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CAUSE NO. 2024CCV-61174-3

AJIT DAVID) IN THE COUNTY COURT
)
vs.) AT LAW NUMBER 3
)
CITY OF CORPUS CHRISTI,)
TEXAS)
) NUECES COUNTY, TEXAS

ORAL AND VIDEOTAPED DEPOSITION

PETER ZANONI

JULY 11, 2025

ORAL and VIDEOTAPED DEPOSITION OF PETER ZANONI,
produced as a witness at the instance of the Plaintiff
and duly sworn, was taken in the above-styled and
numbered cause on JULY 11, 2025, from 9:31 a.m. to
2:25 p.m., before Hector Garza, Certified Shorthand
Reporter in and for the State of Texas, reported by oral
stenography at the offices of Corpus Christi City Hall,
1201 Leopard Street, 5th Floor, Corpus Christi, Texas,
pursuant to the Texas Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

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ALSO PRESENT:

Mark Cadena, Videographer

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1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 9:31 a.m.

4

5 THE VIDEOGRAPHER: Today is Friday, July
6 11, 2025. The time is 9:31 central standard time,
7 central time. We're on the record.

8 PETER ZANONI,
9 having been first duly sworn, testified as follows:

10 EXAMINATION

11 BY MR. ALLISON:

12 Q. State your name, please.

13 A. Peter Zandoni.

14 Q. And, Mr. Zandoni, your name -- you know my name
15 is Doug Allison, and I know you -- you know Mr. Ajit
16 David, correct?

17 A. Correct.

18 Q. And we are here today, obviously, with your
19 counsel, the city's counsel, and do you understand we
20 are here to take your deposition?

21 A. I understand that.

22 Q. Have you been deposed before?

23 A. I have not.

24 Q. Okay. I definitely want to run over at least
25 some of the very general ground rules.

1 You're already doing something very
2 naturally -- that's a very good habit in deposition --
3 which is you're waiting for the question to finish
4 before you speak.

5 A. Okay.

6 Q. Will you continue to try to do that?

7 A. I will, yes.

8 Q. A lot of times in conversation, people end up
9 talking on top of each other. It just makes the court
10 reporter's job nearly impossible.

11 A. Understood.

12 Q. Okay. And the other thing to do -- and again,
13 you're doing a very nice job of this just naturally --
14 is give verbal response.

15 If you shake your head or nod, everybody's
16 going to look around the room, like, how do we count
17 that answer?

18 A. Okay.

19 Q. Okay.

20 A. Understood.

21 Q. Do you understand, of course, that you've been
22 given an oath today?

23 A. Yes.

24 Q. And you understand that you're here to give
25 testimony, and that testimony can be used in court

1 proceedings?

2 A. I do.

3 Q. Okay. You understand there's a written record
4 being done, and a video record being done?

5 A. Yes.

6 Q. Okay. At -- at anytime if you wish to take a
7 break -- we talked a little bit before the deposition --
8 I want to make sure you understand, at any time you want
9 to take a break, just ask and we'll do that.

10 A. Okay.

11 Q. What did you do to prepare for your deposition?

12 A. I have -- I've tried to reflect back at the
13 events that took place over a year ago, and I met with
14 my legal -- legal team just to prepare for, like you
15 said, what is a deposition and how do you proceed
16 through it.

17 Q. Anything else?

18 A. We went through the -- I don't know exactly
19 what you call it -- the document that summarizes the
20 case, I guess.

21 We went through -- I went through that.

22 Q. Do you remember -- do you remember what those
23 documents were? How would you describe them? Or
24 titles -- what were their titles?

25 A. They told me yesterday, but it's basically a

1 summary, maybe a brief of the -- of the reason to --

2 Q. I think your lawyer is going to let us know.

3 Why don't you let --

4 A. Okay.

5 MR. DEKOCH: It was the petition, Doug.

6 Q. Okay.

7 A. Okay. Good. The petition.

8 Q. That's just one document, did you also look at
9 other documents?

10 A. Just that petition.

11 Q. Okay.

12 A. Yeah.

13 Q. For example, did you look at the agenda memo
14 in -- that was issued in order to prepare for the agenda
15 item -- the first reading?

16 A. I did not.

17 Q. Okay. Or the second?

18 A. No.

19 Q. Did you review any videos?

20 A. No video.

21 Q. Okay.

22 A. Yeah -- excuse me -- one video.

23 Q. And what was that of?

24 A. That was of the -- probably the second reading
25 of the Council -- the second council meeting or the

1 second reading, you know the --

2 Q. Okay. Any other videos?

3 A. No other videos.

4 Q. And what did you observe in the second -- the
5 reading -- what did you observe in the video of the
6 second reading?

7 A. Right. It was my -- it was just a short clip
8 of me saying, I guess, responding to the issue of the --
9 of studying or investigating this issue or the -- yeah.

10 Q. And what were you saying in the clip?

11 A. I think I was saying that there was a lot of
12 doubt in this document -- this federal document. That
13 it looked like it was tempered with; however, I didn't
14 know what had happened.

15 The persons that I asked through my
16 investigation did not have an answer as to how the
17 document became altered.

18 Q. So the video that you looked at yesterday in
19 preparation for your deposition, your recollection is
20 you were viewing that and it was reminding you or
21 showing that you had talked about the document and that
22 it looked like it had been tampered?

23 A. Correct.

24 Q. And that the document that had been tampered
25 with -- I think you and I probably both know -- was a

1 screenshot off of the FEMA website?

2 A. Correct.

3 Q. Okay. Did you look at any other videos?

4 A. No other videos.

5 Q. Okay. You understand that we are here today to
6 talk about a Type B award of \$2 million to Elevate for
7 the Homewood Suites project, right?

8 A. Yes.

9 Q. And you understand that that Type B award
10 cannot be made unless and until it becomes an ordinance
11 through the city -- city processes?

12 A. Right, correct.

13 Q. Okay.

14 A. I understand.

15 Q. And before we get to those details, I do want
16 to get some background on you.

17 A. Sure.

18 Q. Where did you go to school -- college?

19 A. College -- I went to Jacksonville University in
20 Jacksonville, Florida, for my undergraduate studies.
21 And then Florida State in Tallahassee, Florida, for my
22 master's degree.

23 Q. And what is your master's in?

24 A. It's in public administration.

25 Q. Is there a legal component to that master's

1 degree in public administration?

2 A. I -- I think I took one international law
3 class, but I don't -- but there's no legal, there's
4 no -- it's not, there's no legal, you know, subset to
5 the course -- to the degree I got.

6 Q. Is there any study within that discipline where
7 you got your master's for public administration, any
8 study with regard to sort of forensic accounting?

9 A. To what kind of accounting.

10 Q. Forensic accounting.

11 A. Forensic? I don't know about forensic, but
12 accounting, you know, let me try to think because that's
13 a long time ago. I don't recall, yeah.

14 Q. That's okay.

15 A. I really don't.

16 Q. And after you got your master's, go ahead and
17 give us just the thumbnail sketch of your work history.

18 A. Okay. I spent two years in Tallahassee working
19 for the city -- or the county, I mean -- of Leon County.
20 And then moved to San Antonio, Texas, where I spent
21 22 years working for that city government.

22 And the past six, over six years I've been
23 here in Corpus Christi serving as a city manager for the
24 city.

25 Q. Okay. And take me through your work history

1 through those 20 years in San Antonio. I imagine you
2 didn't come in at the top of the rung, so to speak, and
3 you worked your way up.

4 A. That's correct. It's 22 years. I started as a
5 frontline, or entry-level position, in the city's budget
6 office, and spent over a decade in that budget office,
7 becoming the director, eventually, and then moving to
8 assist city manager and then second-in-command position,
9 deputy city manager, and then came here as a city
10 manager.

11 Q. Were you ever city manager in San Antonio?

12 A. No.

13 Q. Okay.

14 A. Yeah. Deputy city manager was the highest
15 rank.

16 Q. And it was as deputy city manager that you then
17 got recruited here to Corpus and came here to work for
18 Corpus?

19 A. Yes.

20 Q. And always have been the city manager here in
21 Corpus Christi?

22 A. Yes.

23 Q. Okay. And what do you describe as your job
24 duties as city manager here in Corpus Christi?

25 A. I am the CEO of the city -- is a high-level

1 summary -- chief executive officer, chief finance
2 officer, as well, I think the Charter defines that title
3 or role.

4 So chief executive, chief finance officer.
5 And our former government, which is a -- a
6 council-manager form of government, my responsibility is
7 to carry out city council policy -- policies.

8 The form of government we have, it's my
9 job to oversee -- not directly, but indirectly, in some
10 cases directly -- the 4,000 employees that we have.

11 And my job includes leading the
12 organization, carrying out the council's directives,
13 developing a budget annually -- annually and presenting
14 that to city council, engaging the business community,
15 and engaging the community itself on what we do and on
16 policy matters that impact the community.

17 Q. Okay. I've heard it described, though --
18 because of the Charter -- as a weak mayor system. Do
19 you know that phrase?

20 A. I do.

21 Q. And what is -- do we have a weak mayor system?

22 A. I would say we do, based on the Charter.

23 Q. And what is it mean that Corpus Christi has a
24 weak mayor system?

25 A. It's probably several answers, but one is an

1 easier one -- I mean a quick one, or a simple one -- is
2 there's a strong city manager system then.

3 When you look at the city charter as an
4 example, which I've done many times over the past
5 six years, is the distinct section for the city manager
6 yet, there is not for the mayor.

7 And I think, aside from the charter, in my
8 six years here, the community, not just the city
9 council, but the community has identified with that that
10 the -- that the council -- that the mayor of the city
11 council is not a strong mayor.

12 So that comes from the culture of the
13 community, it comes from written documents to include
14 the charter.

15 Q. Yeah.

16 A. And it comes from juxtaposition to other
17 cities, like San Antonio, where I came from. Their
18 charter, I think, had a little more definition on the
19 mayor's role.

20 And in the community and amongst the
21 council, it was understood that the mayor was a strong
22 mayor.

23 Q. So essentially, whether you call it a weak
24 mayor system or a strong city manager system, you're
25 saying the same thing?

1 A. I think so.

2 Q. Okay.

3 A. It's a good way of saying it.

4 Q. And that's a function of how the City Charter
5 is written, in large part?

6 A. Correct.

7 Q. And so what you're telling me is we have a
8 strong city manager system here in Corpus Christi
9 because the Charter is written in a way that gives a lot
10 of powers to the city manager?

11 A. I don't know about powers, but yes, it gives a
12 lot of authority, I think, yeah, to city manager to
13 execute --

14 Q. I'm fine with the word "authority."

15 A. Okay. Yeah. To execute the business of the
16 city.

17 Q. And the way that the city -- or at least one
18 that the city -- can act is by the passing of an
19 ordinance, correct?

20 A. The one way the city council can act, I would
21 say that would be correct. I can't pass -- I don't vote
22 on ordinances.

23 Q. Right.

24 A. Yeah.

25 Q. So in order -- but in order to execute the

1 business of the city -- and I'm quoting your last
2 answer --

3 A. Yes, sir.

4 Q. In order to execute the business of the city,
5 you have the power to put things on the agenda, for
6 example.

7 A. That's correct.

8 Q. And then to make a recommendation for that to
9 be passed or accepted by the city council?

10 A. Correct.

11 Q. And then the city council can vote yes or no on
12 that?

13 A. Or abstain, correct.

14 Q. Okay.

15 A. Yes, sir.

16 Q. But you're the one that has the actual
17 authority -- and I think this is part of where the power
18 comes from in terms of city manager and staff -- is you
19 and staff will work up a proposed ordinance, since were
20 using that as an example.

21 You get the documents that are supporting
22 it, and then you typically make a -- and I know, we can
23 make a distinction later -- but you typically will, if
24 you're doing the work, you're typically going to make a
25 recommendation supporting whatever it is you're putting

1 in front of the council?

2 A. I would bring it a step further, that in the
3 past six years, if you look at every ordinance or
4 resolution, or motion, the city staff, through the city
5 manager, has a recommendation.

6 It's a requirement that I've learned from
7 San Antonio -- that in San Antonio, they didn't always
8 do it that way.

9 But the last city manager I worked with
10 there -- who was, you know, was very good city
11 manager -- made it a business practice that we needed to
12 have a recommendation for every item that was brought to
13 city council.

14 We did that, I think, with the exception
15 of only one time, and that's for this -- this
16 2 million incentive to Project Elevate.

17 Q. Yeah. And you noticed in my question a minute
18 ago, you and I both knew that nuance was going to come
19 up here in a little bit --

20 A. Right.

21 Q. Because it -- the \$2 million award through an
22 ordinance that we're here to talk about, it came at the
23 second reading, the written records says, that the staff
24 basically is not making a recommendation, right?

25 A. I believe that's correct. I don't have the

1 document in front of me, but there was no -- it -- I
2 think -- I think the recommendation was that city
3 council should consider this item. That was the
4 recommendation. But we didn't recommended an award of 0
5 or up to 2 million -- we didn't make any recommendation
6 on the award.

7 Q. Right. You didn't -- in other words, usually
8 you would come out and say --

9 THE VIDEOGRAPHER: I need to go off the
10 record real quick.

11 MR. ALLISON: Okay.

12 THE VIDEOGRAPHER: We are off the record
13 at 9:45.

14 THE VIDEOGRAPHER: We're on the record at
15 9:46.

16 Q. Typically when staff is working up a proposed
17 ordinance, it'll come with the words along the lines of
18 city recommends this be approved.

19 A. Correct. It says city staff recommends the
20 following.

21 Q. And on the ordinance we're going to talk about
22 today, it didn't have that magic language, correct?

23 A. I wouldn't call it magic language, but it did
24 not have that, did not have that, by my direction.

25 Q. And -- and by it did not have it, we mean that

1 the agenda item or the memo -- where does it usually
2 appear? On the memo?

3 A. The memo. The memo or, and/or PowerPoint.

4 Q. Okay.

5 A. Yeah.

6 Q. Yeah. Usually --

7 A. Or excuse me -- and, I guess, and a PowerPoint,
8 sometimes.

9 Q. Okay.

10 A. Yeah.

11 Q. Okay. Usually that language is either on a
12 memorandum that's published to -- in reference to the
13 upcoming agenda?

14 A. Correct.

15 Q. And usually that language would be there saying
16 staff recommends that, but on this one proposed
17 ordinance we're here to talk about today, it did not
18 have that language?

19 A. That is correct, it did not have it.

20 Q. Okay. And is that the -- is this the only
21 ordinance that has gone in front of the city that has
22 ever that has lacked that language that says staff
23 recommends?

24 MR. DEKOCH: Objection, form.

25 THE WITNESS: What's that?

1 MR. DEKOCH: An objection.

2 THE WITNESS: Yeah. I can answer.

3 MR. ALLISON: Yeah. Just so you know,
4 whenever he says --

5 THE WITNESS: Yeah.

6 MR. ALLISON: --you can always answer, and
7 if doesn't want you to answer, he'll say "wait". He'll
8 let you -- he'll let you know.

9 A. I'd like to answer it, which is that, you know,
10 to my knowledge, in the six years, if you count how many
11 ordinances, and resolutions, and motions, there's been a
12 lot -- I don't even want to guess at a number -- but I
13 would think it's fair to say that this one is probably
14 about the only one that did not have a recommendation.

15 Q. Okay.

16 A. There may be others, but to knowledge this is
17 the -- to my recollection -- I'm not looking back at
18 years of ordinances, but just intuitively, I would think
19 this is the only one.

20 Q. Okay. A moment ago, I mentioned that you have
21 the ability, the power, the authority, under the City
22 Charter to put things on the agenda, that's correct?

23 A. That's correct.

24 Q. I believe, under the Charter, the mayor also
25 has the ability to put things on the charter?

1 A. I don't believe it's in the Charter, but I
2 believe it's in council guide -- policy -- guidelines
3 that they've -- that they adopt as a body. I don't
4 believe it's in the Charter, I think the Charter says a
5 city manager and the city secretary set the agenda.

6 Q. And then the other way I think something can
7 get on the agenda, there's something about a three --
8 three council rule, or something. Is that right?

9 A. Right. Yeah. So that's another -- so where
10 the mayor's authority -- I think it's in the same policy
11 document -- that city council, not the public, approves.

12 But so the city council has a policy that
13 says -- the new most current one -- is three council
14 members, with a sign -- if three city sign a memo with a
15 petition to put something on it -- the council agenda --
16 then it can go on the agenda.

17 And then finally, there's also a -- two
18 council members can petition to reconsider an item. So
19 if there was an item on a prior council meeting, they
20 want to bring it back for reconsideration, just two
21 council members, and they would be placed back on the
22 agenda.

23 Q. Okay. And are those -- have we just discussed
24 all the ways that things can get on the agenda to your
25 recollection?

1 A. Yes.

2 Q. Okay.

3 A. We have.

4 Q. Does the city have any specific policy with
5 regard to awards of Type B money or any type of public,
6 money when there has been a -- I'm going to call it at
7 least serious assertion of some sort of a corrupted
8 process?

9 A. I don't know the answer to that.

10 Q. Okay.

11 A. I'm sure there's some guiding principles, like,
12 you should follow the law and not break the law, but I
13 don't think there's a -- I'm not aware of any guideline
14 document.

15 Q. I looked and I couldn't find one, so I wanted
16 to ask you.

17 A. Okay.

18 Q. And I actually have kinda the same thought. I
19 actually wrote on my notes, I'm sure that as a matter of
20 just your education background, and training, you know
21 that you need to make sure you are complying with laws.

22 A. Correct.

23 Q. You need to make sure that -- that anything in
24 the process, that there's not a nefarious or illegal
25 component to it that is part of the process of giving

1 public money to a project or to a request.

2 A. Correct.

3 Q. Yeah. I want to get a few definitions with you
4 since we're going to be talking about some things that I
5 think are coming up.

6 A. Okay.

7 Q. I'm going to start with a real easy one, and I
8 jumped online and literally found the -- I went to
9 Webster's.

10 A. Okay.

11 Q. And found the definition or -- of "same" and
12 I'm going to read each one real slowly -- just the word
13 "same."

14 A. S-A-M-E "same," you say? Okay.

15 Q. Yes.

16 A. Okay.

17 Q. Resembling in every relevant respect. Second
18 definition is conforming in every respect. Third
19 definition is being one without addition, change, or
20 discontinuance -- then it says identical.

21 Next definition is being the one under
22 discussion or already referred to. And the next
23 definition here is corresponding so closely as to be
24 indistinguishable.

25 If you're like me sometimes I like to read

1 things rather than just hear them.

2 A. Okay.

3 Q. So why don't you -- I'm going to show you what
4 I just read, do you see that?

5 A. Okay. I do, yes.

6 Yeah. Resembling in every irrelevant
7 aspect. Yeah. I'm skipping down to the next one, being
8 one without addition and corresponding so closely as to
9 be indistinguishable.

10 Q. Okay.

11 A. Yeah.

12 Q. Yeah. Do you agree with those definitions?

13 A. I do.

14 Q. Do you have any different definition -- any,
15 anything in those definitions that you think's missing
16 that we need to add a different definition of same?

17 A. I would just add -- it would be exactly alike,
18 you know.

19 Q. Okay.

20 A. Yeah. Exactly alike.

21 Q. Okay. The other thing that I wanted to kinda
22 get -- give you a chance to look at ahead of time, and
23 it was referred to in the deposition of Mrs. Hurlbert?

24 A. Heather?

25 Q. Heather.

1 A. Okay. Heather Hurlbert, yeah.

2 Q. And did you have an opportunity to review that
3 deposition or get an update on it? I kinda hope you
4 did.

5 A. She -- actually not too much. Heather just
6 said I, you know, was in there for awhile and it was
7 fun.

8 Q. Okay.

9 A. That was it. Yeah.

10 Q. What I want to do is give you an opportunity to
11 look at the Penal Code.

12 A. Okay.

13 Q. And that "forge" means to alter, make,
14 complete, execute, or authenticate any writing so that
15 it purports to be the act of another who did not
16 authorize it. You understand that?

17 A. I do.

18 Q. And "forge" also means to be a copy of an
19 original that you presented -- as a copy of an original
20 when no such original exist. Do you understand that
21 one?

22 A. I do.

23 Q. And that "forge" also can mean to publish or
24 otherwise utter a writing that is forged within the
25 meaning of what I just said a moment ago. In other

1 words, if you say it, then that is a form of forgery.
2 You utter it or publish it.

3 A. Utter it. Okay.

4 Q. Okay.

5 A. Yeah.

6 Q. And then to possess a writing that is forged
7 within the meaning of what I've read to you a moment
8 ago, with the intent to -- if you just intend to utter
9 it in a manner. That is within the meaning of what we
10 said above. Okay?

11 A. Okay.

12 (Exhibit marked for identification as
13 Deposition Exhibit Number 1.)

14 Q. (By Mr. Allison) I just want to give you a
15 chance to -- again, I have it on the screen, and I'll
16 mark this as Exhibit 1. And again, I just want you to
17 have the benefit of not just hearing it, but reading it.

18 A. Okay.

19 Q. You don't have to read it out loud, I just want
20 you to satisfy yourself.

21 A. Okay. Okay.

22 Q. And I'm going to scroll down because, like any
23 statute, after it defines forgery, of course it says
24 forgery is an offense. It's not going to surprise you,
25 right?

1 A. Right.

2 Q. And then, like any offense, you know, if you go
3 steal a candy bar, it's not as big a deal as if you go
4 steal an expensive automobile, right?

5 A. I would agree.

6 Q. Okay. So the portion I scrolled down to is the
7 portion that it is a felony of the first degree if the
8 value the property or service is \$300,000 or more; do
9 you see that?

10 A. I do see that. Yeah.

11 Q. Okay. Do you understand that definition?

12 A. I'm not sure of what a felony of the first
13 degree is, but yeah.

14 Q. Okay.

15 A. Yeah. But I understand the definition.

16 Q. They classify them.

17 A. Okay.

18 Q. And so you understand that a felony is very
19 bad, I'm sure?

20 A. Yes.

21 Q. Okay. And a first degree, I'll tell you,
22 that's -- that's worse than a third degree, okay?

23 A. Okay.

24 Q. Okay.

25 A. Okay. Good.

1 Q. And it has to do with a range of punishments.
2 In other words, the higher the offense, I think the more
3 punishment can be given; does that make sense?

4 A. It does.

5 (Exhibit marked for identification as
6 Deposition Exhibit Number 2.)

7 Q. (By Mr. Allison) Yeah. Then Exhibit 2, I'm
8 going to show you the definition of criminal
9 responsibility for conduct of another, it's section
10 7.02. And it says, that a person is criminally
11 responsible for an offense committed by the conduct of
12 another, if with that intent, he causes or aids an
13 innocent or non-responsible person to engage in conduct
14 prohibited by the definition of the offense. In this
15 case forgery; do you follow me?

16 A. Understood. Yes, I do follow you.

17 Q. Okay. And I'll show that to you, just, that's
18 Exhibit 2. I just want to make sure you understand that
19 statute.

20 A. Yeah. I see it.

21 Q. Okay.

22 A. Yeah.

23 Q. Now --

24 (Interruption by a City Hall staff member.)

25 We mentioned earlier that we're here to

1 talk about a specific ordinance and that was one where
2 the city council was considering -- there was a first
3 reading and a second reading -- about a \$2 million, and
4 some issues we're going to discuss about that. You know
5 that, right?

6 A. I do know that, yes.

7 Q. Okay. And I believe, though, that process
8 actually starts at the CCREDC.

9 A. That is correct.

10 Q. And you and I both know that's a Corpus Christi
11 Regional Economic Development Corporation, right?

12 A. Correct.

13 Q. And a CCREDC Project, I think you are probably
14 aware, but I'm asking really.

15 A. Okay.

16 Q. Requires an infrastructure component to receive
17 a recommendation?

18 A. An infrastructure -- like the funding is for
19 infrastructure?

20 Q. Yes. There's got to be some tie into
21 infrastructure.

22 A. I don't know if that's always the case, but I'm
23 trying to think over the years what they've awarded.

24 Q. Let me ask you this way --

25 A. Yeah.

1 Q. Would Mike Culbertson be somebody who would
2 have more knowledge about the answer to the question I
3 just asked you?

4 A. He would.

5 Q. Yeah. And he's testified, and what he
6 testified to with regard to the need for an
7 infrastructure component, would you sort of defer to him
8 on -- on it in this instance?

9 A. Either him or Heather Hurlburt.

10 Q. Okay.

11 A. --or a legal team.

12 Q. Okay.

13 A. Yeah.

14 Q. That's not per se your area of expertise?

15 A. It's -- in all areas of the city I have experts
16 that help me.

17 Q. Okay.

18 A. Yeah.

19 Q. And Mike's your expert?

20 A. No.

21 Q. He isn't?

22 MR. DEKOCH: Actually he's --

23 A. Well, he's one of the expert that would help,
24 but not, you know, he's not a city staff member, he's
25 not -- he doesn't report to me.

1 Q. He's an expert, but he's not your expert
2 because he's not a direct city employee?

3 A. Yes. I think that's a good way of saying it.

4 Q. Okay.

5 A. Yeah. But certainly, I mean, to your point,
6 he -- all -- all applications for money from the Type A
7 or B, through a contract that we have the EDC, all
8 applications go to that entity first, who is paid by us
9 to vet them, to analyze them, and make a recommendation
10 to the Type B board -- Type A/B board.

11 Q. And do you know, because, of course, we know in
12 Type B board, the discussion, that's where it kinda of I
13 guess switched, for lack of a better term -- sort of to
14 \$2 million?

15 A. It did, yes. I was at the meetings.

16 Q. I knew you were.

17 A. Yeah.

18 Q. And -- and you know that based upon the CCREDC
19 process, they could not recommend \$2 million?

20 A. Correct.

21 Q. Okay. And so in that sense, another sort of
22 anomaly -- this ordinance -- and by that I mean you've
23 told me, probably based on your memory, it's the only
24 time that the city staff has not recommended when it was
25 in front of city council. And again, we see another

1 anomaly in its origin, in that it was not a
2 recommendation for 2 million from the CCREDC, agreed?

3 A. Agreed. Although, that latter -- the latter
4 statement, another project just recently has gone
5 through where the computer model, or the modeling from
6 the EDC, was less than the ultimate recommendation by
7 the Type B board.

8 Q. Okay.

9 A. Yeah. So I don't know how -- I -- my -- the
10 first one is at the -- is one of the only memos that
11 didn't have a recommendation that's more affirmative.
12 The second question, the change from the EDC to the
13 board, that's probably less --

14 Q. Every now and then I'm going to do this weird
15 thing, just like he did, when he says objection,
16 whatever --

17 A. Okay.

18 Q. And you keep talking, and it's fine.

19 A. Okay.

20 Q. I'm going to say "object nonresponsive," and
21 don't worry about it at all. Okay?

22 A. Okay. Yes, sir.

23 Q. Okay. And a moment ago, you mentioned that you
24 were at the type board meeting, right?

25 A. Which one?

1 Q. The one for the ordinance that we're here to
2 talk about.

3 A. Yes. I was at that one.

4 (Exhibit marked for identification as
5 Deposition Exhibit Number 3.)

6 Q. (By Mr. Allison) Yes. And I have in front of
7 me, and I'm going to mark it as Exhibit 3, the slides
8 that were used at the Type B Board presentation.

9 A. Okay.

10 Q. It's my highlighting.

11 A. Okay.

12 Q. I don't want to confuse you.

13 A. Okay. Yeah.

14 Q. I think it's seven slides.

15 A. That's what I see -- I can't -- are you asking
16 me to, like -- is that the one that was shown or --

17 Q. This came directly from Type B.

18 A. Okay.

19 Q. I'm not asking you to authenticate it.

20 A. Okay.

21 Q. You were there, but you probably don't remember
22 if they showed you five or seven slides.

23 A. Correct.

24 Q. Okay.

25 A. But -- but I've seen those slides before.

1 Q. Does that look like the -- at least it looks
2 like the project that is being talked about here today?

3 A. Yes. That -- those slides look like they could
4 have been shown at that meeting.

5 Q. Okay. And I know that you were at the meeting,
6 and it is at that meeting that the presenters -- by the
7 way, the applicants were, Elevate, which is -- at least
8 the representatives at the meeting were Philip Ramirez
9 and Deven Bhakta, right?

10 A. Correct.

11 Q. And the applicant was there, having gone
12 through the CCREDC process, now in front of the Type B
13 board, and made the presentation with the slides that we
14 are looking at right now, or something like it.

15 A. Yeah. And I'm not for certain if it was the
16 applicant or Mike Culbertson, but I think -- I
17 believe --

18 Q. If the video shows Philip Ramirez doing all the
19 talking, that's not going to surprise you, right?

20 A. Right.

21 (Simultaneous speaking)

22 Q. Okay. It's Philip -- it's recorded, right?

23 A. Okay. Good. Yeah. It is recorded, yes.

24 Q. Yeah. And one of the slides -- I believe it's
25 the second slide -- and let's go ahead and just set up

1 for some context.

2 A. Okay.

3 Q. I'm going to show it on the camera real quick.

4 A. Sure. No problem.

5 Q. That the first slide. And then the second
6 slide is the one we're going to be talking mostly about,
7 and that's the second slide.

8 MR. DEKOCH: Doug, is it alright if Peter
9 get's up where he can see?

10 THE WITNESS: No. I can see it.

11 MR. ALLISON: I'm going to show him right
12 now --

13 MR. DEKOCH: Well, I want to make sure
14 that what's there is what he sees.

15 MR. ALLISON: Yeah.

16 THE WITNESS: Okay.

17 Q. (By Mr. Allison) The second slide is the slide
18 that has -- what I think we all know now is -- a
19 tampered or altered document, right?

20 A. It has -- correct.

21 Q. Okay.

22 A. I don't know if that's the exact one, but
23 that -- yes.

24 Q. And I'll represent to you it came from the Type
25 B --

1 A. Okay.

2 Q. --slide.

3 A. Okay. And if that came exactly from the Type
4 B, then that is the one.

5 Q. Yeah.

6 A. Yes.

7 MR. DEKOCH: If you're not positive then
8 don't --

9 THE WITNESS: Okay.

10 Q. (By Mr. Allison) Okay. And the portion I
11 highlighted is that in the presentation, and it's on the
12 slide, it says on the slide specifically, Project was
13 reimagined in July 2022, as a 126-room hotel project,
14 did I read that correctly?

15 A. That's what it says there. You read it
16 correctly.

17 Q. Okay. And so at least we know that the, sort
18 of the beginning time -- the moment in time that they
19 imagined doing a hotel project, the applicant was
20 apparently -- at least according to them -- July of
21 2022, right?

22 A. Correct.

23 Q. I know that you said that you looked at the
24 plaintiff's petition that we had on file before the
25 deposition, you looked at that ahead of time to prepare?

1 A. I -- yeah. I read -- I perused through it. I
2 didn't get a chance to read the whole thing, but I did
3 kind of skim through it.

4 Q. That's fine.

5 A. Yes, sir.

6 Q. The reason I ask is because it's quoted in that
7 petition. Several -- several things are quoted in that
8 petition that were said by the applicant during the
9 presentation. Did you look at that portion of it?

10 A. I did not.

11 Q. I'm going to just read you some of the quotes,
12 and I'm not going to ask if you remember, did they say
13 it that exactly way, but I'm just going to ask if you
14 remember hearing the gist of what I'm quoting, okay?

15 A. Okay. This is at the Type B board meeting,
16 right?

17 Q. Yes.

18 A. Okay.

19 Q. That at the Type B board meeting, the
20 applicant -- or Mr. Ramirez -- at the Type B board
21 meeting, Mr. Ramirez said things like, One thing that
22 came up that we weren't anticipating, the FEMA maps were
23 preliminary but they became finalized. Things like, it
24 kind of hit us midstream, it threw us for little bit of
25 a loop.

1 Quote, it would -- it did certainly throw
2 a wrinkle and an aspect to the project -- pressure from
3 a constructability perspective, but also just added cost
4 that we were not anticipating, so we had to mitigate
5 these new requirements.

6 Do you remember things along those lines
7 being said?

8 A. I do. Yes.

9 Q. Okay. And do you remember the upshot of that?
10 The gist of it was that Philip was representing at the
11 Type B board that the FEMA floodplain rules had recently
12 change?

13 A. Correct.

14 (Exhibit marked for identification as
15 Deposition Exhibit Number 4.)

16 Q. (By Mr. Allison) Okay. I'm going to show you
17 Exhibit No. 4 to your deposition, and this is the -- a
18 screenshot of the same FEMA website that we -- you
19 looked at a moment ago. But it's not been altered like
20 the one used during the Type B presentation. Do you
21 understand what I'm saying?

22 A. I do. Except the one we saw a moment ago was
23 not the website, but it was a PowerPoint presentation.

24 Q. Right.

25 A. A picture of it.

1 Q. It was a screenshot of the FEMA webpage that
2 was put into a PowerPoint.

3 A. Right. Correct.

4 Q. Okay. And let me show you this one first, and
5 then I'm going to turn it around for the camera.

6 A. Okay.

7 Q. Do you recognize that one as having the
8 dates -- which I think you probably know are missing
9 from the one that was shown -- to the Type B board?

10 A. Right. Yeah. The -- is it the release date
11 April 13, 2022?

12 Q. It's the release date and it's also the --

13 A. And that box too? Okay.

14 Q. -- reference number.

15 A. Yes, sir.

16 Q. And it's also the second statement of the
17 release date.

18 A. The new floodplains have been finalized, become
19 effective on October 13 -- (Sotto voce.)

20 Q. No, but you see these three -- this date right
21 here --

22 A. Yeah.

23 Q. -- of April, and this date right here of April
24 and this release number?

25 A. Yes.

1 Q. Those are three different things you can see on
2 the original document, right?

3 A. Correct.

4 Q. And I'm just going to show exhibit to the
5 camera that you were just looking at.

6 THE VIDEOGRAPHER: Got it, Doug.

7 Q. And if you compare that to the one that was
8 given to the Type B board, do you see that three data
9 points, so to speak, the release date and a second
10 statement of the release date and then the third item
11 that was altered was removal of the reference number,
12 right?

13 A. Correct. Yeah. The box that had those two
14 things and then the other date are gone. They're not on
15 that document.

16 Q. So three alterations that we can easily
17 identify?

18 A. Correct.

19 Q. Okay. At the time of the presentation to the
20 Type B board, did you know the alterations had been
21 made?

22 A. I did not.

23 Q. Okay.

24 A. It was not brought to our attention by anyone.

25 Q. And so to your knowledge, is there any way that

1 the Type B could have known that the alterations had
2 been made?

3 A. They could have if somebody had told them, like
4 the EDC.

5 Q. Okay. But do you know they did or not?

6 A. They did not.

7 Q. Okay.

8 A. To my knowledge, they did not.

9 Q. So in other words, you believe that the Type B
10 board voted to approve the award of the \$2 million not
11 knowing that there had been this altered federal
12 document?

13 A. Correct.

14 (Exhibit marked for identification as
15 Deposition Exhibit Number 5.)

16 Q. (By Mr. Allison) Okay. I'm gonna also show you
17 Exhibit 5, which is another FEMA -- me capturing a
18 website and making it a -- a slide or an exhibit to your
19 deposition.

20 A. Okay.

21 Q. And it's Exhibit 5, and let me give you a
22 chance to review that.

23 A. Okay.

24 Q. And let me show that to the --

25 A. I see it. Yeah.

1 Q. -- to the camera just real quickly for you too.

2 A. Yeah.

3 THE VIDEOGRAPHER: Can you tilt it up a
4 little bit, there's a glare from the -- there you go,
5 right there, perfect. Got it.

6 Q. If you look at that, this exhibit, then you can
7 see -- by the way, let me back up --

8 A. Yeah.

9 Q. -- we know government doesn't move at a -- at a
10 lightning pace, fair enough?

11 A. Fair enough. Yes, sir.

12 Q. Okay. And things like FEMA rule changes
13 typically take years, correct?

14 A. I'm not for certain, but they take -- I think
15 they would take time.

16 Q. Okay.

17 A. Yeah.

18 Q. And usually whenever there's federal regulation
19 changes, it's real common in the public sector to
20 publish drafts or preliminary proposed rules or whatever
21 it is that you're changing and to give an opportunity
22 for comments, right?

23 A. Correct.

24 Q. Okay. And from the exhibit that I just showed
25 you, can you tell that, in fact, at least back as far as

1 2020, years in advance of the December 2023 Type B Board
2 meeting that these new or proposed, revised -- whatever
3 you want to call them -- FEMA rules had been out there
4 in the public domain for years, correct?

5 A. I was unaware that, but if -- if the evidence
6 shows that, it sounds plausible.

7 Q. Yeah. And that would be kind of typical of how
8 government moves.

9 A. Correct.

10 Q. It's not going to surprise you at all?

11 A. You're not. We do the same thing.

12 Q. Okay.

13 A. Yeah.

14 Q. And -- and that certainly flies in the face of
15 the suggestion by Mr. Philip Ramirez that these had been
16 unanticipated or, you know, somehow caught them by
17 surprise, fair?

18 A. Fair. It's one of our points we had when we
19 talked with him.

20 Q. Yeah.

21 A. When I talked with him, personally.

22 Q. And we talked about that -- apparently the Type
23 B Board voting at a time when they did not know there
24 was an altered or a forged slide and voting on an amount
25 that had not been recommended by the CCREDC. They

1 nonetheless gave a vote, yes, to have the award of
2 2 million considered by the city council, right?

3 A. Correct. Correct.

4 Q. And that leads then to an agenda memo being
5 created by your staff to have that matter put in front
6 of the city council and on the city council agenda?

7 A. Correct.

8 (Exhibit marked for identification as
9 Deposition Exhibit Number 6.)

10 Q. (By Mr. Allison) Yeah. I'm going to show you
11 what I'm going to mark as Exhibit 6, and this is the
12 first agenda memo -- excuse me -- this is the memo for
13 the first reading. Fair enough?

14 A. That's fair enough. Yes.

15 Q. And familiarize -- familiarize yourself with
16 it. Again, it's my highlighting, but that also lets you
17 know what I'm going to ask you questions about, so
18 you'll -- so you'll know. Okay?

19 A. Okay. Yeah. Can I scroll it -- scroll it down
20 or --

21 Q. Two fingers. Up and down, got it? Is that
22 working for you or -- there you -- yeah.

23 MR. DEKOCH: Now it went too far.

24 THE WITNESS: Okay. All right. There we
25 go. (Sotto voce.)

1 A. Can you -- I'm sorry -- I missed the -- I got
2 it.

3 Q. Sure.

4 A. Is that that the -- it went back to agenda
5 item. I mean the memo -- I mean the ordinance -- the
6 agenda -- document. Yeah.

7 Q. I see what happened.

8 A. Yeah.

9 Q. Yeah. You skipped -- you skipped pages.
10 That's okay. A little technical error -- issue there.
11 We can get it fixed.

12 A. Yeah. Was that it?

13 Q. I'm not sure how you management, but I'm not
14 going to blame you.

15 A. Yeah.

16 Q. Okay. Give me one second and I'll pull it back
17 up for you.

18 A. I think if you click on that -- that's the
19 agenda item. So click on it and it'll pull the memo up,
20 I think.

21 Q. Yeah. Really they're separate exhibits for me.

22 A. Okay. Okay. Sorry.

23 Q. But I have it right here. It's right there.
24 I'll be the operator for you.

25 A. Okay. Okay. That section I read, so you can

1 keep going. Yeah. (Sotto voce.)

2 Q. Does that appear to be the -- the memo for the
3 first reading of the ordinance we're talking about?

4 A. It appears to be, based on what I read. Yeah.

5 Q. Yeah. And so this agenda memo, I think, would
6 have been prepared, it says, from Heather Hurlbert,
7 okay?

8 A. Correct.

9 Q. And it has the first reading scheduled for
10 February 20th, and the second reading, it says, is going
11 to happen on February 27, right?

12 A. That's what it says. Yes.

13 Q. And it's -- identifies a possible award Type B
14 money for \$2 million. It says, quote, for costs
15 associated with FEMA AE flood-zone requirements, right?

16 A. Correct.

17 Q. And then in terms of background, it tells you,
18 quote, On January 22, 2024, the Type B Board Corporation
19 unanimously approved an agreement with Elevate QOF LLC
20 for costs associated to FEMA AE Flood Zone requirements,
21 right?

22 A. Correct. That's what it says.

23 Q. Further down, it says, The grant request will
24 be utilized for additional cost associated with newly
25 defined FEMA AE floodplain flood zone requirements.

1 A. Correct.

2 Q. And then at the bottom -- we talked about this
3 just in the general sense -- but at the bottom it says,
4 quote, Staff recommends approval of the agreement in an
5 amount not to exceed 2 million, to be funded by the CCB
6 Corporation Fiscal Year 2024, right?

7 A. Correct.

8 Q. That's an example of -- like we talked about
9 earlier -- usually the -- the normal thing -- the way
10 they normally go is staff recommends.

11 A. That's correct.

12 Q. Yeah. And again, and then if you look at this
13 list of supporting documents, it includes four items,
14 one of which is the PowerPoint presentation -- the one
15 we looked at a moment ago -- that the Type B Board had
16 in front of it, right?

17 A. Correct.

18 Q. Okay. And that PowerPoint presentation that is
19 then supporting this first reading, had that altered
20 slide in it again?

21 A. I haven't seen it, but it -- it probably -- it,
22 I believe it did.

23 Q. I don't think that's in dispute. It's
24 recorded.

25 A. Yeah.

1 Q. We're not here to argue that, right?

2 A. No. I'm not here to argue it. I just didn't
3 see it right now, so it's hard to --

4 Q. Right.

5 A. I see it's on the memo, but I don't see the
6 PowerPoint.

7 Q. Okay.

8 A. But, yes.

9 Q. And again, the recommendation though here was
10 that a moment in time from staff -- and staff includes
11 you, I imagine?

12 A. It does include me.

13 Q. Yeah. The recommendation was at a point in
14 time when staff had no knowledge, I think, that there
15 had been an altered federal slide.

16 A. As I've been thinking this through, right,
17 because it's been over a year and half ago, I'm trying
18 to recall when people -- one person told me that this
19 document has been altered. I -- I would suppose that
20 was between this point and time after this point. The
21 point being the council meeting.

22 Q. Yeah.

23 A. I don't think I was aware when we put this on.
24 That --

25 Q. I want to make sure I understand what you --

1 when you say, I don't think I was aware, you mean you
2 don't think you were aware there was an altar slide at
3 the time you put on the first reading?

4 A. Correct.

5 Q. Yeah.

6 A. Yes.

7 Q. I'm filling in the pronouns.

8 A. Okay. Thank you. Yeah. Yeah, otherwise, I
9 probably would not have put it on for the first reading.

10 Q. Yeah.

11 A. So -- the -- yeah.

12 Q. And if you don't put it on for first reading,
13 obviously, it never passes?

14 A. That's true, yes.

15 (Exhibit marked for identification as
16 Deposition Exhibit Number 7.)

17 Q. (By Mr. Allison) Okay. I'm going to show you
18 the Exhibit 7, which is the agenda for the first
19 reading; you with me?

20 A. Yes. Is that in the document? Yes.

21 Q. The other words, we just looked at the memo for
22 the agenda item --

23 A. Right.

24 Q. -- and then, of course, later in time the
25 item -- typical course of things would end up on a -- on

1 an agenda, right?

2 A. Correct. Yes, sir.

3 Q. And the -- yes, sir?

4 MR. DEKOCH: Objection. Is this the first
5 reading that you're doing?

6 MR. ALLISON: Yes. Yeah.

7 MR. DEKOCH: Okay.

8 (Exhibit marked for identification as
9 Deposition Exhibit Number 8.)

10 Q. (By Mr. Allison) And so let me show you what I
11 am having marked as Exhibit 8, and I'm going to go ahead
12 show you that it's the February 2024 -- February 20th,
13 2024, agenda, right?

14 A. Okay. That's what it says.

15 Q. You can scroll up or down if you'd like, but
16 I'm going to scroll to the actual agenda item --

17 A. Yeah.

18 Q. Because that's what I'm going to ask you about.

19 A. Okay. Yeah. That's an ordinance authorizing
20 an agreement. I'm going to skip around here, but -- for
21 cost associated with FEMA floodplain requirements and
22 exterior upgrades -- appropriating \$2 million of
23 non-reimbursable grant from the Type B economic
24 development fund. (Sotto voce.)

25 Q. Okay.

1 A. Correct.

2 Q. So the -- the ordinance numbers there 24-0256,
3 right?

4 A. I'm not -- I see the number, I don't know if
5 that's the ordinance number or just the agenda item
6 number, but there's a number there that for the
7 reference of that item.

8 Q. Fair enough.

9 A. Yes.

10 Q. I may be making an assumption there that's not
11 correct. Thank you for clarifying that.

12 A. Okay. Yes, sir.

13 Q. But it -- the actual agenda item that you just
14 read into the record makes clear it is -- I'm going to
15 quote what you just read -- for costs associated with
16 FEMA AE flood-zone requirements, correct?

17 A. Correct.

18 Q. Okay. Now I'm going to show you Exhibit No. 8,
19 which is labeled Video One. And they're going to put it
20 on that screen right there for you.

21 A. Okay.

22 Q. And I'm going to ask them to play it for you.

23 A. Okay.

24 MR. DEKOCH: Can you make that full
25 screen?

1 MR. DAVID: Yes, sir.

2 MR. DEKOCH: Thank you.

3 MR. DAVID: Ready?

4 MR. DEKOCH: Yeah.

5 MR. DAVID: The audio is going to come
6 from my laptop.

7 MR. DEKOCH: That's okay.

8 Q (By Mr. Allison) Again, by the address, it's
9 clear that she's -- the mayor's -- talking about the
10 Homewood Suites Project.

11 A. Correct.

12 Q. And the part I wanted to confirm is then just
13 this progression -- from the agenda memo talks about the
14 costs associated with FEMA, and then the agenda item
15 talks with cost associated with FEMA, and when the mayor
16 reads it in the public, she says, for cost associated
17 with FEMA, right?

18 A. Correct.

19 Q. Okay. And again, at that point in time when
20 you're in that meeting -- at that first reading on
21 February 20th of 2024 -- at that time, is it true to say
22 that you don't think you knew? I think because
23 otherwise, you said you would never put it on --

24 A. Right.

25 Q. --you were still in the dark about their having

1 been an altered federal document?

2 A. Correct.

3 Q. Okay.

4 MR. ALLISON: Go to video two.

5 (Exhibit marked for identification as
6 Deposition Exhibit Number 9.)

7 Q. (By Mr. Allison) This is marked as Exhibit
8 No. 9, and it's from that same meeting.

9 A. Okay.

10 MR. DAVID: Ready?

11 MR. ALLISON: Yes.

12 Q. Do you hear both the mayor's voice and also
13 Councilman Hunter's voice on there?

14 A. I do, yes.

15 Q. And is it clear that Councilman Hunter,
16 whatever background he has had -- and he's describing a
17 little but on his speaking, or during his speaking, that
18 he is questioning, Hey, how is it that you can say it
19 changed? That should have been the first thing you
20 looked at, basically?

21 A. I heard that, and I agreed. Right.

22 Q. And you were there at that council meeting?

23 A. I was. Yes, sir.

24 Q. Yeah. And so he sort of -- and I know later in
25 time you said the same thing, I assume you remember

1 that -- but at the meeting, Councilman Hunter is clearly
2 saying, Hey, how can this be true, basically. Because
3 basically, FEMA doesn't change, like, in a drop of a
4 hat, right?

5 A. Correct.

6 Q. Okay. And did you also hear the mayor -- I
7 think multiple times -- she keeps saying, because it
8 changed, because it changed, because it changed, right?

9 A. Correct.

10 Q. Now, and so she is suggesting -- I guess, if
11 I'm hearing it, but I'm asking you -- do you hear it
12 that Councilman Hunter is sort of questioning the
13 truthfulness or accuracy of some of the information,
14 right?

15 A. Correct.

16 Q. And the mayor's trying to correct Councilman
17 Hunter and say, No, it's -- like, aren't you listening?
18 It changed, it changed, it changed, right?

19 A. Right. I don't know about correct, but
20 speaking alongside him, saying -- saying those words,
21 yes, that it changed, it changed.

22 Q. Yeah.

23 A. Yeah.

24 Q. He's talking, she kind of bumps in, he talks,
25 she bumps in.

1 A. Right.

2 Q. He talks, she bumps in, right?

3 A. Correct.

4 Q. Okay. Now, before that meeting, had you had as
5 you -- any discussions with the mayor or Councilman
6 Hunter about any of the truthfulness of the
7 presentation, or were you still in the position of kind
8 of hearing this from Councilman Hunter for the first
9 time, that maybe there's something to question here?

10 A. I'm not for certain. Yeah. I'm not -- I'm not
11 for certain.

12 Q. Okay.

13 A. Because I don't -- we did talk about it, but
14 I'm not for certain if it was before this meeting or at
15 what point in time.

16 Q. And at some point, I know Ajit -- David brought
17 it, certainly, to your attention, right?

18 A. David Ajit?

19 Q. Yes.

20 A. Yes, he did.

21 Q. Okay.

22 A. Yeah.

23 (Exhibit marked for identification as
24 Deposition Exhibit Number 10.)

25 Q. (By Mr. Allison) That meeting, I think we had

1 it at February 20th, and I know then at least by
2 March 7, my client had sent you an email. Let me show
3 that to you, and we'll mark that as Exhibit 10. I'm
4 going to give you an opportunity to --

5 A. Yeah.

6 Q. --refresh your recollection about that.

7 A. Okay. Good.

8 MR. ALLISON: It makes his job hard when
9 you talk so quiet, so you may want to just read to
10 yourself and then we'll talk about it.

11 And you would -- would you like to take a
12 break and let him review it?

13 MR. DEKOCH: Yes. I'd like to take a
14 break for me to go to the restroom while he reviews it,
15 if that's alright.

16 MR. ALLISON: We will take a break.

17 THE VIDEOGRAPHER: We're off the record at
18 10:29.

19 (Short break taken.)

20 THE VIDEOGRAPHER: We're on the record at
21 10:43.

22 Q. (By Mr. Allison) And just for the written
23 record, I want to make sure I said it. Exhibit No. 9 is
24 the second video clip we played with the mayor saying,
25 it's changed. I just want to make sure so that we have

1 a good clear record.

2 Mr. Zanon, during the break, I think I
3 gave you an opportunity to review what I've marked as
4 Exhibit 10, which is a e-mail dated March 7, 2024, from
5 my client to you, right?

6 A. Correct.

7 Q. And it said -- overall, it's an e-mail that is
8 relating to the altered slide, correct?

9 A. Correct.

10 Q. And in the e-mail, first he points out that it
11 was a project that's already under construction, and he
12 says, fully committed. That's in his e-mail to you,
13 right?

14 A. Correct.

15 Q. And you probably understand the reason that
16 he's doing that -- my clients doing that -- is because
17 the rule really is that you don't get a money for a
18 project -- because it's incentive money if you're coming
19 already to town, right?

20 A. Correct.

21 Q. Okay. And then the e-mail goes on to explain
22 and really refer to the attached presentation, which is
23 the same slides we've been talking about, right?

24 A. Correct.

25 Q. And it says, quote, They talk about

1 pandemic-related cost escalations -- \$489,000, I'm
2 rounding -- for exterior upgrades and 1.5 million for
3 new FEMA flood zone requirements did. Did I read that
4 correctly?

5 A. That's what it says. Yes, you did.

6 Q. And he says, Take a closer look at the FEMA
7 screenshot in the attached presentation. This is my
8 client to you saying that, right?

9 A. Correct.

10 Q. And then it goes on to say, quote, Every FEMA
11 notice clearly has the release date and release number.
12 Strangely, these are missing or hidden from the
13 screenshot in the application, right?

14 A. Correct.

15 Q. So my client is telling you -- kind of letting
16 you know, hey, this slide is definitely been altered?

17 A. Correct.

18 Q. Okay. Then he goes on to say, it's rather
19 questionable that the developer is using this as an
20 excuse to seek incentives, meaning the money, right?

21 A. Correct.

22 Q. And that the development team on this project
23 includes a local architect, referring to Philip Ramirez,
24 right?

25 A. Correct.

1 Q. Who should in fact, be very well versed with
2 flood maps, FEMA requirements, et cetera, right?

3 A. That's what it says. Yeah.

4 Q. And then if you scroll down, what he attached
5 for you, or one of the things he included in his -- in
6 this e-mail, was a screenshot of the unaltered federal
7 FEMA information.

8 A. Correct.

9 Q. Which, highlighting, he puts a circle around
10 it -- the release date -- and then the second time it
11 tells you the release date and also the release number?

12 A. Correct.

13 Q. And the reason he's doing that, obviously -- I
14 think you probably understood at the time and now -- the
15 reason he's doing that is to draw the contrast. He's
16 saying here's what it -- the real document is, but if
17 you go look at the slides used during the first
18 presentation -- the first reading --

19 A. Right.

20 Q. --of the ordinance, it's very clear that it's
21 been altered by somebody, right?

22 A. Correct.

23 Q. Okay. And so at least by March 7 -- and I'm
24 actually, I'm not going to try to test your memory on
25 this first time you heard it --

1 A. Okay.

2 Q. --or learned of it. But at least by March 7,
3 you have a very clear piece of information that somebody
4 had used a altered, forged federal piece of information,
5 gotten it from online and forged it, and they were using
6 it to ask for \$2 million of public money?

7 A. Yes. That's what it appeared.

8 Q. Yeah.

9 A. Yeah.

10 Q. And like you said earlier, that would have
11 essentially never made it onto an agenda item. It would
12 have been disqualified, and so that's important news
13 even though it's after the first reading?

14 A. That's correct.

15 Q. Okay. And that actually led then to a phone
16 call, and I think you know it's a recorded phone call at
17 this point in time, right?

18 A. Yes.

19 Q. Okay. And I want you to hear that so it's
20 fresh in your mind. And I'm also going to show you the
21 transcription of it.

22 A. Okay.

23 Q. If you're like me again, I like to hear it and
24 see at the same time. It helps me make sure I catch it
25 all. Okay?

1 A. Okay. Yeah.

2 (Exhibit marked for identification as
3 Deposition Exhibit Numbers 11-12.)

4 Q. (By Mr. Allison) And that transcription is
5 going to be marked as Exhibit 12, and the audio
6 recording as Exhibit 11. Okay?

7 A. Okay. What was the date on it though? Yeah.

8 Q. It refers to -- I just know this from the top
9 of my head -- I think it refers to the next meeting, not
10 this Tuesday, but a week from tomorrow. Which to me, if
11 that's the second reading -- the second reading was on
12 April 24th --

13 MR. DAVID: 23rd.

14 Q. --23rd, and so 22nd, a week before that. I'm
15 going to say around the 15th of April.

16 A. Of April? Okay.

17 Q. That's my -- that's my best understanding.

18 A. That's good, okay. Yeah.

19 Q. Okay. It's clearly between the first reading
20 and the second reading.

21 A. Okay.

22 Q. Okay. Does that recording sound like a true
23 and correct recording of a conversation you had with my
24 client?

25 A. It does.

1 Q. Yeah. And I know at the beginning and
2 throughout, there's one common theme at least. One of
3 them is, you had by this point in time around April
4 15th, you heard the reference.

5 A. Yes.

6 Q. The -- a week from tomorrow?

7 A. Right.

8 Q. However -- whatever the exact math is -- but we
9 have the March 7 e-mail where, by that point in time,
10 clearly my client had told you that this has been
11 forged, and then now we're more mid-April and you're
12 speaking, obviously, with some knowledge of what is an
13 ongoing investigation, I think?

14 A. Correct.

15 Q. Okay. And just so we have that in the record,
16 I think that Heather Hurlbert was one of the people who
17 is helping investigate?

18 A. I'm trying -- let me think here for a minute.
19 She was -- I don't know if she was helping in the
20 quote-on-quote investigation. I don't think she was in
21 the -- I don't think she was in the room when I had my
22 meeting with the architects, but she was -- she was
23 aware.

24 Q. Okay.

25 A. She was aware from my debriefing with her and

1 she, you know --

2 Q. Let me ask you this, who were the people that
3 you recall were in charge of the investigation?

4 A. It was -- it was myself, Sony, my then
5 assistant to the city manager, and Miles.

6 Q. Okay.

7 A. Yeah.

8 Q. But one of the common themes, back to what I
9 was saying just a moment ago, is you were clearly in
10 this still fact-gathering timeframe, where you had asked
11 for an explanation about how there was this altered
12 federal document, and you're waiting for the applicant
13 to get you that information?

14 A. Correct.

15 Q. And you're very clearly saying in this
16 recording because you're not going to give a
17 recommendation unless you get closure on that issue or
18 some reasonable explanation?

19 A. Correct.

20 Q. Yeah. And I think at the very beginning or
21 recording you said, quote, Until then, I'm not giving my
22 recommendation, meaning exactly what I just said and you
23 agreed to, right?

24 A. I agreed to it then and now, yes.

25 Q. Yeah. There is a question by my client, who

1 asked, Hey, if you let city council know there's been --
2 quote, he says the word "tampering", and you said, I let
3 them know and we're going to let them know again
4 tomorrow in executive session. Did you do that?

5 A. We can't talk about.

6 MR. DEKOCH: Objection.

7 A. Yeah. We can't just --

8 MR. DEKOCH: We can't -- if -- executive
9 session is closed --

10 MR. ALLISON: Yeah. I'm not sure that
11 when it's in conjunction with the forgery that this --
12 it applies, but let's not have that fight yet. Okay?

13 MR. DEKOCH: Okay.

14 Q. Let me ask you this, outside of executive
15 session did you let some of the council members know?

16 A. Yeah. And I'm glad you said that way, because
17 I -- I didn't sit down with all council members, all of
18 them, either individually or collectively to let them
19 know, but the council members who had interest in this
20 item would often call or come and visit -- come visit
21 me.

22 So when I was engaging with council
23 members individually, along this continuum of time, I
24 let them know that brought to my attention has been what
25 appears to be a forgery of a federal document tied to

1 this award money.

2 Q. Who did you let know, let's say in this March
3 would've -- I guess, from sometime probably after
4 March 7 and before the second reading, fair enough?

5 A. That's fair enough. And I don't know from
6 memory -- I'm going to tell you who I did, who I believe
7 I told. I may have told others, but I'm not for sure.

8 But I know I told the mayor. I know I
9 told Councilman Roy, Councilman Pusley, and maybe
10 Councilman Suckley. But for sure Pusley and the
11 mayor -- in one phone call. It was right after I had
12 met with the applicant -- with the architect.

13 And then Councilman Roy was meeting with
14 me and talking with me frequently so him as well.

15 Q. Okay. Who did you tell shortly after you met
16 with the architect?

17 A. The mayor and Councilman Pusley. I believe,
18 called me in the evening -- in the afternoon -- around
19 the five -- I was picking up my son at the, his job --

20 Q. Okay.

21 A. --so it was around the five o'clock timeframe.

22 Q. Okay.

23 A. I believe it was that same day.

24 Q. Okay. And you made a reference, and so I'm
25 going to go back to it because it's a little bit --

1 we're taking it out of sequence, my fault. You referred
2 to a meeting that you had with Philip Ramirez, right?

3 A. Right.

4 Q. I think that, and I have -- I have this dated
5 by another -- information with -- with Sony, okay?

6 A. Okay.

7 Q. I think that that happened probably on or just
8 before April 8, about a week before this recording, does
9 that sound about right?

10 A. Probably because I'm referencing it in that
11 recording.

12 Q. Yeah.

13 A. Yeah.

14 Q. Okay. And the way that Sony had described
15 it -- and understand we took his deposition yesterday.

16 A. Yes. I understand.

17 Q. Okay. He described it as -- one of the words
18 he agreed and recalled saying to my clients shortly
19 after the meeting was that Philip was stuttering. Do
20 you remember that?

21 A. I remember, yes.

22 Q. And also just his -- his description couldn't
23 complete a sentence. Do you agree with that?

24 A. I agree with that.

25 Q. And that after the meeting it was obvious that

1 Philip or his team had altered the document. Do you
2 agree with that?

3 A. Let me think, okay. It was obvious that they
4 had altered the document? I wouldn't agree with that
5 necessarily. It was obvious they wouldn't tell us what
6 happened to the document.

7 Q. Okay.

8 A. Yeah.

9 Q. But it -- it was not the sort of explanation
10 you were looking for to give the thumbs up to the
11 project and the award of money?

12 A. Exactly.

13 Q. It was -- it did not satisfy your concerns?

14 A. It did not address the concerns I had.

15 Q. Yeah. And so it's after that meeting with
16 Philip then we had the recorded discussion between you
17 and my client that we played the audio of just a moment
18 ago?

19 A. Yes.

20 Q. Okay. And so it sounds like after you had this
21 meeting with Philip is also when you talked to the mayor
22 and told her that it was a forged federal document?

23 A. I don't know if I told her that exactly, but I
24 did tell her that the meeting I had with Philip did not
25 produce information we were looking to get from

1 Philip -- which was simple -- which was that this
2 document was changed, how did it get changed, you're the
3 author of it.

4 Q. Yeah.

5 A. Yeah.

6 Q. Well, do you think you made it clear to the
7 mayor that it was an altered federal document?

8 A. I'm not -- I'm not a hundred percent certain
9 but I would -- but I would suspect I did -- I would
10 have, because that was.

11 Q. Okay.

12 A. -- that was the at issue, that's the issue of
13 the --

14 Q. Yeah.

15 A. Of the weeks that went by, those two meeting.

16 Q. And -- yeah -- I don't know that you used the
17 word forged or tampered or altered or modified or
18 deleted. I'm not trying to hold you down to a word --

19 A. Yeah.

20 Q. -- but do you think you conveyed clearly to the
21 mayor that the document relied upon on in the first
22 event, or in the first reading, was -- had been, again,
23 whatever word you want to use -- tampered or whatever?

24 MR. DEKOCH: Objection, form. What
25 conversation?

1 MR. ALLISON: Fair enough, I'll do it.

2 MR. DEKOCH: Thank you.

3 A. The telephone conversation?

4 Q. Okay.

5 A. Yeah.

6 Q. Fair, very fair. I appreciate that.

7 A. Yeah. After I interviewed Philip, I did that
8 same evening, I believe, have a conversation with the
9 mayor on the phone and Councilman Pusley was there
10 either in the room or in a three-way call, I'm not a
11 hundred percent sure, but that was after the meeting
12 with Philip.

13 And so I explained to the mayor that
14 Philip -- who would be the only one who could explain
15 what happened to this document -- could not explain it.
16 And so there was a obvious change in the document from
17 the website to the PowerPoint, and the only person --
18 well the probably two people that could've explained it.

19 One was Mike Culbertson and his team, then
20 the second one would be Philip Ramirez and his team.
21 And I believe we had a conversation with Mike Culbertson
22 to rule him out, and actually ask for a copy of his
23 PowerPoint presentation, and who created it. Did he
24 create it or did Philip Ramirez create it, and
25 Culbertson said that the PowerPoint was created by

1 Philip Ramirez, sent to Mike Culbertson who did nothing
2 to change it and just place it into a template that had
3 EDC heading on it.

4 That's why we ruled out Culbertson as
5 somebody that may be aware of or may -- may have changed
6 the document, and then started working with Philip
7 Ramirez as the sole person that who would know -- should
8 know what happened to the document.

9 Q. And what you just told me is what you told the
10 mayor?

11 A. Correct.

12 Q. In the phone call soon after the meeting with
13 Philip?

14 A. Correct.

15 Q. And it's the same information you also told to
16 Councilman Pusley?

17 A. Correct. In that phone call he was on.

18 Q. Okay. Did you also let them know -- Pusley and
19 the mayor at the same timeframe, the same phone call --
20 that you were not satisfied with the explanation?

21 A. I did.

22 Q. Okay. So at that point in time then you were
23 still communicating to both of them that this is
24 something you cannot recommend?

25 A. That, yes, and that they should be concerned

1 about it.

2 Q. Yeah. And did you speak to the mayor about it
3 on any other occasion?

4 A. I'm -- I'm not for certain but I probably did.

5 Q. Did you --

6 MR. DEKOCH: Objection, form. Asked and
7 answered.

8 MR. ALLISON: Okay.

9 Q. Did you --

10 MR. DEKOCH: He told you he talked to
11 them. That they would be brought up in city council.
12 That's the reason for my objection.

13 MR. ALLISON: Okay. Okay. I'm not trying
14 to be that tricky. Okay.

15 MR. DEKOCH: I have to assume you are.

16 Q. Other -- other than a public meeting did you
17 talk to Councilman Pusley?

18 MR. DEKOCH: Private.

19 Q. About it -- about it again?

20 MR. DEKOCH: Private.

21 Q. In a private meeting?

22 MR. DEKOCH: Other than private, you said
23 public.

24 Q. Let me rephrase. I know what they want.

25 A. Yeah.

1 Q. Other than in a public meeting -- and I'm not
2 asking you about executive session -- did you have a
3 second conversation or another conversation with
4 Councilman Pusley?

5 A. I'm not for certain. I would -- I would -- I
6 would suspect I may have just because, you know, it's
7 a --

8 Q. But sitting here right now you have a pretty
9 thorough recollection of the one conversation right
10 after you met with Philip Ramirez of making sure that
11 you told the -- Councilman Pusley and the mayor exactly
12 what you just told us?

13 A. Correct. Yeah.

14 Q. Okay.

15 A. Yeah. In part maybe because of the setting,
16 you know, I was -- I was taking care of family business
17 at the time. I wasn't at City Hall, I was on the phone
18 in my truck at the country club.

19 Q. Okay. Now, you also said though I think that
20 you at some point in time had conversations with Everett
21 Roy about this issue not in executive session?

22 A. Correct.

23 Q. And when do you think that was in reference to
24 maybe this meeting with Philip?

25 A. Yeah. I think it was --

1 Q. Before or after --

2 A. I think it was -- it was before that telephone
3 call, and I'm not for certain if it was before the first
4 reading or between the first and second reading. But I
5 know he came in to speak with me, I think after speaking
6 probably with either Raju or Ajit.

7 Q. Okay.

8 A. After he did, he spoke to Raju and Ajit and he
9 came in to talk to me about the issue.

10 Q. Councilman Roy had talked to my client and so
11 that all caused him maybe to come see you?

12 A. Correct.

13 Q. And at the time -- at this timeframe, and I
14 know you've kind of given us raw parameters for what
15 that time -- what do you believe you told Councilman
16 Roy?

17 A. I didn't -- you know, he came in to talk to me,
18 so I -- I didn't really precipitate conversation with
19 the council on this item. So true to that, Roy came in
20 to talk to me, probably something along the lines of, I
21 just spoke with Raju and Ajit, who have concerns about
22 this award.

23 I think he was concerned about some
24 document tempering and was concerned about having to
25 vote on something like that, knowing it would be, you

1 know, an issue. And so, in -- express some concerns
2 about placing it on a future council agenda item --
3 future council agenda -- yeah, a future city council
4 agenda.

5 Q. Do you think -- and I'm not talking about
6 executive session -- do you think you had other
7 conversations with Roy, not in a public meeting and not
8 in executive session?

9 A. I think they were pretty limited from that
10 point. Yeah.

11 Q. And then, did you -- I think you mentioned
12 Suckley. Do you think you also talked to him not in a
13 council meeting and not in executive session?

14 A. I think I talked to Suckley, but it wasn't in a
15 formal -- like Councilman Roy meeting, and it may even
16 have been at a council meeting, but not -- not a meeting
17 that had this item on it. Just, that's where he was and
18 that's where I was, and we talked about it.

19 Q. Do you believe you conveyed to Suckley that the
20 document had been forged, tampered, altered, whatever
21 word you want to use?

22 A. Probably so.

23 Q. Okay.

24 A. Yeah.

25 Q. And that the -- do you think you also conveyed

1 to Roy and to Suckley that even though you had met with
2 Philip Ramirez -- who you had sort of pared it down
3 to -- the altered document came from that team, that
4 group -- that even though you met with Philip Ramirez,
5 that he had not been able to satisfactorily explained it
6 to you?

7 A. Yes.

8 Q. Okay. Do you think that you communicated in
9 advance of the second reading to Roy and Pusley and the
10 mayor that you were not going to recommend it?

11 A. I -- I don't think I did that -- I don't think
12 I did that.

13 Q. Okay.

14 A. Yeah. I think that kind of came because, as
15 you can hear in the recording, the staff was putting a
16 recommendation on it, and it probably wasn't until
17 the -- it could have been even that Friday when we
18 finally posted it -- that I changed that. I don't know
19 when the date was.

20 The -- the intent of the team -- of the
21 staff team -- was to make a recommendation, and I
22 changed it. So I don't think we -- there was not a lot
23 of communication outside of the council meetings and the
24 executive session on the item.

25 Amongst me and council members, not a lot

1 of conversation. There was conversation with individual
2 council members, the ones I referenced, but --

3 Q. And it sounds like, and you used this, I think,
4 this term earlier, a certain council member had shown an
5 interest in supporting it, and those are the ones who
6 were calling and you were talking with?

7 A. There were council members supporting it?

8 Q. Right. You -- I think you said the -- the word
9 you used were maybe the one's that were interested in
10 it -- in the agenda item.

11 A. Yeah. And in advancing it and approving it?

12 Q. Yes.

13 A. I think you would be correct. So, like, the
14 mayor was interested in approving it. Councilman Pusley
15 was interested in moving it forward.

16 Q. Yeah.

17 A. And maybe others, but those two come to mind.

18 Q. Did you ever talk to Roland Barrera about it?

19 A. I did and -- yeah, I did. But not -- not so
20 much on the tampering of the document. I think more
21 just his philosophical concern or guidance on how I
22 should handle the matter.

23 Q. And what was Councilman Barrera's advice on
24 that?

25 A. His advice was the Type B Board recommended

1 2 million, and -- and that should have been why were
2 recommending it -- because the Type B recommended it.
3 So everything else was somewhat immaterial, because of
4 governing body. Type B makes a recommendation.

5 That should have just been the statement
6 to the Council -- not things about FEMA floodplain and
7 elevation and building things -- and just they
8 recommended it, so, you know, but advance their
9 recommendation without interjecting or without, you
10 know, or pining on why staff would recommend it or not.

11 Q. I'm going to jump ahead a little bit just
12 because I think it'll help you in what we're talking
13 about here in terms of timeframe.

14 A. Okay.

15 (Exhibit marked for identification as
16 Deposition Exhibit Number 20.)

17 Q. (By Mr. Allison) And show you what I'm going to
18 mark as Exhibit 20 and it is the second agenda memo, in
19 other words, the one that comes out in advance of the
20 second reading ordinance; are you with me?

21 A. Yes.

22 Q. And it has a date on it of March 11, 2024, and
23 down at the bottom it says, recommendation, staff
24 recommends city council consider this agreement on
25 second reading and so forth.

1 A. Okay.

2 Q. Did you hear me?

3 A. Yes. I did.

4 Q. And you know there's a big distinction here,
5 right? In other words, this -- this documents which is
6 Exhibit 20, you've gone from staff recommends to staff
7 is saying consider it.

8 A. Right for the city council to consider it.

9 Q. Right. You've withdrawn your recommendation,
10 staff hasn't?

11 A. Correct.

12 Q. Okay. And go ahead and satisfy yourself with
13 Exhibit 20, that is the second memo.

14 A. Okay.

15 MR. DEKOCH: Read what it says.

16 A. Yeah.

17 Q. Correct?

18 A. That's correct.

19 Q. Yeah.

20 A. Yeah.

21 Q. And so here you are, you have the March 7
22 information that Ajit sent you -- my client sent you --
23 in the -- in the e-mail, right?

24 A. Correct.

25 Q. You have the March 11 memo that I just showed

1 you, Exhibit 20, where by March 11, you've already
2 changed your recommendation because at least by then you
3 clearly had not been given a satisfactory explanation on
4 why it was okay to alter a federal document, right?

5 A. Right.

6 Q. And then on about April 15, mid-April, about a
7 week or so -- a little more than week -- ahead of the
8 second reading, your clearly still of a mind that I'm
9 not going to recommend it, right?

10 A. Yeah. I'm trying to get the months -- the
11 dates here. So what was the date of the second
12 reading -- April or March?

13 Q. April 24th.

14 A. Okay. And what was the memo in March?

15 Q. I'll go -- the March 11.

16 A. March. Was that the first reading --

17 Q. Second.

18 A. Or the second?

19 A. Okay.

20 Q. That's the one where -- scroll down -- where it
21 says, where you've withdrawn your recommendation.

22 A. Yes. Right. But that March 11 memo is for the
23 April meeting?

24 Q. Pardon?

25 A. The March 11 memo was for the April meeting?

1 Q. Well, it --

2 A. What was the date of the meeting?

3 Q. It says --

4 A. March 11, April 23rd, I'm trying to just in my
5 own mind connect these dots here because that's a whole
6 month away. Date March 11, I guess they wrote it, we
7 wrote it March 11 but the council meeting was
8 April 23rd, right?

9 Q. That's what it reads, but --

10 A. Yeah. Okay.

11 Q. But I actually think --

12 A. Okay. I don't know why I think --

13 Q. -- Heather may have suggested, maybe. I'm not
14 promising you --

15 A. Okay. Yeah.

16 Q. -- those are the right dates.

17 A. Okay. I'm just trying as we talk -- I don't
18 want to lose --.

19 Q. And I'm trying -- I'm learning the timeframe on
20 it too.

21 A. Yeah, yeah. Okay.

22 Q. Okay?

23 A. Okay.

24 Q. But in terms of -- and I'll go soft on that
25 date since I -- I get your point --

1 A. Yeah.

2 Q. But at least by March 7, you've gotten the
3 information clearly that there's been this federal
4 document altered that is forming a basis of the request,
5 right?

6 A. Yeah. What was the date of Ajit's e-mail?
7 March --

8 Q. March 7.

9 A. Okay. That's correct.

10 Q. And then on about March -- mid -- excuse me,
11 about April 8th, approximately is when we know the
12 meeting was with Sony and Philip there -- where there
13 was not a satisfactory explanation given.

14 A. Okay.

15 Q. You with me?

16 A. I am.

17 Q. And I'm just trying to get the timeline with
18 you.

19 A. Yes, sir.

20 Q. And then on about April 18 -- 15 or so is when
21 you have a conversation with my client, that's recorded.

22 A. Okay.

23 Q. And then the second reading was on April 23rd,
24 okay?

25 A. Okay.

1 Q. And then, the blank I'm filling in is this
2 agenda memo for that second reading, has a March 11
3 date, but I'm not promising you that's when it was
4 written.

5 A. Okay.

6 Q. That's what it says.

7 A. Right. I know, it's kind of --

8 Q. But at least somewhere in there it looks like
9 for quite a period of time --

10 A. Right.

11 Q. --you were very clear, I'm not recommending it.

12 A. I don't know about that whole duration, but as
13 I tried to conduct my investigation with Philip and
14 others, it became clearer that nobody would explain what
15 happened to this document, and so as I got closer to
16 that council agenda timeframe, it made sense to me to
17 not to recommend anything because I had no answers.

18 Q. And I don't want to confuse it by that March 11
19 date --

20 A. Right.

21 Q. -- that is on the memo, but clearly by the time
22 you had had the discussion that around April 8 with
23 Philip, from then until April 23rd or let's say 22nd,
24 the date before the second reading -- the meeting with
25 the second reading.

1 A. Right.

2 Q. --for that period of time, it sounds like
3 you're pretty solidly, for yourself, of a mind that I've
4 not gotten a satisfactory explanation, and I'm not
5 recommending it?

6 A. Right. And that's from doing an investigation
7 in person with Philip. That's from, I think, several
8 follow-up either e-mails or conversations and I think at
9 that point they, the Philip group had diverted any
10 inquiry to their attorneys. So Miles may have been
11 inquiring but we were doing follow-ups to say are we
12 gonna -- are you guys going to be providing anything and
13 so, right, and so there was no information provided
14 really, little follow-up or, you know, reconnection.

15 Q. Yeah.

16 A. And so it was -- what we had was what were
17 going to have, which was nothing.

18 Q. And of course I'm a lawyer but I'm going to say
19 this anyways, it's not a good sign when you're
20 requesting \$2 million of public money and you can't come
21 up with an explanation and instead I give the city
22 attorney my lawyer, agreed?

23 A. I would agree we -- we weren't happy with that.

24 Q. Yeah. And I'm going back to the recorded
25 statement. I'm actually looking at the transcript I --

1 what I had you read along with it.

2 A. Okay.

3 Q. In that record statement you do say, I let them
4 know about the tampering, and those are the
5 conversations we've already talked about, I take it?

6 A. Right. Yeah. Like the mayor and Pusley, for
7 instance? Yes.

8 Q. And are there any others that you can tell me
9 about that you haven't already told me about, or you
10 think we've covered that?

11 A. When we talked about the tampering? It
12 wasn't -- there was an executive session where this item
13 was presented -- I don't to what extent I can talk about
14 what happened in there, but --

15 Q. Yeah.

16 A. --generally this type of, you know, topic was
17 discussed in that executive -- that was the purpose of
18 the executive session.

19 Q. You know, I'm going to do it in a clever lawyer
20 way, okay?

21 A. Okay.

22 Q. I'm going to say this. I understand that you
23 talked to him -- talked to the Council in executive
24 session about this subject matter. Do you think you
25 would have told them anything different than what you

1 had told the mayor and Pusley?

2 A. No, I don't.

3 Q. Okay.

4 A. I wouldn't have told them different.

5 Q. In that conversation with my client, is when
6 you said when you read the entire PowerPoint, you're
7 referring to the altered slide, right?

8 A. Correct.

9 Q. You said it's so -- I'm quoting now, I think,
10 if it's a correct transcription.

11 A. Yes.

12 Q. It's so obvious that the reader -- or the
13 writer -- wanted one to be lead to believe that the FEMA
14 was just recent, even the words like recently released
15 and this and that. And part of it goes back to the
16 narrative Mike Culbertson said, Hey, this has to be tied
17 to manufacture -- to infrastructure, and so then they
18 hatched the scheme that, okay, FEMA floodplain -- that's
19 infrastructure. Does that sound like what you said?

20 A. Yes, it does.

21 Q. And so, it was very clear to you at this point
22 in time, that what had happened is not just that there
23 was a federal document that had been forged, but also
24 that there had really had been kind of a plan to do it,
25 or your word, a scheme, right?

1 MR. DEKOCH: Objection, form.

2 THE WITNESS: What's that?

3 MR. DEKOCH: Objection, form. That's what
4 I have to do.

5 MR. ALLISON: You still get to answer.

6 A. Okay. It appeared to me, right, that the
7 PowerPoint seemed to have -- seemed to have portrayed a
8 story or, you know, a scheme that wanted -- that led a
9 listener or reader down a particular path, and that path
10 being that the FEMA floodplain maps were recently
11 changed and therefore, we had to redesign the building
12 and therefore we were looking for money to help in this
13 construction cost that now have elevated due to the new
14 maps.

15 Q. Yeah. And -- and that was the narrative they
16 were promoting, the applicant?

17 A. That was a narrative that was in the
18 PowerPoint, it was one that was expressed in the Type B
19 meeting, and it was one that was expressed at the -- and
20 I don't know for sure but I assume was expressed in the
21 first read of the item.

22 Q. Yes.

23 A. Yes.

24 Q. And the reason I'm asking you that -- it may be
25 the same reason you pointed out in your discussion with

1 my client, but I want to make sure. The reason I'm
2 asking you about it is, one has to always consider, hey,
3 did just some weird -- was it just accidentally left off
4 or does it appear that it's connected with this false
5 narrative that they were telling, and there's a
6 connection that you're observing -- and that is, the
7 document information removed is in concert with the
8 false narrative, right?

9 A. Correct.

10 Q. Yeah. And that all of a sudden, starts making
11 it look like the removal of the information was for a
12 purpose, right?

13 A. Correct.

14 Q. Yeah. And then you go on to say that they
15 developed a narrative -- they I think is the applicant,
16 right?

17 A. Yes.

18 Q. That they developed a narrative to fit it, that
19 they just found out -- because people would say, like,
20 shit they should have known about this a long time
21 ago -- again, that's the same, you're eluding to the
22 same thing, and that is this false narrative to pretend
23 like it was recent changes in FEMA, when in fact it was
24 not?

25 A. Pretend that they were recently, you said?

1 Yes. Yeah.

2 Q. Yeah. And then you said at least a second
3 time -- I'm going to try to keep count for you -- quote,
4 I'm not recommending it because I don't have the
5 information I need. Does that sound like something like
6 you said that day?

7 A. That is -- yes.

8 Q. And again, that goes back to you were
9 requesting an explanation from Philip Ramirez or Deven
10 Bhakta or that group, and they came in, and you still
11 did not have a satisfactory explanation on why they had
12 altered a federal document?

13 A. Correct.

14 Q. Yeah. And then you said again, I can't
15 recommend anything because I'm still waiting on
16 information -- that's the same thing, right?

17 A. Correct.

18 Q. And then you go on -- you said that, however,
19 because the Council wanted this on the agenda for them
20 to consider, it's on. And so my question to you is,
21 when you are saying in that conversation with Ajit that
22 the Council wanted it on the agenda, who are you
23 referring to?

24 A. Yeah. I'm not for certain, but I know the
25 mayor and I think Pusley had -- were -- were okay with

1 the issue at hand of the -- of not having an explanation
2 and wanted to pursue -- proceed with having it on.

3 Q. Both of them, you had informed them that there
4 had been this altering or tampering or forging of a
5 federal document, but they were still willing to support
6 it, right?

7 A. Correct.

8 Q. And that's true for the mayor and true for --
9 let me -- I don't want to throw them together, so I'm
10 going to ask individual questions -- so what you're
11 telling me then is that the mayor had definitely been
12 made aware that the altered federal document used at the
13 time of the first reading to support the request for
14 \$2 million, that even though it had been a federally
15 altered document, she was still -- had indicated --
16 she's still okay with moving forward and approving it?

17 A. Correct.

18 Q. And same thing for Mike Pusley?

19 A. Correct.

20 Q. And, if I heard you right earlier, it sounds
21 like same thing for Roland Barrera because of what you
22 explained earlier?

23 A. Correct.

24 Q. Okay. And did you have that same type of
25 information -- hey, I'm still willing to approve it --

1 from any other council people?

2 A. I -- I don't recall.

3 Q. Later on you said, quote, I changed the
4 recommendation, in fact, because that's what it had
5 initially, like, I'm not approving this. Again, that's,
6 I guess, a fourth time you're making it a very clear --
7 because you hadn't gotten an explanation -- I'm not
8 approving it?

9 A. Right. And I think some of that comes from the
10 council members -- through maybe some of the more
11 proponent members -- wanted it on the agenda.

12 You can see a time-lapse from the first to
13 when the information began to surface about altered
14 documents to the final second read, so it's a lot of
15 time, and there might -- I wasn't planning on putting on
16 until we figured this out.

17 Q. Until when?

18 A. Until we figured it out -- until the applicant
19 gave me a good reason, until I -- I had -- my
20 investigation was -- you know, it's a little bit of an
21 overstatement of investigation -- but my trying to
22 figure out what happened with the applicant, didn't --
23 didn't result in anything.

24 And so I wasn't planning on putting
25 anything on until we could find out what happened with

1 the document -- why does it look different.

2 Q. As --

3 A. But some council members wanted it on, and so
4 that's -- that's why. You want to put it on the agenda?
5 Okay. I have not done my investigation, I can't come up
6 with a recommendation, but we'll put it on.

7 Q. As of the date that you had this recorded
8 conversation with Mrs. -- with my client, as of that
9 moment it would still be your considered position that
10 we should not put this on the agenda for further
11 consideration?

12 A. Correct.

13 Q. Because you had not gotten a satisfactory
14 explanation about an altered federal document?

15 A. Correct.

16 Q. And you recognize that is a serious thing, do
17 you not?

18 A. I do.

19 Q. Yeah. And -- and then you said, again, quote,
20 they didn't give it -- you're referring to information.

21 A. Right.

22 Q. So I can't make a recommendation -- that's sort
23 of the fifth time you've said I'm not going to recommend
24 it, right?

25 A. Correct.

1 Q. Then you say -- said, in the same conversation,
2 at least three council members want -- about the agenda,
3 okay, I'll put it on the agenda, so it sounds like by
4 this point in time, around April 15th, that you knew
5 that three wanted it, and you're going to put it on but
6 without your recommendation?

7 A. Correct.

8 Q. And who were those three?

9 A. You know, as we looked at this earlier, I read
10 that, I'm not for certain who those three are, but I
11 know the mayor, who has -- the mayor I most work with on
12 what are going to have on the agenda, so I know for
13 certain, I'm pretty confident, the mayor was the one who
14 expressed, let's put this on, let's move this forward.

15 Q. And that's consistent with her -- the mayor's
16 desire to put it on, and your testimony that she still
17 wanted to approve it is certainly consistent with what
18 we saw when we played the video clip of Councilman
19 Hunter talking, and that is she's clearly advocating for
20 this ordinance?

21 A. That's what it appeared like, yes.

22 Q. Okay. And then later you say, quote, I just
23 want to make sure that you knew what my position was --
24 you're talking to my client.

25 A. Right.

1 Q. Because I'm not recommending it, but I'm
2 putting it on for them to consider, again, same thing,
3 right?

4 A. Correct.

5 Q. So it looks like, during the course of a few
6 minutes, whatever that conversation is, I mean, you were
7 repeatedly saying, because you had not found a
8 satisfactory or been given a satisfactory explanation,
9 you're very clear that you don't think it should go on
10 the agenda, you're not putting it on the agenda, and
11 that the councilman, some of them want it, and so you're
12 going to put on the agenda. Am I right so far?

13 A. Correct, you are.

14 Q. And that it's also going to have a statement in
15 there with your agenda memorandum that says staff is not
16 recommending it, y'all can consider it?

17 A. Correct.

18 Q. The -- as far as you can recall, only time ever
19 where you, as staff, didn't want to put your -- your
20 stamp of approval?

21 A. That's correct.

22 MR. ALLISON: Number 7.

23 (Exhibit marked for identification as
24 Deposition Exhibit Number 13.)

25 Q. (By Mr. Allison) I'm going to mark a video tape

1 this is part of the deposition of Heather Hurlbert, and
2 it's going to be Exhibit No. 13, and I think you'll be
3 able to see it --

4 MR. DAVID: Guys, before we do that --

5 THE VIDEOGRAPHER: Let's go off the record
6 real quick.

7 MR. DAVID: Yeah. We just want to go off
8 the record.

9 MR. ALLISON: Okay.

10 THE VIDEOGRAPHER: We're off the record at
11 11:28.

12 (Short break taken.)

13 THE VIDEOGRAPHER: On the record at 11:40.

14 Q. (By Mr. Allison) I think I mentioned earlier
15 that we had deposed Heather Hurlburt?

16 A. Yes.

17 Q. And I'm going to play a portion of her
18 deposition, and ask you to comment or agree or disagree
19 with -- just to get your comment on it.

20 A. Okay.

21 Q. Go ahead and roll that, it's marked as
22 Exhibit 13 to the deposition.

23 A. Okay.

24 MR. DAVID: Ready?

25 THE VIDEOGRAPHER: Yup.

1 Q. Did you hear that okay?

2 A. I did, yes.

3 Q. Do you agree with that testimony?

4 A. I agree with what she said, yes.

5 Q. Yeah. And what she's doing is connecting --
6 she's observing the relationship between the false,
7 falsified, forged document and how it was used directly
8 to make the request and receive a favorable vote from
9 the city council during the first reading, right?

10 A. Correct.

11 Q. Okay. And you agree with her that's -- that's,
12 I think, the word we used there is -- that's very
13 misleading of the applicant to do that, correct?

14 A. Correct.

15 Q. And the word we used there, I think, was
16 horrible or terrible. It's certainly something that
17 should be disqualifying for that application, right?

18 A. I'm not sure about disqualifying, but it
19 shouldn't have been brought forward.

20 Q. It should not go forward?

21 A. Right.

22 Q. Okay.

23 A. Yeah. It shouldn't have been considered.

24 (Exhibit marked for identification as
25 Deposition Exhibit Number 14.)

1 Q. (By Mr. Allison) Yeah. I'm going to now also
2 play another clip from her deposition, and this is
3 Exhibit No. 14.

4 MR. DAVID: You ready?

5 THE VIDEOGRAPHER: Yup.

6 Q. Did you hear that testimony?

7 A. Yes.

8 MR. DEKOCH: Let me just object. Optional
9 completeness. I -- I think I have the answer from what
10 she was talking about. That was the telephone call that
11 she --

12 MR. ALLISON: I was going to clear it up.

13 MR. DEKOCH: Okay.

14 MR. ALLISON: Yeah.

15 MR. DEKOCH: I just want to make sure of
16 that.

17 Q. (By Mr. Allison) Let me do it this way, did you
18 hear that testimony?

19 A. Yeah, I did. Yes.

20 Q. And I hope you can tell from context it is
21 talking about, it's her having listened to the recorded
22 statement between you and my client and her trying to
23 understand what was being said in that discussion,
24 right?

25 A. Correct.

1 Q. And then at the end, her testifying that what
2 you said in that conversation was consistent with what
3 she found in the investigation?

4 A. Correct.

5 Q. Okay. And I think that -- really the point of
6 it was that she listened to the description that is in
7 the recording about it being a scheme, that it was
8 basically cooked up in order to have a basis for getting
9 the \$2 million, and that her conclusion -- her
10 investigation -- confirmed that, right?

11 A. Correct.

12 Q. And you agree with all that that's what
13 happened here?

14 A. I do, except that I'm not sure what her
15 investigation was. Heather -- like I -- I kind of told
16 the council I'm doing an inves -- I am doing the
17 investigation because this item rose to, you know, the
18 council level, it was high profile. Heather probably --
19 I don't know what her -- I can't speak to what her
20 investigation was, per se, but I know she probably had
21 to have similar conversations.

22 Q. Yeah. And I'm not trying to --

23 A. Yeah.

24 Q. --say that she had the investigation and it
25 wasn't yours, okay?

1 A. Yeah.

2 Q. Fair enough? Yours would be the official one.

3 A. Right. Yeah. Okay.

4 Q. But I think -- I think she would also testify
5 there were things that probably you, as you said it
6 right now, may or may not know about her conversations
7 with Leah Olivarri and different people, and so she --
8 she had her own experience with learning what happened,
9 fair enough?

10 A. I think that's a better way -- yeah, that's a
11 good way of saying it.

12 Q. Okay.

13 A. Yeah.

14 Q. And her -- what do you call it -- investigation
15 or her path to figuring out what had happened, what
16 she's letting us know, led us to the same conclusions
17 that are articulated in your recording with my client?

18 A. Correct.

19 Q. And that -- and you don't dispute any of that?

20 A. I don't dispute any of that, just wanted to
21 point out that her investigation was made out of then
22 the same as mine.

23 Q. I understand.

24 A. As of when things took place, who -- whom she
25 spoke with, that type of thing.

1 Q. Yeah. And, I guess, that even is really, my
2 point is that two different approaches came to the same
3 conclusion?

4 A. Okay.

5 Q. Right?

6 A. Yes. Yeah, yeah.

7 (Exhibit marked for identification as
8 Deposition Exhibit Number 15.)

9 Q. (By Mr. Allison) Okay. Then I'm going to play
10 Exhibit No. 15, and it's still part of her testimony.

11 MR. DEKOCH: Can we restart that?

12 MR. DAVID: Hold on, okay? Okay.

13 MR. ALLISON: Let me stage it. You ready?
14 We're going to play that clip for you now.

15 MR. DEKOCH: Yes.

16 THE WITNESS: Okay. We're going to
17 restart the one that was there?

18 MR. ALLISON: Yes.

19 THE WITNESS: Okay.

20 MR. DAVID: Start from the beginning?

21 MR. DEKOCH: Yes.

22 Q. (By Mr. Allison) Did you hear and understand
23 her testimony?

24 A. Yes, I did. I don't know if I completely
25 understand what I heard -- yeah, the two different

1 definitions, is that correct?

2 Q. Yes, sir. And then I also showed you my
3 screen, which had the actual statute language as I was
4 reading along, so you got to see it too?

5 A. Yes.

6 Q. And she obviously testified that what occurred,
7 in her view here, met the definition -- the Penal Code
8 definition -- of forgery, right?

9 A. Correct.

10 Q. Do you agree with her?

11 A. I agree with her.

12 Q. Yeah. I'm going to go to -- well, and let me
13 back up for a minute -- I, and you told us earlier, and
14 I understand, you are not an attorney, right?

15 A. Correct.

16 Q. And at the same time, of course, what we're
17 looking at is a legal statute, right?

18 A. Correct.

19 Q. But you've also told us earlier that one of the
20 requirements for you as city manager is to make sure
21 that you're processes are complying with the law, right?

22 A. Correct.

23 Q. And although you're not an attorney, you
24 certainly have, I know, years of experience. All city
25 government and you're reading rules, regulations, laws,

1 statutes, you have a legal department, you are somebody
2 who has a lot of experience in looking at issues and
3 looking at law, looking at statutes, and trying to make
4 your processes comply with those legal requirements,
5 right?

6 A. That's correct.

7 Q. And so even though you're not a lawyer, you're
8 somebody who is in a position of authority certainly
9 that you have to be able to read statutes, whether it's
10 forgery statute or some other procurement statute or
11 whatever, and look at the facts to make sure that you're
12 not getting off track?

13 A. That's correct.

14 Q. Yeah. And would this forgery statute be a
15 precise reason that you would completely be of the
16 mind -- after learning of the forged document -- to say
17 very clearly as you did on the tape, I think, or audio
18 recording, five different times that I'm not going to
19 recommend it?

20 A. That's the solo reason why, yes.

21 Q. Okay. I think one of the comments from Sony
22 even was to my client was even that you had told some
23 members of council, hey, don't touch this, something
24 along those lines. Did you do that?

25 A. I can't recall if I said that exactly but I

1 would -- I would, let me think of how I can say this
2 here, given the -- given the -- given what we knew at
3 the time, given the fact that it appeared of a law --
4 federal law had been broken, I wouldn't -- I wouldn't
5 consider it yet -- I wouldn't -- I wouldn't have put it
6 on the agenda, I wouldn't have voted on it if I was a
7 council member.

8 Q. Yeah.

9 A. I wouldn't have wanted to.

10 Q. Yeah.

11 A. Until it got cleared up. Until we can get some
12 reasonable explanation.

13 Q. Which never happened?

14 A. Which never happened.

15 Q. Yeah.

16 A. It never happened.

17 (Exhibit marked for identification as
18 Deposition Exhibit Number 16.)

19 Q. (By Mr. Allison) I'm going to play Exhibit
20 No. 16, this is a clip or a portion of the deposition of
21 Mike Culbertson. It's number 12.

22 MR. DAVID: Ready?

23 THE VIDEOGRAPHER: Yep.

24 Q. Do you agree with Mr. Culbertson's testimony?

25 A. I do agree with it, yes.

1 (Exhibit marked for identification as
2 Deposition Exhibit Number 17.)

3 Q. (By Mr. Allison) I'm going to show you Exhibit
4 No. 17, and this is a article that was attached to a
5 text message to you and Sony, and it had to do with a --
6 charges brought in a Weslaco scam. Do you remember that
7 at all?

8 A. Vaguely. Yes, sir.

9 Q. Okay. I'm going to let you review the
10 attachment and it may refresh your memory. Okay?

11 A. Okay.

12 Q. It's Exhibit 17.

13 A. Okay. Yeah. McAllen, Texas, right? (Sotto
14 voce.)

15 MR. DEKOCH: I don't think you read down
16 as far as at least I did.

17 THE WITNESS: No, that's good. Yeah.
18 Okay. I think so, give me a -- yeah.

19 A. Okay. Yeah. I kind of read through it there.
20 Yeah.

21 Q. Generally, and I think the e-mail or, excuse
22 me, it's a text, off the top of my head it was April 6,
23 April 5, April 7, right in that time frame.

24 A. Okay.

25 Q. It's information sent by my client to you that

1 it sounds like you vaguely remember that happening.

2 A. I do remember. Yeah. I don't remember the
3 content but I do clearly remember it happening.

4 Q. Okay.

5 A. Yeah.

6 Q. And it was the -- the content though of it is,
7 you just had an opportunity to review, right?

8 A. Correct.

9 Q. And what happened here essentially in Weslaco
10 was that they created some sort of fictitious -- is the
11 word they use here -- consulting agreement that had to
12 do with then delivering a \$300,000 incentive for a
13 project, right?

14 A. Correct.

15 Q. And obviously the creation of a fictitious
16 document is sort of like a forged document, right?

17 A. Correct.

18 Q. And was it clear to you that -- and it sounds
19 like you already understood the seriousness of it to be
20 honest with you.

21 A. Right.

22 Q. But was this -- my client also letting you
23 know, Hey, this is serious?

24 A. I would agree with that.

25 Q. Is that the way you kind of took it, hey, he

1 knows it's serious and you're probably saying to
2 yourself, I know it's serious too?

3 A. Correct.

4 Q. Okay. And in this particular instance it led
5 to someone being arrested and charged with wire fraud, I
6 believe. Do you want to say something first?

7 MR. DEKOCH: What particular incident?

8 MR. ALLISON: Okay. Fair enough.

9 Q. In this Weslaco article, sent by my client to
10 you in the timeframe we discussed, the specifics of it
11 also include that it led to the arrest and charge for
12 conspiracy to commit wire fraud, right?

13 A. Correct.

14 Q. Okay. That means somebody was -- it sounds
15 like somebody was indicted, right?

16 A. Yes, sir.

17 Q. And that indictment extended to people on
18 the -- they call them city commissioners not councilman,
19 right?

20 A. Correct.

21 Q. And so a vote that was in relation in this
22 Weslaco matter -- a vote that was allowing for an
23 incentive payment for \$300,000 led to because of the
24 fictitious nature of the underlying documents or fraud
25 involved led to criminal charges against the Councilman

1 or Commissioner for the city at that location, right?

2 A. Correct.

3 Q. Okay. That would be likened or the equivalent
4 of somebody on our city council putting themselves at
5 risk for a criminal charge --

6 MR. DEKOCH: Objection.

7 Q. --by voting to approve something supported by a
8 fraudulent document, right?

9 MR. DEKOCH: Objection, form.

10 A. Yeah. Correct.

11 Q. Yeah.

12 A. I would agree with that.

13 Q. And that's why I'm sure a moment ago you said,
14 you wouldn't vote on it?

15 A. Correct.

16 (Simultaneous speaking.)

17 Q. Pardon?

18 A. If I could vote, yes, I wouldn't vote on it.

19 Q. If you could've voted, you would've said either
20 no to it or you would've just not voted on it?

21 A. Right. I probably would have voted no rather
22 than abstaining.

23 Q. And that's because you recognize that an
24 affirmative vote in this case to allow the \$2 million
25 award creates risk or jeopardy to the councilman and

1 women who approved it?

2 A. Correct.

3 Q. Including the mayor?

4 A. Correct.

5 Q. And that jeopardy is a jeopardy that goes so
6 far as to be a criminal offense they could be charged
7 with?

8 A. Correct.

9 Q. Yeah.

10 A. That's part of my job is to -- it sounds a
11 little parental, but -- to protect the Council, you
12 know, and because we have the professional team of
13 lawyers and others and they may want to go a particular
14 path but we try to encourage them -- if we think
15 something's wrong -- to not go that way.

16 Q. Right. And you -- you feel that that's part of
17 your job as city counsel, you're the --

18 A. My job as city council manager, yes.

19 Q. Thank you.

20 A. Yeah. It is part of the job.

21 MR. DEKOCH: Are we at a good breaking
22 point? Yeah, no. Wait til you get there, Doug, but --

23 MR. ALLISON: Yes. This is a good
24 breaking point.

25 He's asking, he needs to get some food on

1 him.

2 THE WITNESS: Okay.

3 MR. ALLISON: Can we go off record?

4 THE VIDEOGRAPHER: Yes. Were off the
5 record at 12:01.

6 (Short break taken.)

7 THE VIDEOGRAPHER: We're on the record at
8 1:05.

9 Q. We focused, obviously --

10 THE VIDEOGRAPHER: Doug, your mic.

11 MR. ALLISON: Thank you.

12 Q. (By Mr. Allison) We have focused some on that
13 period of time between the first reading and second
14 reading, and I want to go back there.

15 A. Okay.

16 Q. And specifically after you had -- and we've
17 already talked about the meeting -- that you and Sony
18 and also Philip Ramirez was there, right?

19 A. Right. Yes, he was.

20 (Exhibit marked for identification as
21 Deposition Exhibit Number 19.)

22 Q. (By Mr. Allison) And I think after that you
23 alluded to this, but I don't think we've gone over it
24 specifically. You received a letter from Philip Ramirez
25 and Deven Bhakta, it looks like dated April 11th, and

1 I'm going to mark that as Exhibits 19 and let you review
2 that.

3 A. Okay.

4 Yeah. How do you move this up here?
5 Let's see. There we go, okay. (Sotto voce.)

6 Q. Do you remember that vaguely?

7 A. Vaguely, yeah.

8 Q. Okay. And do you think that's a correct copy
9 of the letter at least?

10 A. It looks to be -- yes, it looks like it is.

11 Q. Okay. And this is on April 11th, and it refers
12 to a previous meeting saying, last week we met with city
13 staff and Type B Board Chair and three city council
14 members. Did you read that?

15 A. I did read that part, yes.

16 Q. And so that would have been -- last week would
17 be early April, if this is a April 11 letter and city
18 staff -- do you remember who was there?

19 A. Maybe Heather because I wasn't there.

20 Q. Is --

21 A. Yeah.

22 Q. I was just going to say this -- this is a
23 different meeting than you and Philip and Sony?

24 A. It is, yes.

25 Q. Okay.

1 A. Yeah.

2 Q. And so here we have -- and I'm not going to ask
3 you to guess -- but, obviously, some staff, I guess,
4 meeting other than you?

5 A. I was not in that meeting.

6 Q. Okay.

7 A. Right.

8 Q. Then -- and the Type B Board Chair means it's a
9 meeting with Leah Olivarri?

10 A. Correct.

11 Q. And did you do any meetings about this issue
12 with Leah Olivarri?

13 A. Except for the formal Type B Board meeting, no.

14 Q. Okay. And then it refers to three city council
15 members. Do you know which three?

16 A. I don't.

17 Q. Okay.

18 A. Yeah.

19 Q. And in this letter, it is signed by Philip and
20 Deven Bhakta. Those are the two applicants for Elevate,
21 right?

22 A. Correct.

23 Q. In this letter, it says that the Type B
24 incentive agreement -- that it's -- the funds for that
25 are not -- I'm going to quote now -- not tied to nor

1 contain any requirements related to flood proofing
2 improvements, close quote. You saw that a moment ago?

3 A. I did, yes.

4 Q. Is it clear -- and, of course, I think we
5 understand the context -- here we are, that we have this
6 forged FEMA documents, and this is clearly an effort to
7 go 180 degrees the opposite direction from that
8 document?

9 A. It appears to be and that -- who is that
10 document sent to?

11 Q. This document was sent to you.

12 A. To be me? Okay. Alright.

13 Q. He says, you're aware of the meeting. But
14 maybe you were only a little aware it, okay?

15 A. Yeah.

16 Q. Okay.

17 A. Yes, sir.

18 Q. And then it goes on to say -- the letter
19 does -- it is our hope that this acknowledgment -- the
20 one about not being related to anything about flood
21 proofing -- it is our hope that this acknowledgment will
22 allow for clarity in the city staff presentation and
23 present any further confusion as to the true nature of
24 what should be considered by the city council in a
25 second reading.

1 A. Okay.

2 Q. Do you understand that?

3 A. Yes, I do.

4 Q. And again, that's just them -- that's Philip
5 and Deven -- writing you a letter and clearly trying to
6 completely change the direction of what's going to
7 happen at the second reading.

8 A. Correct.

9 Q. Instead of the reading being -- the second
10 being the same as the first reading, the second reading
11 is now going to be this new and different thing?

12 A. That's what it seems -- yes.

13 Q. And that's -- that's what happened in fact,
14 right?

15 A. Yes.

16 Q. And we know that because -- and let me go ahead
17 and look -- I've -- we referred to it kind of out of
18 sequence a moment ago, but I believe I have it marked as
19 Exhibit 20, and that is the second -- or the agenda
20 memorandum for the second reading. That's the one dated
21 March 11, but were not sure quite the timing of it.

22 A. Correct. Yeah.

23 Q. And it in -- I think probably, do you see that?

24 A. I do, yeah. The -- let's see. (Sotto voce.)

25 Q. Yeah. It says the money is for costs

1 associated with the street-level retail, public space,
2 and outdoor dining area. Did I read that correctly?

3 A. That -- yes, you did.

4 Q. And I think they say it once, and then again
5 twice, and then again a third time, and then again one
6 more time down here, correct?

7 A. Correct. Yeah.

8 Q. Okay. So they're making extra, extra, extra
9 sure to run a 180 degrees the opposite direction of
10 reading number one?

11 A. Correct.

12 Q. Okay.

13 A. Yeah.

14 Q. And no secret, that's because everybody's now
15 figured out there's a forged document, right?

16 A. Probably so. Yeah.

17 Q. Yeah. But even though this effort was going
18 on, and you kinda have lipstick on a pig now?

19 A. Correct.

20 Q. You understand the reference?

21 A. Yes.

22 Q. I mean, you can't undo what has already been
23 tanked. Do we agree on that?

24 A. I agree, yeah.

25 Q. Yeah.

1 A. Unless they clarified, you know. Unless the
2 applicant clarified what might've happened.

3 Q. Which they never did?

4 A. Correct.

5 Q. Right. Unless there had been a good and valid
6 explanation for the forgery, were still stuck in a
7 moment, even though you're putting a pretty new face on
8 it for the second reading --

9 A. Right.

10 Q. That still does not underdevelop -- undermine
11 or that does not change the reality that the first
12 reading was completely tainted?

13 A. Correct.

14 Q. Okay.

15 A. Yeah.

16 Q. And what we're seeing here is a first reading
17 then that was for one reason, and that was the banner
18 for the money for the first reading at the time of the
19 first reading was for money to meet what they called --
20 falsely called -- new floodplain, new FEMA requirements,
21 right?

22 A. Right.

23 Q. And now FEMA's not even being mentioned anymore
24 in this second reading, right?

25 A. Correct. Yeah.

1 Q. Okay. And so the second reading, obviously
2 then, is not the same -- but we know those definition --
3 not the same as the first reading?

4 A. Correct.

5 Q. Okay.

6 A. Yeah.

7 Q. And you understand that means then the
8 ordinance was not passed in accordance with the City
9 Charter?

10 A. Yeah, but if the City Charter says the first
11 then the second should be substantially the same, then
12 right? Is that what you're referring to?

13 (Exhibit marked for identification as
14 Deposition Exhibit Number 25.)

15 Q. (By Mr. Allison) It's even worse for the City
16 than that, okay? I'll go ahead and read it to you, so
17 let me go ahead and mark it as Exhibit 25.

18 A. Okay.

19 Q. The City Charter, and it says, quote, No
20 ordinance shall be passed finally on the date it is
21 introduced, but the same shall be considered and voted
22 upon at two regular meetings, understand what I just
23 read you?

24 A. Yes.

25 Q. And so what it's saying shall be considered and

1 voted upon is the, quote, same shall be considered, do
2 you understand what I just said?

3 A. I do, yes.

4 Q. Do you want to read? It's right there.

5 A. Yeah. (Sotto voce.)

6 Q. And the definition we used earlier for the word
7 same obviously says, being one without addition, change,
8 or discontinuance; identical. Obviously, the first
9 reading version and the second reading version are not
10 the same, right?

11 A. Correct.

12 Q. And there were multiple definitions, but it
13 answer's always the same. One of the definitions was,
14 being the one under discussion or already referred to.
15 With that definition of same, obviously the first
16 reading as it was worded and the second reading of the
17 ordinance as it was worded are not the same. Agreed?

18 A. Well, at least the memo -- the memo's not the
19 same. I don't know about the -- the motion or
20 whatever -- the ordinance.

21 Q. Right. And that's what we got into discussion
22 with some of the witnesses.

23 A. Yeah.

24 Q. I think everybody agrees the reasons matter to
25 why you vote.

1 A. Right.

2 Q. Okay.

3 A. Yeah.

4 Q. And this one -- and actually that's why I had
5 you look at the way -- the videotape earlier of how the
6 mayor read the first one -- she actually mentions FEMA
7 when she reads it at the council meeting. Do you
8 remember that clip?

9 A. Yeah. Correct.

10 Q. Okay. And that wasn't done at the second dive,
11 right?

12 A. Yeah. Well, I don't know. I didn't see it.

13 Q. I have it if you want to see it. You probably
14 know I have it if you want to see it.

15 A. No, yeah. I don't -- I haven't seen it, but if
16 you say so I believe you.

17 Q. Okay.

18 A. Yeah.

19 Q. Okay. And so this --

20 MR. DEKOCH: Look at it.

21 Q. This -- this second one -- by the time, I mean
22 what's being voted on at the second reading is a
23 completely different animal -- ordinance -- than what
24 was really being done at the first meeting and the
25 reasons behind it, fair enough?

1 A. At least the reasons behind it, because the
2 similarities include the amount and who it's being paid
3 to.

4 Q. Pardon?

5 A. Similarities do include the amount and who it
6 was paid to, but some of the other particulars are
7 different.

8 Q. Right. It's the -- it's the same \$2 million,
9 right?

10 A. Right.

11 Q. It's the same recipient, right?

12 A. Correct. Yeah.

13 Q. But the -- it's a completely different thing to
14 say, I'm going to give you 2 million for FEMA
15 requirements, and to say I'm going to give you
16 \$2 million for your dining?

17 A. Correct.

18 Q. Okay.

19 A. Yeah.

20 Q. And so if the definition of same is, quote,
21 resembling in every relevant respect, we can agree it
22 was not the same because it was not resembling in every
23 relevant respect?

24 A. Correct.

25 Q. And if the definition is conforming in every

1 respect -- you know I'm quoting from the definitions --
2 if the definition of same is conforming in every
3 respect, then we can say that the first reading
4 ordinance and the second reading of the ordinance were
5 not conforming in every respect, correct?

6 A. Correct.

7 Q. And therefore not the same, right?

8 A. Correct. Yeah.

9 Q. And if the -- I'm going through every
10 definition -- if we consider the definition of same to
11 be being the one under discussion or already referred
12 to, we can agree that the way it was being done at the
13 first reading is not the same as it was being under
14 discussion and referred to in the second meeting, right?

15 A. Correct. Yeah.

16 Q. And therefore not the same?

17 A. Right.

18 Q. Okay. And if the definition of same also can
19 include corresponding so closely as to be
20 indistinguishable, we know the first one and the reasons
21 set forth were clearly distinguishable from the second
22 reading, right?

23 A. Correct. Yeah.

24 Q. And therefore the first reading and the second
25 reading were not the same?

1 A. Correct.

2 Q. Okay. And so, given that -- those definitions
3 of same -- is it clear that the first reading and second
4 reading do not qualify as a -- as the same to -- that
5 was -- to be considered and voted upon?

6 A. Right. I would agree with that.

7 Q. And therefore did not comply with the
8 two-reading rule in the City Charter?

9 A. Yes.

10 (Exhibit marked for identification as
11 Deposition Exhibit Number 26.)

12 Q. (By Mr. Allison) Okay. I'm going to show you
13 Exhibit 26.

14 It's 8.1.1 And it's you -- I'll tell you,
15 I think, saying a lot of what you said in your
16 discussion with Ajit in terms of your position.

17 A. Okay.

18 Q. But I want you to look at it or have that
19 benefit.

20 MR. DAVID: That's not 1.1.

21 MR. ALLISON: 8.1.1.

22 MR. DAVID: That's not what it is. No
23 that's not what it is.

24 MR. ALLISON: Oh, okay. Do you have
25 the -- that --

1 MR. DAVID: Well, you know what? Okay,
2 okay. Fair enough. Yeah.

3 MR. ALLISON: I think -- I think I'm
4 right.

5 MR. DAVID: Yes. Yes, correct. Sorry
6 about that.

7 THE WITNESS: Okay. Ajit. Okay.

8 MR. DEKOCH: Which one is this?

9 MR. ALLISON: 26. Exhibit 26.

10 MR. DEKOCH: Okay. The second reading.

11 MR. DAVID: You ready?

12 THE WITNESS: Yeah.

13 MR. ALLISON: Yeah, this is at the second
14 reading.

15 MR. DEKOCH: I see, I see, at the bottom
16 now.

17 THE WITNESS: Okay.

18 Q (By Mr. Allison) Did you see your -- that's you
19 on the video, right?

20 A. Yes, it is.

21 Q. And, I think, it's fair to say -- but I want to
22 make sure you understand this is at the second reading
23 on April 23rd?

24 A. Correct. Yeah.

25 Q. And sounds a lot like you're saying the same

1 thing you were saying in the recorded conversation
2 between you and my client?

3 A. Correct.

4 Q. And that is you're not recommending it because
5 you don't have the information you need to satisfy
6 yourself about why this documents got altered,
7 basically?

8 A. Correct.

9 Q. Okay. So going into the meeting, starting the
10 meeting, it was still clearly your position that this
11 ordinance should not be passed at this time?

12 A. Correct.

13 Q. Okay. And staff was still clearly not
14 recommending it as of the start of the meeting at the
15 second reading?

16 A. Correct.

17 Q. And even as of, well into the meeting, you're
18 still telling your -- I think you were kind of leaning
19 in favor of or supporting the idea that Councilman Gil
20 Hernandez had suggested that let's table this and give
21 you a chance to see -- give them every opportunity to
22 come forward with an explanation that would justify
23 forging the documents?

24 A. Correct. Or having the applicant there at the
25 meeting to discuss it.

1 Q. Right. And they could've stood up and -- and
2 if they had a valid reason maybe -- maybe there -- I
3 mean, I -- they at least had an opportunity to give a
4 reason?

5 A. Correct.

6 Q. And they did not -- again, at the meeting --
7 they, again, did not address it?

8 A. Correct.

9 Q. Yeah. And by the meeting we're talking about
10 on April 23rd.

11 A. Correct.

12 Q. And you know though, as you sit here, that at
13 this April 23 meeting there was a favorable vote by a
14 majority of the Council to pass whatever this new --
15 newly worded ordinance was, right?

16 A. I did, but not for certain, you know, from -- I
17 did, but not -- I didn't -- there wasn't any pre-vote
18 cast so.

19 Q. There wasn't any what?

20 A. There wasn't any Council gathering that would
21 indicate that, you know, from speaking with individual
22 Council members and -- and maybe using some intuition
23 from prior actions of Council -- certain Council members
24 it's -- it appeared that it would be a favorable vote
25 for them -- for the measure.

1 Q. You -- you thought that going in?

2 A. Yes.

3 Q. Even though you weren't recommending it, you
4 had already -- and I know you actually make a reference
5 in your conversation with my client --

6 A. Right.

7 Q. You'd already said you thought it was going to
8 be a 7-2 vote?

9 A. Yes.

10 Q. Yeah.

11 A. Yeah.

12 Q. And why did you think that?

13 A. From certain Council members coming to visit
14 with me and -- and this is, but I'm not supposed to
15 guess it -- but from other inferences or past practices
16 of certain Council members other conversations, maybe.

17 Q. Do you remember what the vote actually ended up
18 being?

19 A. Somebody was saying this morning 7-2.

20 Q. Well, I know somebody had said that going in,
21 but as a matter of fact --

22 A. No, I don't know.

23 Q. Okay.

24 A. I do not know for certain.

25 Q. Do you remember that there was, I guess,

1 discussion about -- certainly we just saw some with, I
2 guess, Gil Hernandez and then you responding to him --
3 we just played that video, right?

4 A. Correct. Yeah.

5 Q. So there was certainly discussion about that
6 there were still unanswered questions about the
7 ordinance so that you could not recommend it?

8 A. Correct.

9 (Exhibit marked for identification as
10 Deposition Exhibit Number 21.)

11 Q. (By Mr. Allison) And then, do you remember --
12 let me go ahead and just do it this way -- I'm going to
13 play another clip for you. And it's Exhibit 21, we'll
14 label it as that. And it's TOMA 1 on here, and on this
15 clip I want to make sure that you also watch the mayor,
16 not get distracted by the arguing going on.

17 A. Okay.

18 MR. DAVID: You ready?

19 MR. ALLISON: Was that it?

20 MR. DAVID: The first one.

21 MR. ALLISON: Okay.

22 Q. Do you see in that video -- first of all, it's
23 clearly still the discussion about this ordinance,
24 right?

25 A. Correct. Yes.

1 Q. And it looks like -- you know that going in --
2 you knew that Councilman Pusley was going to be for it
3 even knowing there's a forged document, right?

4 A. Yes.

5 Q. And you knew that the mayor was going to be for
6 it even knowing there was a forged document, right?

7 A. Correct.

8 Q. And -- but during his talking -- Councilman
9 Pusley talking -- you saw that the mayor got up and went
10 and talked to Everett Roy, correct?

11 A. I did see that. Correct, yes.

12 Q. And, obviously, it is during the period of time
13 that the discussion is about whether or not to make a
14 motion or whether or not pass the ordinance, I mean
15 we're in the context of the ordinance debate, right?

16 A. Correct.

17 Q. And do you know the content of what she was
18 saying to Mr. -- or Councilman Roy?

19 A. No, I don't.

20 Q. You do recognize though that if she is
21 communicating with him about the ordinance, then it
22 clearly is a private conversation, right?

23 A. Yes.

24 Q. It is not a conversation that was in the public
25 as it should be during that meeting, agreed?

1 A. Agreed.

2 Q. And you understand that there's what they call
3 Texas Open Meetings Act, right?

4 A. Right.

5 Q. And the whole idea of Texas Open Meetings Act
6 at its very core is that we debate public issues
7 publicly, right?

8 A. Correct.

9 Q. And so, sometimes I call that meeting act TOMA,
10 Texas Open Meetings Act, do you -- do you say that?

11 A. We don't use TOMA, but we use the open meetings
12 act --

13 Q. Okay. I'll say it that way.

14 A. We more familiar with the Open Meetings Act.

15 Q. If she's talking to him in private rather than
16 in public during the meeting, that would be a violation
17 of the Open Meetings Act, right? If it's about this
18 issue.

19 MR. DEKOCH: Objection, form.

20 A. Yes. With that last clause, you know, if it's
21 about this issue, yes.

22 Q. Right.

23 A. Yes.

24 (Exhibit marked for identification as
25 Deposition Exhibit Number 22.)

1 Q. (By Mr. Allison) Right. Okay and let's roll
2 Exhibit 22, TOMA two on your list.

3 MR. DAVID: Ready?

4 MR. ALLISON: Yes.

5 A. I forgot about that part.

6 Q. And kind of two different things happening
7 there. One of them, obviously, there's a little bit of
8 discord between Councilman Pusley and Councilman Campos,
9 right?

10 A. Correct. Yeah.

11 Q. And the other thing I maybe should of asked
12 you, again, to make sure you watched the mayor. But did
13 you see the mayor during that clip?

14 A. You know I -- I was focused on Pusley, so I did
15 not. Yeah.

16 Q. I'm going to roll it again for you.

17 A. You're going to roll it again, I'll watch the
18 mayor.

19 Q. I should have told you that. I'm sorry.

20 A. Okay. Yeah.

21 Q. That time did you get a chance to watch the
22 mayor during that clip?

23 A. Yes, I did.

24 Q. And do you see again that she's having a
25 private conversation, this time it appears with

1 Councilman Barrera and also with Everett Roy?

2 A. Correct.

3 MR. DEKOCH: Objection, form.

4 Q. And do you know -- and that is all occurring
5 during this second meeting or during the meeting on the
6 second reading?

7 A. Correct. Yes.

8 Q. And do you know what she was saying to those
9 two other councilman?

10 A. I do not.

11 Q. Do you do know -- but you do know that it was
12 occurring during the time that the ordinance was being
13 debated publicly, right?

14 A. Yes.

15 Q. And you do know all debates should be public,
16 right?

17 A. Yes.

18 Q. And so if she was having a confidential
19 discussion -- and we just heard you -- you don't know,
20 and we don't know right now if she's having a
21 confidential discussion that relates to the ordinance,
22 that would be a violation of Open Meetings Act again,
23 right?

24 A. Correct.

25 Q. Okay. During that session -- that meeting

1 where this -- the reading occurred on the repackaged
2 version --

3 A. Yes, sir.

4 Q. During that meeting, did you, going in, have
5 any intention in any way, shape, or form of ever giving
6 this proposed ordinance a nod, positive approval, or a
7 yes in any form?

8 A. No. Only if the applicant could answer
9 questions that would satisfy the unanswered questions
10 from weeks prior.

11 Q. Which did not occur?

12 A. Correct.

13 Q. So therefore, it would have been your intention
14 throughout the meeting, since that didn't happen we now
15 know?

16 A. Yes.

17 Q. It would have been your intention to always be
18 clear on the record that you were not recommending it?

19 A. Correct.

20 Q. Okay. I'm going to show you another clip with
21 you.

22 A. Okay. Yeah.

23 (Exhibit marked for identification as
24 Deposition Exhibit Number 23.)

25 Q. (By Mr. Allison) And this is Exhibit 23, which

1 is your, I think, is 8. --

2 MR. DAVID: 2.

3 MR. ALLISON: 8. --

4 MR. DAVID: 2.

5 MR. ALLISON: Yes.

6 THE VIDEOGRAPHER: It's not plugged in.

7 MR. DAVID: It will be, give it just a
8 second.

9 THE VIDEOGRAPHER: Okay. Got it.

10 MR. DAVID: You ready?

11 THE VIDEOGRAPHER: Yes.

12 MR. DAVID: You ready?

13 THE VIDEOGRAPHER: Yes.

14 MR. DAVID: Okay.

15 Q. (By Mr. Allison) Was that you speaking on that
16 clip?

17 A. Did I hear me speaking?

18 Q. Yes.

19 A. Yes, I did.

20 Q. And it's -- you said that you recommend it on
21 the merits of the \$2 million support for Type B, right?

22 A. Right.

23 Q. And then you also go on to say that you
24 still -- it sounds like you're still saying, but we
25 still haven't gotten the information to explain,

1 whatever -- well -- to explain the forged document?

2 A. Correct.

3 Q. And it sounds like maybe you are saying that --
4 I'm trying to figure this -- are you saying that you
5 support the new version of the ordinance, but you still
6 are not supporting the old version of the ordinance?

7 A. Correct. Yes, I -- yeah.

8 Q. Okay. Recognizing that they're not the same
9 thing?

10 A. Clearly, right.

11 Q. Okay.

12 A. They're not the same thing.

13 Q. And so did you in any way, shape, or form
14 consider that just the words coming out of your mouth, I
15 do recommend that the Council would rely on those words
16 and vote yes for it?

17 A. For it -- the "it" would be the version one,
18 you know, the first reading ordinance. I would -- no, I
19 wouldn't recommend it, but if the council's saying, now
20 we're going to do something different we want this money
21 to be for Ground 4 activation, and whatever else that
22 Leah had said -- that one I could -- I would say yes,
23 they could support that, if that's what it was.

24 Q. Yeah. Because I think if I'm understating the
25 whole of what you were saying there, you were probably

1 attempting -- I'm going to say it that way because I'm
2 not sure that --

3 A. Yeah.

4 Q. --some people would always agree with my
5 characterization or yours on this, okay?

6 A. Okay.

7 Q. But I think when I'm listening to it, it sounds
8 like your saying we would be okay with version two so
9 long as it's very clear we're not okay with version one
10 that was read at the first meeting?

11 A. That's -- that's a good summery, yes.

12 Q. Okay. And that is a -- to you they're night
13 and day in terms of whether or not you could recommend?

14 A. Correct.

15 Q. Very different in this -- for the same reason
16 we did a moment ago -- definitely the reading at version
17 one in February, that version in your mind definitely
18 not the same as what you were recommending when you're
19 talking about version two that was on the April meeting?

20 A. Correct.

21 Q. Okay. Which means, without a doubt, that the
22 ordinance has only been approved one time, right?

23 A. Right.

24 Q. In other words, it was -- there was a version
25 that was approved in February of 2024, that was the

1 version that had the taint on it of a forged document,
2 right?

3 A. Correct. Yeah.

4 Q. And then you guys did your investigation, and
5 that one should never have been on an agenda again in
6 your mind?

7 A. Right.

8 Q. And that one was different than, not the same
9 as, the version that was really on the agenda in April
10 of 2024, right?

11 A. Correct. Yeah.

12 Q. And you could only be supporting and were only
13 willing to say the words, I recommend with regard to
14 this very different, not the same version, that was on
15 the agenda in February -- in April of 2024?

16 A. Yes, correct.

17 Q. Okay.

18 A. Yeah.

19 Q. And if anybody conflates those two, in your
20 mind, I'm sure, and thinks that you were recommending a
21 version that was tainted by a -- a altered federal
22 document, I'm sure you're going to say no, no, no, I
23 never, never, never did that?

24 A. Correct.

25 Q. Okay.

1 A. And we kind of just heard it too, you know, in
2 the --

3 Q. Yeah.

4 A. Yeah.

5 Q. Don't ever interpret -- what you're telling us,
6 don't ever interpret what we just played for you on the
7 video as you saying it's okay to pass something that was
8 tainted with the problems version one had.

9 A. Exactly --

10 Q. Okay.

11 A. That's why I said in the meeting we're still
12 doing the investigation.

13 Q. Right. Okay.

14 A. It was not -- we had not reached a satisfactory
15 conclusion.

16 Q. And was -- I mean, because of the seriousness
17 of a criminal offense, when you look at the Penal Code
18 and the discussion we've had in your deposition, because
19 of the seriousness of it, that is, I'm sure, why you
20 wanted to make certain that you were not recommending
21 version -- that everybody was clear the -- the tainted
22 version is not on the agenda and is not going to be
23 recommended and it's not even in front of the Council as
24 far as you are concerned?

25 A. Absolutely. Right, correct.

1 Q. Okay. And the second version -- the repackaged
2 version -- that talks about dining rooms and -- or
3 dining areas, do you know what I mean?

4 A. Yes, sir. Yeah, outdoor.

5 Q. That version of this different ordinance has
6 never received a second reading?

7 A. It does -- no, it has not.

8 Q. Is that correct?

9 A. Yeah. I was going to say, it doesn't appear to
10 have, but I think it's no. It has not is the answer.

11 Q. We had a double negative in there.

12 A. Yeah. It had -- it was only one reading on it.

13 Q. Right.

14 A. It was only heard once at this council meeting.

15 Q. Okay. So it is not passed?

16 A. -- not a second. Well, you'd have to check
17 with our attorneys. I don't -- I can't -- our
18 attorneys. You know, yeah.

19 Q. Okay, well, as far as you're concerned, it
20 hadn't passed?

21 A. Correct. Yeah.

22 Q. Right?

23 A. It did get -- it was a pass by somebody's
24 agreement -- somebody's, you know, because the prize --
25 the checks -- the agreement has been, you know --

1 Q. We can't have a passed statute that got half
2 felony problems and half is okay, right?

3 A. Right.

4 Q. Okay.

5 A. Yeah.

6 Q. We're agreeing that didn't happen?

7 A. Well, we're -- I'm agreeing that some -- an
8 item was passed to effectuate or to approve a contract
9 that made -- that guaranteed -- that put the City on
10 a -- under a contractual obligation to pay the hoteliers
11 \$2 million.

12 Q. Well, but there's only an obligation if the
13 same ordinance has been -- had two readings and passed
14 at both of those two readings, right?

15 A. Correct. Yeah.

16 Q. And you've already agreed multiple times that
17 the same one did not get two readings here, right?

18 A. Correct.

19 Q. And so whatever bookkeeping has or hadn't
20 happened as far as -- because the last thing that you
21 want to do is have there be confusion about it and
22 people say Peter recommended it, right?

23 A. Right.

24 Q. Okay. And So as Peter Zanon's concerned, the
25 version that is acceptable -- which is not the same as

1 the version that was forged -- the version that is
2 acceptable has only received one reading?

3 A. Yes.

4 Q. Okay. Did you ever get an explanation from the
5 mayor as to why she was continuing to support an
6 ordinance that had the taint of a felony or what looks
7 like a felony forgery?

8 A. No, I did not.

9 Q. Okay. You are certainly familiar with who
10 Deven Bhakta is and who Philip Ramirez is, right?

11 A. Yes.

12 Q. And one of the biggest signature items before
13 all of this period of time we've been talking about in
14 your deposition, one of the most significant signature
15 items for the mayor had been Proposition A, right?

16 A. Yes.

17 Q. And Proposition A, why don't you go ahead and
18 tell us or refresh us on what that was, generally?

19 A. Yeah. Generally, it was a repurposing of a
20 sales tax venue to improve the convention center
21 complex, to include potential funding for a privately
22 built hotel on the -- on the complex site. That was the
23 initial intent, and then I think the council added
24 additional things to the ultimate proposition -- airport
25 incentives and regional park improvements, I believe, as

1 well --

2 Q. And you reference that this funding for -- if
3 proposition A had passed -- this project was going to
4 include a privately built hotel, right?

5 A. Correct.

6 Q. And there was certainly, at the time of
7 Proposition A, a tremendous amount of discussion that
8 Deven Bhakta would get that contract, right?

9 A. Not -- no.

10 Q. You don't remember that being talked about at
11 all?

12 A. I don't. Yeah -- there was --

13 Q. Okay.

14 A. Yeah. There was no discussion of any hotelier.

15 Q. Do you remember that the -- generally
16 speaking -- most of the hoteliers in town were against
17 Proposition A?

18 A. Yes. Yeah.

19 Q. Okay. And do you remember that there was one
20 hotelier who was for it, and that was Deven Bhakta?

21 A. I don't know if it's one but he was for it as
22 Philip was.

23 Q. Right.

24 A. Yeah.

25 Q. Philip and Bhakta -- Deven Bhakta both

1 supported Proposition A, as did the mayor?

2 A. Correct.

3 Q. Yeah. And on that signature attempt at
4 passing -- signature for the mayor -- she made a big
5 deal out of it being her baby, right?

6 A. Not necessarily but she supported -- yeah,
7 yeah. She made a big out of it.

8 Q. Yeah.

9 A. Yeah.

10 Q. Okay. And do you remember that Deven Bhakta
11 certainly does have some hotels in town, right?

12 A. He does.

13 Q. And we know that this Homewood Suites Project
14 is definitely about a hotel, right?

15 A. Correct.

16 Q. And do you remember that Bhakta was actually
17 putting up signs at his hotel properties supporting
18 Proposition A?

19 A. I think so, yeah.

20 Q. Okay. And do you know of any other hotelier in
21 town that was doing that?

22 A. I don't know for certain.

23 Q. Okay.

24 A. Yeah.

25 Q. And, obviously, Proposition A was a defeat --

1 it was defeated, right?

2 A. Correct. Yeah.

3 Q. Do you also know the extent to which Deven
4 Bhakta is a political supporter of the mayor's?

5 MR. DEKOCH: Objection, form.

6 A. Yeah. I don't know -- I don't know if he is
7 and or to the extent.

8 Q. Okay.

9 A. Yeah, I don't know that.

10 Q. So whether he gives a dollar or thousands of
11 dollars, you don't know?

12 A. I don't know.

13 Q. Okay. Well, did -- it sounds like though, the
14 mayor never offered any argument to you as to why she
15 was -- because -- let me back up -- we see the mayor at
16 the first reading repeatedly telling Councilman Hunter,
17 it's changed, it's changed, it's changed, she's clearly
18 advocating during the meeting for passage of this
19 ordinance, right?

20 A. Right.

21 Q. And you made it clear that she was
22 communicating with you between the February meeting and
23 the April meeting, that she was communicating with you
24 about wanting to get it back on the agenda?

25 A. Correct.

1 Q. And that the mayor was also communicating with
2 you in that same time window and letting you know that
3 even though it's a federally altered document it's --
4 she's supporting it?

5 A. Correct.

6 Q. And then we see that the mayor in the video is
7 getting up during the debate and one clip showing her
8 going -- getting out of her chair and going over talking
9 to Councilman Roy, right?

10 A. Correct. Yeah.

11 Q. And he's the one who ended up making the
12 motion. Do you remember that?

13 A. I don't remember that.

14 Q. Okay. But then in another clip we showed you,
15 it shows again the mayor during the debate having a
16 private conversation with Roland Barrera and also with
17 Everett Roy again, right?

18 A. Correct. Yeah.

19 Q. Okay. I mean, did -- without an explanation on
20 why it is that she was supporting a ordinance that had
21 the taint of forgery on it, did -- did you ever come to
22 any opinion about why she would be doing that -- why the
23 mayor would be doing that?

24 A. No, I did not. I did not.

25 Q. Okay. I think this is -- I'm not sure I

1 labeled it -- but it's -- let me put it as Exhibit 26,
2 it's a video clip of Culbertson's. Go ahead.

3 THE VIDEOGRAPHER: Okay, go ahead.

4 MR. DAVID: Ready?

5 Q. You see the clip from Mr. Culbertson?

6 A. Yes, I do.

7 Q. And remember the EDC views it as a financial
8 dollar and sense analysis and they couldn't recommend
9 it? We talked about that very early on in your
10 deposition?

11 A. We did, yes.

12 Q. And that by the time you got to the second
13 reading, he stood up and supported it, and basically in
14 this clip, in his sworn testimony, he says it's because
15 of the politics of it, right?

16 A. That's -- that's what he said. Yes.

17 Q. And certainly, I guess, everybody probably has
18 their different view of where politics should or should
19 not extend. But I am betting you and I will agree that
20 even if you want to try to give \$2 million to a
21 political donor, that you shouldn't do it when it
22 involves, in part, a forged federal documents like we
23 see here?

24 MR. DEKOCH: Objection, form.

25 Q. Right?

1 A. Right. Except, with just the one exception
2 that I don't know if he's a political donor.

3 Q. Sir --

4 A. I don't know if Deven is a political donor, but
5 I would agree with everything you said in that
6 statement.

7 Q. Yeah. So if Deven is a political donor, then
8 that would bring politics into it, right?

9 A. Yeah, yes.

10 Q. And if he is a political donor, and therefore
11 we have politics in it, you would still say that, hey,
12 we can't go that far because you guys -- somebody over
13 in your camp -- forged this federal document?

14 MR. DEKOCH: Objection, form.

15 A. Right. In the applicants camp, yes.

16 Q. Okay.

17 A. Yeah.

18 Q. Politics should have its limits?

19 A. Agreed.

20 Q. Yeah.

21 A. Yeah.

22 Q. But we -- do we -- politics certainly though,
23 with testimony, but in -- just common sense -- you know
24 politics does endure into city council decisions, true?

25 MR. DEKOCH: Objection, form.

1 A. True. Yeah.

2 Q. And certainly to you, where we see the mayor at
3 the first meeting saying, it's changed, it's changed,
4 and trying to advocate for the passage of the ordinance,
5 and then at the second meeting we see her get up and go
6 talk to Everett Roy, and the second meeting we see her
7 get up -- or not get up, but stay in her seat -- and
8 talk to Everett Roy and to Ronald Barrera, we see all
9 those things, and we don't know what she said, right?

10 A. Right.

11 Q. Well, we do know that she's never offered a
12 reason other than politics to justify wanting to have
13 this ordinance passed to you?

14 MR. DEKOCH: Objection, form.

15 Q. Correct?

16 A. She never gave me a reason. We're seeing Mike
17 Culbertson answer.

18 Q. She never what?

19 A. She never gave me a reason, but to the
20 statement you just said where Culbertson says politics
21 was the reason, I -- that's what I just saw from
22 Culbertson.

23 Q. Yes.

24 A. Yeah.

25 Q. Okay. Yes, sir.

1 A. She didn't tell me that, but, you know --

2 Q. Right. I understand.

3 A. Yeah.

4 Q. But she never offered any alternative reason
5 other than politics?

6 MR. DEKOCH: Objection, form.

7 Q. Agreed?

8 A. She -- she -- she has never offered me any
9 reason.

10 Q. Right?

11 A. Yeah.

12 Q. Okay.

13 A. Yeah.

14 MR. DEKOCH: Doug, we want to take a break
15 to go over the documents.

16 MR. ALLISON: Let's take a break for the
17 documents in there. We're about to finish up.

18 THE VIDEOGRAPHER: We are off the record
19 at 1:50.

20 (Short break taken.)

21 THE VIDEOGRAPHER: We are on the record at
22 2:13. Go ahead, Doug.

23 (Exhibit marked for identification as
24 Deposition Exhibit Number 27.)

25 Q. (By Mr. Allison) I'm going to play another

1 video clip this was -- is from the deposition of Mike
2 Culbertson, it's Exhibit 27.

3 MR. DEKOCH: We're on the record now.

4 MR. DAVID: You ready?

5 THE WITNESS: No. We're watching --

6 THE VIDEOGRAPHER: Can you make it full
7 screen?

8 MR. DEKOCH: I don't see anything.

9 MR. DAVID: Yeah.

10 THE VIDEOGRAPHER: Go ahead.

11 Q. Do you understand that's testimony of
12 Mr. Culbertson?

13 A. I do -- I'm not sure if I got the first part
14 what was the -- yeah.

15 Q. Yeah. I think the gist of it was that --

16 MR. DEKOCH: Can you replay it, Doug?

17 MR. ALLISON: You want me to the replay
18 it? Sure.

19 MR. DEKOCH: Where he can see it.

20 THE WITNESS: Just that first part --
21 yeah.

22 MR. ALLISON: I'm going to queue it up
23 again just so that we don't have everybody talking and
24 being noisy when we're trying to play these things.
25 Okay guys?

1 THE WITNESS: Okay.

2 MR. ALLISON: And now we know to edit.

3 Q. (By Mr. Allison) I'm going to play the
4 deposition of Mike Culbertson, are you ready?

5 A. Yes.

6 Q. This is Exhibit 27.

7 A. Okay.

8 Q. Do understand that clip?

9 A. Now -- yes, sir. Now I do.

10 Q. And the word we used even some during the
11 deposition was sometimes one project will cannibalize
12 another. Do you know what that means?

13 A. Yes, I do.

14 Q. In other words, in Homewood Suites is not like
15 a Disney hotel.

16 A. Right.

17 Q. And so it's not a destination hotel -- doesn't
18 bring more people to the city.

19 A. Right.

20 Q. And therefore, because of that, it would not be
21 qualified to receive incentive money given they are
22 CCREDC guidelines, right?

23 A. Right. If it's based on economics like
24 Culbertson was saying.

25 Q. Another indication that what we have here

1 ultimately was a decision based on politics.

2 MR. DEKOCH: Objection, form.

3 Q. Right?

4 A. I can't -- I can't speak to that.

5 Q. Okay. Another point associated with that clip
6 being, though, that if the project is one of the type
7 that he identifies -- cannibalizing.

8 A. Right.

9 Q. And therefore does not support a incentive
10 grant and also does not have infrastructure -- those are
11 two reasons that it should never even gotten out of
12 CCREDC, right?

13 A. Correct.

14 Q. Yeah.

15 A. Yeah.

16 Q. I'm going to jump timeframes on you so --
17 because I'm kind of cleaning up a few gaps I had.

18 A. Okay.

19 Q. I want to direct you timing or your -- or I
20 want to direct your thinking -- to the timeframe just
21 before the second reading or the first reading of the
22 repackaged item.

23 A. Okay.

24 Q. Right?

25 A. Yes, yeah.

1 Q. In that timeframe -- and I think in your
2 recorded discussion with Ajit David -- you were saying
3 some councilman wanted it on the agenda?

4 A. Correct.

5 Q. You had also been very clear you did not and
6 were not recommending it?

7 A. That's correct.

8 Q. And so did you put it on the agenda, or did --
9 let me back up -- and we know that there is one way to
10 get something on an agenda, and that to have three
11 councilman sign a piece of paper?

12 A. Right.

13 Q. That didn't happen here?

14 A. That did not happen.

15 Q. So the other two possibilities are either you
16 put it on the agenda or the mayor put it on the agenda.
17 Am I right so far?

18 A. You are.

19 Q. Did you put it on the agenda?

20 A. Technically I did, but at the direction of the
21 mayor and maybe other council members.

22 Q. But other council members can't direct you
23 unless they have three that sign something?

24 A. Right.

25 Q. So the technical reason -- or the true reason,

1 if you're following protocol here -- I think, that it
2 got on the agenda for the April 2024 agenda --

3 A. Right.

4 Q. -- is, if I'm understanding you, is you did it
5 but it was at the direction of the mayor?

6 A. It was at the request of the mayor -- or
7 direction. However, a single council member can ask --
8 can ask me to consider putting something on, and I can
9 from time to time, and I have from time to time. But
10 this one -- I believe the mayor did recommend or ask
11 that I put it on.

12 Q. And she has the power to do that?

13 A. She does.

14 Q. Yes.

15 A. Yes.

16 Q. Okay. Whereas no other single councilman has
17 that power -- except a single councilman can request it
18 of you to exercise your power?

19 A. Correct.

20 (Exhibit marked for identification as
21 Deposition Exhibit Number 28.)

22 Q. (By Mr. Allison) Yeah. I'm going to show you a
23 document that I've marked as Subpoena Duces Tecum,
24 Exhibit No. 28. It's a subpoena duces tecum, do you
25 understand what that is, generally?

1 A. No.

2 Q. Whenever we do a deposition, we issue a notice
3 of deposition that is the power of subpoena, and we can
4 also attach to it a request for documents.

5 A. Okay.

6 Q. That the -- what we call the duces tecum.
7 Okay?

8 A. Okay.

9 Q. And so I'm going to show it to you -- and it's
10 Exhibit 28, and ask you if you seen this document at
11 all.

12 A. Okay.

13 Q. I'm going to guess you haven't, and that's not
14 the end of the world.

15 A. I don't -- I don't -- I don't recall seeing
16 that document.

17 Q. Okay.

18 A. Yeah.

19 Q. It request that you produce, for example,
20 certain cell phone billing records. Have you brought
21 those with you here today?

22 A. No, I have not.

23 Q. It request that you -- by the way, it request
24 records for -- billing records for 210-355-5563. That's
25 your cell phone I believe?

1 A. That's correct. Yes.

2 Q. Do you have any other cell phones you use?

3 A. No, I do not.

4 Q. Okay. Is that -- is that your -- it's a San
5 Antonio number, so I'm guessing it came with you from
6 San Antonio?

7 A. It did, yes. That's my personal cell phone I
8 use it for --

9 Q. That's what I was wondering --

10 A. I use it for business as well.

11 Q. That what -- you're one of those that keeps one
12 phone?

13 A. Yes.

14 Q. Okay.

15 A. Yeah.

16 Q. It -- the subpoena duces tecum also request
17 text messages from the cell phone. Did you bring any of
18 those with you today?

19 A. I did not.

20 MR. DEKOCH: Doug?

21 MR. ALLISON: Yeah?

22 MR. DEKOCH: I understand we produced some
23 of those.

24 MR. ALLISON: Huh?

25 MR. DEKOCH: That we produced some of

1 those.

2 MR. ALLISON: You did -- there are some
3 produced?

4 MS. MARCUM: Yes.

5 MR. ALLISON: Okay.

6 A. I was asked prior to produce some, so I
7 satisfied that. I was unaware of this other requests.

8 Q. Okay. Have you previously given your cell
9 phone to someone to produce those or search for them?

10 A. I did, myself. Yeah, for the date range --
11 there were two date ranges given.

12 Q. Okay.

13 A. I forget what they are, but those two blocks of
14 time.

15 Q. So you did provide, in response to your
16 attorneys request, some text messages?

17 A. Yes, between me and Ajit David.

18 Q. Okay. And if your lawyer wants to help on this
19 one too, it's fine. There's also a request for e-mails
20 relating to the manner in which the ordinance was
21 passed, and have those been produced?

22 MS. MARCUM: Yes.

23 MR. ALLISON: Thank you.

24 MR. DEKOCH: There should be, Doug,
25 objections to blank everything on a particular date,

1 because some of that it goes beyond the scope of what
2 this is. I don't think you're entitled to text messages
3 from Peter to his wife or phone calls from Peter to his
4 wife or his kids, so we filed objections to those.

5 MR. ALLISON: You're not only a beautiful
6 man, but a handsome man.

7 MR. DEKOCH: Doug, you're just looking at
8 a mirror.

9 MR. ALLISON: And -- and we'll get to all
10 those issues later.

11 MR. DEKOCH: Later, yeah.

12 MR. ALLISON: Thank you for sharing.

13 MR. DEKOCH: No, I wanted to make sure you
14 understood what isn't there.

15 MR. ALLISON: I got it. And the Subpena
16 Duces Tecum also asks for calender entries. Have those
17 been produced?

18 MS. MARCUM: There were no responsive
19 documents --

20 MR. ALLISON: Okay.

21 MS. MARCUM: --to that one.

22 MR. ALLISON: And then the last item on
23 here asks for Peter Zanon's notebooks, so I'm going to
24 ask him a few questions.

25 Q. (By Mr. Allison) You are famous, sir, for your

1 day-timer?

2 A. Yes. I have many of them though. Over the
3 time, yes.

4 Q. Yes. You fill them up one after the other, I
5 believe.

6 A. Pretty much, yes, sir.

7 Q. You take copious notes of many things, I think?

8 A. Yes, I do.

9 Q. Yeah.

10 A. Yeah.

11 Q. And have you -- I, and I know you keep them,
12 right?

13 A. My secretary -- my assistant keeps them.

14 Q. Yeah.

15 A. Yeah. I believe she keeps them.

16 Q. So they're in your office here in City Hall?

17 A. They're somewhere in the office area, yes. I'm
18 not -- I think she puts them in a closet next to where
19 our office is -- yeah.

20 Q. Okay. And have you had an opportunity yet to
21 go through those to see if you have any notes of your
22 conversations or other things relating to this
23 ordinance?

24 A. I have not. Nobody asked me to do that.

25 Q. Okay.

1 A. Yeah.

2 Q. We'll get that worked out.

3 A. Okay.

4 Q. That's all the questions I have.

5 MR. DEKOCH: All right. We'll reserve
6 ours.

7 MR. ALLISON: Okay.

8 THE VIDEOGRAPHER: We're off the record at
9 2:20 -- nope.

10 MR. ALLISON: No. Just real quickly --
11 nope.

12 THE COURT REPORTER: I needed to get some
13 orders.

14 MR. ALLISON: Okay, but we're still on the
15 record. I need to say something.

16 Technically, we're recessing just because
17 I think those documents are owed to me, so we will
18 recess and reserve. But I hope that we get that worked
19 out where maybe we won't be back.

20 MR. DEKOCH: I think we could --

21 THE WITNESS: Yeah, okay. Good.

22 MR. DEKOCH: Doug, I think that -- but
23 we're off the record.

24 MR. ALLISON: Now we can go off the
25 record.

1 THE VIDEOGRAPHER: We need to -- he needs
2 to say something.

3 THE COURT REPORTER: Yeah. Before we get
4 off the record, is there going to be any copy orders for
5 the transcript?

6 MR. ALLISON: We want it.

7 THE COURT REPORTER: Okay.

8 MR. DEKOCH: We want it.

9 THE COURT REPORTER: Want it? And then
10 does the witness want to read and sign?

11 THE WITNESS: Do I want what? A copy --

12 THE COURT REPORTER: To read and sign
13 the --

14 MR. DEKOCH: To read the --

15 MR. ALLISON: He wants you to, he wants
16 you to.

17 MR. DEKOCH: Do you want to read and sign
18 the deposition? Because sometimes, no disrespect at
19 all, but sometimes they could miss one word or something
20 that would change it, so it'd be best if you read it to
21 make sure what's in the written transcript is what you
22 said.

23 THE WITNESS: Okay. We'll try, but that's
24 hours of reading, right?

25 MR. DEKOCH: Yeah, no, I understand.

1 THE WITNESS: Yeah. Okay.

2 MR. DEKOCH: If you'll give us extra time,
3 Doug, but under the circumstances.

4 MR. ALLISON: The right thing to do, I
5 think, is reserve your right to read and sign --

6 THE WITNESS: Okay. Yeah.

7 MR. ALLISON: --and then he'll help review
8 it and you guys can get it figured out.

9 THE WITNESS: Okay, okay. Yes, sir.

10 THE VIDEOGRAPHER: Mark, does the City
11 sync their video with the transcript or just want a copy
12 of the video?

13 MR. DEKOCH: Just a copy of the video,
14 right?

15 THE VIDEOGRAPHER: Okay. Doug, do you
16 sync your video --

17 MR. ALLISON: No.

18 THE VIDEOGRAPHER: --with the transcript?

19 MR. ALLISON: We usually don't. Thank
20 you.

21 THE VIDEOGRAPHER: We're off the record at
22 2:25.

23

24 (Signature having been not waived, the
25 deposition was concluded at 2:25 p.m.)

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REASON

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713-653-7100

WITNESS SIGNATURE

I, PETER ZANONI have read the foregoing
deposition and hereby affix my signature that same is
true and correct, except as noted above.

PETER ZANONI

THE STATE OF TEXAS §

COUNTY OF NUECES §

Before me, _____, on this
day personally appeared PETER ZANONI known to me or
proved to me on the oath of _____ or through
_____ (description of identity card or
other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged
to me that he/she executed the same for the purpose and
consideration therein expressed.

Given under my hand and seal of office on this
_____ day of _____, 2025.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires: _____

CAUSE NO. 2024CCV-61174-3

AJIT DAVID) IN THE COUNTY COURT
)
vs.) AT LAW NO. 3
)
CITY OF CORPUS CHRISTI,)
TEXAS)
) NUECES COUNTY, TEXAS

REPORTERS CERTIFICATION
ORAL AND VIDEOTAPED DEPOSITION
OF PETER ZANONI
July 11, 2025

I, Hector Garza, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, PETER ZANONI was duly sworn
by the officer and that the transcript is a true record
of the testimony given by the witness;

That pursuant to information given to the
deposition officer at the time said testimony was taken,
the following includes all parties of record and the
amount of time used by each party at the time of the
deposition:

Doug Allison (3h53m)
Attorney for Plaintiff
Mark DeKoch (0h0m)
Attorney for Defendant

That a copy of this certificate was served on
all parties shown herein on _____ and
filed with the Clerk.

1 I further certify that I am neither counsel
2 for, related to, nor employed by any of the parties in
3 the action in which this proceeding was taken, and
4 further that I am not financially or otherwise
5 interested in the outcome of this action.

6 Further certification requirements pursuant to
7 Rule 203 of the Texas Code of Civil Procedure will be
8 certified to after they have occurred.

9 Certified to by me on this 24th day of July,
10 2025.

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12

13 HECTOR GARZA
14 Texas CSR No. 13300
15 Exp: 07/31/2027
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CAUSE NO. 2024CCV-61174-3

AJIT DAVID) IN THE COUNTY COURT
)
vs.) AT LAW NO. 3
)
CITY OF CORPUS CHRISTI,)
TEXAS)
) NUECES COUNTY, TEXAS

FIRM CERTIFICATION UNDER RULE 203 TRCP

The deposition transcript of PETER ZANONI was submitted on _____, 2025 to the witness and/or attorney for the witness for examination, signature and return to me by _____, 2025.

The original deposition or changes and signature page _____ was _____ was not returned to the deposition officer.

If returned, date received:
_____, 2025; and if returned, the attached changes and signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered in accordance to Rule 203.3 to DOUG ALLISON, Custodial Attorney; and \$_____ is the deposition officer's charges to DOUGH ALLISON for preparing the original deposition transcript and any copies of exhibits.

A copy of the Reporter's certificate and this certificate were served on all parties shown herein and

1 filed with the Clerk.

2 Certified to by me on this _____ day of

3 _____, 2025.

4
5 _____
6 Firm Rep Signature
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