible],  
11 then we can pick another day after the one we've got.

12 MS. TURIN: If I may, does the City anticipate  
13 the entire day on January 10th. I mean, are all of  
14 your witnesses going to be as in-depth as the last  
15 one?

16 MR. ZALMAN: No, not at all.

17 CHAIR ADELSON: Okay. So, we might have an  
18 opportunity to open your direct on that day and then  
19 we may be able to conclude.

20 MS. BLEAU: That day is limited, right? That  
21 day is the half day?

22 MS. TURIN: She may have one or two witnesses  
23 sitting in the afternoon, just in case.

24 MS. BLEAU: Okay. Yeah, thanks.

25 MS. SMITH: Madam Chair, I was just advised that

1 Commission -- no, it's still available. We just need  
2 to modify the time because you won't be able to go  
3 right up to the time that is allotted, up to five,  
4 because the Commissioner has the Chambers at five, so  
5 we need to push by either nine to four or ten to four.

6 CHAIR ADELSON: How about 9:30 to 4:00?

7 MS. TURIN: 9:30 to 4:00.

8 CHAIR ADELSON: We're going to post that we won't  
9 be here waiting. 9:30 to 4:00 on February 17th.

10 MS. SMITH: We will issue notices for both dates  
11 at that time.

12 CHAIR ADELSON: Perfect. Well, as perfect as we  
13 can get.

14 Okay. So, at this point we're going to --  
15 You're still under oath, Mr. Travers. You will be --  
16 I assume you're not done, Ms. Bleau?

17 MS. BLEAU: I am not done, and I would just --  
18 Yes.

19 CHAIR ADELSON: All right. So, be reminded of  
20 that going forward between now and January 10th. Your  
21 counsel will obviously remind you of whatever other  
22 obligations you may or may not have, and you are  
23 dismissed for today. And we are going to adjourn for  
24 today and we'll see you all in January.

25 MS. BLEAU: Just to be clear on your direction.

1 Because he's still on the stand, he's not to talk with  
2 counsel or anybody about his testimony.

3 MR. TRAVERS: Understood.

4 CHAIR ADELSON: Thank you. And Happy New Year  
5 and Happy Holidays and we'll see you in the new year.

6 MS. BLEAU: I appreciate you all working with  
7 us. Thank you.

8 MR. ZALMAN: Thank you.

9 [Hearing concluded at 3:39 p.m.]

10 [End of recording.]

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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.

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 30th day of December, 2019.

*Lisa G. Tayar*  
\_\_\_\_\_  
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*  
\_\_\_\_\_  
BRIGITTE CHIAPPETTA, Notary Public  
State of Florida

Notarial Seal:

