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HEARING FOR THE REMOVAL
OF MAYOR THOMAS RICE

- - - - -

BE IT REMEMBERED, this hearing was held
before the North Canton City Council, at the North
Canton City Council Chambers, 145 North Main Street,
North Canton, Ohio, on Wednesday, September 9, 2004,
commencing at 5:23 p.m.

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- Jon Snyder, President
- Marcia Kiesling, Council Member
- Daniel Peters, Council Member
- Greg Sarbach, Council Member
- Dave Lindower, Council Member
- Doug Lane, Council Member
- Doug Foltz, Council Member

- - - - -

1 APPEARANCES:

2 On behalf of the City of North Canton:

3
4 Paul J. Pusateri, Attorney at Law
5 Buckingham, Doolittle & Burroughs
6 4518 Fulton Drive, Northwest
7 Canton, Ohio 44718

8 On behalf of Mayor Thomas Rice:

9 Leonidas E. Plakas, Attorney at Law
10 Christopher M. Huryn, Attorney at Law
11 Tzangas, Plakas, Mannos & Raies
12 800 Unizan Plaza
13 Canton, Ohio 44702

14 On behalf of David Held:

15 Mel L. Lute, Attorney at Law
16 Baker, Dublikar, Beck, Wiley & Mathews
17 400 South Main Street
18 North Canton, Ohio 44720

19 -----

1 MR. SNYDER: Let the Record state we are back
2 on the Record. Prior to getting into
3 cross-examination of Mr. Held I do have a couple of
4 housekeeping items that we would like to put on to
5 the Record.

6 Number one, next week originally we had
7 scheduled Tuesday, Wednesday and Thursday for
8 testimony. We will be meeting on Tuesday and
9 Wednesday only. It will be at 5 p.m. to at least
10 probably 8:00, 8:30 or nine o'clock hour. The
11 following week, which would be the week of the 20th,
12 we had nothing scheduled. At present there's a
13 possible conflict with counsel for Mayor Rice that
14 he's in trial and might not be able to do anything.
15 However, we will be getting back and possibly might
16 meet on Monday evening the 20th. The rules of
17 council state that the council meets two times a
18 month. We historically meet four times a month, and
19 in lieu of the fact that, believe it or not, most of
20 us all have a business or a full-time position to
21 earn an income, time is very precious not only to the
22 mayor and his council, council and the city and
23 councilpeople so we will advise that and we will
24 advise the press accordingly. Right now it is very
25 tentative.

1 I N D E X

2 WITNESS:

3 DAVID HELD

4 CROSS-EXAMINATION:

5 MR. PLAKAS: 150

6 REDIRECT EXAMINATION:

7 MR PUSATERI: --

8 MR. SNYDER: 263, 295

9 MS. KIESLING: 274

10 MR. PETERS: 277

11 MR. SARBACH: 284

12 MR. LANE: 286

13 MR. LINDOWER: 292

14 -----

1 The other item I would like to cover is after
2 last evening's direct testimony by former
3 administrator Held, and the Record would state that
4 Mr. Held did claim that he was instrumental in hiring
5 the law firm of Johnson & Angelo, we respectfully
6 submit to the counsel to the mayor and to the Record
7 that it is the desire that council of the City of
8 North Canton that we will be suspending and dropping
9 Charge Number 5 where the mayor willfully and
10 knowingly did not disclose his relationship prior to.
11 So that will be removed and is no longer a matter to
12 be considered.

13 And I would also like to state for the Record
14 that Mr. Mel -- excuse me, Mr. Dan Funk is counsel to
15 Mr. Held and is in attendance at the witness table.
16 Welcome.

17 MR. FUNK: Thank you.

18 MR. PLAKAS: The other thing, Mr. President,
19 I was just checking to verify for the Record Count
20 Number 5, can you just cite for the Record the title
21 of Count Number 5 just so there's no lack of clarity.

22 MR. SNYDER: Absolutely. Count Number 5,
23 Mayor willfully and knowingly nondisclosure of the
24 relationship with the law firm of Johnson & Angelo.
25 And we are dropping that even because the mayor

1 himself, even though if he had a relationship, had no
2 direct at this point, as the testimony from Mr. Held
3 will state, had no direct involvement with hiring the
4 firm at that time.

5 MR. PLAKAS: And then can I rest assured that
6 those charges or any implications from those charges
7 are dismissed, canceled and not, will not be
8 considered at all in these proceedings; is that
9 right?

10 MR. SNYDER: You're right, sir, and they will
11 be done with prejudice that they will not be able to
12 be brought back.

13 MR. PLAKAS: Thank you.

14 MR. SNYDER: If you would like written
15 communication we can send that to you.

16 MR. PLAKAS: The Record is fine.

17 MR. SNYDER: All right, sir. Thank you very
18 much for that. I believe are there any matters prior
19 to that? At this time, Mr. Plakas, you may begin
20 your cross-examination.

21 MR. PLAKAS: Thank you, Mr. President.

22 CROSS-EXAMINATION

23 BY MR. PLAKAS:

24 Q If it please you, Mr. President, council, ladies and
25 gentlemen, the citizens of North Canton, at this

1 please, I don't know the proper terminology but I
2 believe the Rules of Civil Procedure permit him to
3 question you in matters that would establish your
4 credibility. And which I will defer to counsel if
5 I'm using the wrong term I do apologize. First of
6 all, he does have the right to establish name,
7 address, place of employment, marital status to show,
8 impeach credibility. Please do not take that as an
9 offensive question. And your counsel will assure you
10 that is all right.

11 MR. PLAKAS: Okay.

12 THE WITNESS: Okay. I apologize.

13 MR. SNYDER: Mr. Plakas.

14 BY MR. PLAKAS:

15 Q Prior when you sought the job with North Canton, at
16 that point you were unemployed; isn't that correct,
17 sir?

18 A I was employed.

19 Q Okay. When did you start your employment with North
20 Canton, sir?

21 A I believe that was December 1st, 2001.

22 Q December 1st, 2001. And so on December 1st, 2001,
23 you were employed?

24 A That's correct.

25 Q Prior to that you were employed somewhere else?

1 time, Mr. Held, for the Record will you state your
2 full name and address.

3 A David Held. 458 Dillon Circle, North Canton, Ohio,
4 44720.

5 Q And do you believe that the testimony you're about to
6 give will be given under penalty of perjury?

7 A Yes.

8 Q Okay. You understand that that means if you lie it's
9 a felony, you could go to jail?

10 A Absolutely.

11 Q Okay. And you're, you're satisfied with that?

12 A Yes.

13 Q Good. Now, we talked about, and you talked about
14 yesterday your, your position and your
15 responsibilities and your job performance and what
16 you thought that you should try to accomplish.
17 Leading up to that, prior to your employment with
18 North Canton, Mr. Held, you were unemployed; correct?

19 A Incorrect.

20 Q Okay. How were you employed prior to your
21 employment?

22 A I guess the first question is what does this have to
23 do with, with where we're going? I don't understand.

24 Am I on trial here? Is this a hearing for --

25 MR. SNYDER: Excuse me, Mr. Held. And

1 A That's correct.

2 Q Okay. Where were you employed, sir?

3 A I was employed as a Marlboro Township trustee.

4 Q Okay.

5 A I was also a assistant wrestling coach at Kent State
6 University.

7 Q Okay. Neither one of those were full-time positions,
8 were they?

9 A That's correct.

10 Q Okay. What was your last full-time position?

11 A I was working as medical sales representative and
12 there was, I'm not exactly sure of the dates but I
13 had a, previous to that a noncompete clause when I
14 was employed by Stryker and I was, I left that
15 position due to a merge and I was paid a severance
16 package. And there was a noncompete in that so there
17 was a period of time that I was not able to go back
18 into the medical sales field. So at that point I
19 worked as an assistant wrestling coach at Kent State,
20 was a Marlboro Township trustee and also was
21 completing my master's degree at Regent University.
22 A full-time program.

23 Q Had you -- we'll get to your full-time program and
24 your master's degree in a moment. Had you completed
25 a bachelor's degree at a college or university, sir?

1 A Yes.
 2 Q Okay. Was that Edinboro?
 3 A Yes.
 4 Q Okay. And you completed all of the requirements
 5 there to receive a bachelor's degree?
 6 A Yes.
 7 Q Okay. And you just volunteered information about a
 8 full-time master's degree program at Regent
 9 University; is that correct, sir?
 10 A Yes.
 11 Q Okay. That's actually something that you can get
 12 one, a degree from Regent University over the
 13 Internet; isn't that true, sir?
 14 A That's correct.
 15 Q Did you ever actually complete the process of getting
 16 your master's degree over the Internet at Regent
 17 University?
 18 A Yes.
 19 Q Okay. That's the university that 60 Minutes just had
 20 a, had a session on, didn't they?
 21 MR. FUNK: I'm going to object to this line
 22 of questioning. I think we're getting a little far
 23 afield of why we're here.
 24 MR. PLAKAS: He volunteered it. I didn't ask
 25 him about Regent, he wanted to tell us about his

1 master's degree.
 2 MR. PUSATERI: I don't think it's relevant
 3 either.
 4 MR. SNYDER: Pardon me?
 5 MR. PUSATERI: I don't think it's relevant
 6 either.
 7 MR. SNYDER: Mr. Plakas, I'd ask you, sir, if
 8 you could, to keep it relative to the specific
 9 charge, if we could, or a specific direct testimony.
 10 Thank you.
 11 MR. PLAKAS: I understand. Mr. President, I
 12 guess I should have objected when he volunteered the
 13 information about his master's degree.
 14 MR. SNYDER: I appreciate it.
 15 MR. PLAKAS: All right.
 16 BY MR. PLAKAS:
 17 Q Wouldn't it be fair to say, sir, that this job, based
 18 on your experience, was quite a challenge to you?
 19 A In what way?
 20 Q At times, sir, wouldn't it be fair to say that you
 21 felt you were in over your head and in fact told
 22 people here in North Canton those words?
 23 A In reference to what?
 24 Q In reference to you being able to do your job.
 25 A No. Say that in reference to my ability to do my

1 job?
 2 Q Okay. So you used the words in conversation that you
 3 were in over your head?
 4 A I don't recall. It may have been said.
 5 Q Okay. You don't deny that you said that?
 6 A I mean, I said, there's plenty of words that I say.
 7 I'm not sure what you're getting at.
 8 Q Okay. With regard to your job responsibilities, sir,
 9 you would agree that your position as city
 10 administrator is a full-time position, a real job, a
 11 day job; right?
 12 A Yes.
 13 Q Okay. And you had primary responsibility for the
 14 smooth and proper functioning of all departments in
 15 this city; correct?
 16 A Yes.
 17 Q Council's job is a part-time job. They have other
 18 jobs. The mayor's job is a part-time job. He has
 19 other jobs; correct?
 20 A Yes.
 21 Q So the citizens of North Canton actually have to rely
 22 upon you as the official at the helm on a day-to-day
 23 basis to make sure this city functions properly?
 24 A Yes.
 25 Q In fact, that responsibility that you and I have just

1 agreed on is confirmed in the North Canton City
 2 Charter, isn't it?
 3 A Yes.
 4 Q Okay. And in fact, in terms of your
 5 responsibilities, sir, you would agree that you,
 6 David Held, has a responsibility to perform his
 7 duties for the best interests of the citizens of
 8 North Canton rather than the best interests of David
 9 Held; correct?
 10 A Yes.
 11 Q Or anybody else. Your focus should be the best
 12 interests of the citizens of North Canton?
 13 A That's the objective, yes.
 14 Q Okay. And were you true to that objective during
 15 your term here?
 16 A To the best of my ability, yes.
 17 Q You spent considerable time yesterday with regard to
 18 Mr. Hickey. And the hiring and supervision of
 19 Mr. Hickey. Do you recall that?
 20 A Repeat the question. I didn't follow you.
 21 Q You testified yesterday at length about the hiring
 22 and the supervision of Mr. Hickey?
 23 A I answered questions to that, yes.
 24 Q I think that will be fair to say. You were critical
 25 and you still are critical about the hiring

1 procedures that led to the hiring of Mr. Hickey?
 2 A I didn't say that.
 3 Q So you're not critical of the fact that North Canton
 4 hired Mr. Hickey?
 5 A No, you're putting words in my mouth.
 6 Q No, I'm just asking you questions.
 7 A I'd like to elaborate on that.
 8 Q Okay, well, let me ask you a question. Are you, as
 9 you sit here today, critical of the fact that North
 10 Canton hired Mike Hickey?
 11 A I don't like those words. You're putting words in my
 12 mouth and I don't like that. I mean, this is a
 13 hearing and we're to get at the truth so I'm not here
 14 so that you can put words in my mouth and manipulate.
 15 MR. PLAKAS: Madam court reporter, will you
 16 please reread the question to see what I asked.
 17 (Question read by the reporter.)
 18 A There the hiring process was not completed.
 19 Q Okay, let me ask this again. Are you critical of the
 20 hiring of Michael Hickey. Do you believe that that
 21 was an improper hire?
 22 MR. FUNK: I'm going to object. He has
 23 answered the question if you want to read it back to
 24 Mr. Plakas.
 25 MR. PLAKAS: I think he answered his own

1 question.
 2 MR. FUNK: If you want to read the answer
 3 back to Mr. Plakas.
 4 (Answer read by the court reporter.)
 5 Q So your answer to my question, Are you critical of
 6 the fact that Mr. Hickey was hired, your answer is
 7 the hiring process was not completed. So if the
 8 hiring process was not completed, we know it was
 9 completed insofar as the fact that Mr. Hickey was
 10 hired; correct?
 11 A Mr. Hickey was hired.
 12 Q Okay. And in fact, Mr. Held, you are actually the
 13 representative from the City of North Canton that
 14 picked up the phone and called Mr. Hickey and told
 15 him he had been hired by North Canton; isn't that
 16 true?
 17 A I don't recall. That very well could have happened.
 18 Q Okay. Well --
 19 A I can't remember. I mean, we're talking back in
 20 2002.
 21 Q Well, you testified a great deal about 2002 yesterday
 22 and it seemed like you were able to remember then.
 23 A Uh-huh.
 24 Q If I would suggest to you that you in fact were the
 25 person that picked up the phone and called Mr. Hickey

1 and told Mr. Hickey that he was hired by the City of
 2 North Canton, you wouldn't have any reason to dispute
 3 that, would you?
 4 A Are you asking if was I the only person to call
 5 Mr. Hickey and tell him that he was hired?
 6 Q Well, are you suggesting that there was a conference
 7 call and many people may have called him?
 8 A No. The mayor could have called Mr. Hickey and told
 9 him he was hired.
 10 Q There's no evidence that he did that, is there, as
 11 you sit here today?
 12 A Well, is there evidence I called Mr. Hickey? I don't
 13 recall.
 14 Q Okay. So your testimony is you have no clue who
 15 called Mr. Hickey; is that right?
 16 A Don't recall.
 17 Q That means you have no clue if you don't recall?
 18 A No, I didn't say that. I said I don't recall.
 19 Q What the difference between not recalling and not
 20 having a clue?
 21 MR. FUNK: Objection. I think the answer is
 22 clear. He doesn't remember.
 23 MR. SNYDER: Asked and answered, Lee. Please
 24 continue.
 25 MR. PLAKAS: You're getting good,

1 Mr. President.
 2 MR. SNYDER: Thank you.
 3 Q You learned, you learned that Mr. Hickey was hired;
 4 correct?
 5 A Can you state that again? I don't understand.
 6 Q You learned that Mr. Hickey was hired, didn't you?
 7 A I learned that Mr. Hickey was hired. I don't
 8 understand the question.
 9 Q Well, Mr. Hickey, you knew that he was an employee of
 10 the City of North Canton; right?
 11 A At some point, yes, he became officially an employee.
 12 Q So you either called him and made him an employee or
 13 you learned of the fact that he had become an
 14 employee; correct?
 15 A Yes.
 16 Q So if those are the two possibilities, if one of the
 17 possibilities was that you had called him, you didn't
 18 object to your own calling him, did you? You
 19 wouldn't have done that?
 20 A I answered that question. I said that I don't
 21 recall.
 22 Q Okay. So then the other possibility is that when you
 23 learned that he was, became an employee of North
 24 Canton did you object to that?
 25 A In what manner?

1 Q In any manner.
 2 A You're asking me that after I -- after it was in my
 3 knowledge that Mr. Hickey was hired, you're asking me
 4 did I object to that?
 5 Q Yes.
 6 A Formally, no.
 7 Q Okay.
 8 A Not through a written document, no.
 9 Q All right. Did you object in any way that can be
 10 documented to this council or these citizens in any
 11 way? Is there any record, formal or informal, of
 12 your objection to the hiring of Mr. Hickey?
 13 A Formally, no.
 14 Q Informally is there any record of it?
 15 A Yes.
 16 Q Well --
 17 A Let me retract that. When you say record of it,
 18 there was discussions. I certainly brought it to the
 19 attention.
 20 Q Of whom?
 21 A The mayor.
 22 Q Okay. And where were you when you brought it to his
 23 attention?
 24 A One, I believe we were eating at Best Burger. On a
 25 Monday night before a council meeting.

1 Q And what did you say?
 2 A Another in his office.
 3 Q And what did you say?
 4 A I don't recall the specific words.
 5 Q Okay. Now, you've suggested to the council that you
 6 may have been critical of the procedure of hiring
 7 Mr. Hickey; is that correct?
 8 A I don't like that word "critical." Why do you keep
 9 bringing that up? I didn't say that. You're putting
 10 words in my mouth.
 11 Q You objected to the procedure? Did you object to the
 12 procedure?
 13 A I just stated that in my conversation with the mayor
 14 informally I had objected.
 15 Q Okay. So you informally objected to the mayor with
 16 words that you don't recall?
 17 A The specifics.
 18 Q Okay.
 19 A The quotes.
 20 Q You informally objected to the mayor with words that
 21 you don't specifically recall; is that right?
 22 A I think it would be fair to say that I expressed
 23 concerns.
 24 Q Okay. You, rather than objecting you expressed
 25 concerns to the mayor with words you don't

1 specifically recall?
 2 A That's correct.
 3 Q Okay. Now, as I understand it, in your position you
 4 have the authority to fire employees, don't you, or
 5 remove employees?
 6 A I'd have to look. I mean I'd like to read the
 7 charter before I comment on that.
 8 Q So you don't know whether you have that authority?
 9 A No, I'm just saying I want to make sure what I'm
 10 stating is correct.
 11 Q Sure. To the best of your recollection, since you
 12 testified with such certainty yesterday, in your own
 13 mind what's your best recollection as to what your
 14 authority was to remove or terminate employees since
 15 you're the only full-time person here that the
 16 citizens rely upon for the smooth running of their
 17 city?
 18 A I certainly play a role in the hiring and firing of
 19 employees.
 20 Q You wouldn't deny that you had the authority to fire
 21 employees, would you?
 22 A Again, I'd like to look at the charter.
 23 Q So you don't know?
 24 A Oh, I didn't say that. Did I say that?
 25 Q I guess I'm just having a little trouble whether you

1 don't know whether you had a basic authority to hire
 2 or fire people. But if you don't know, that's fine.
 3 You spoke yesterday with regard to the
 4 policies of hiring, and I believe your testimony
 5 yesterday under oath was that there were no written
 6 procedures that the city had in place to hire
 7 someone. Wasn't that your testimony yesterday?
 8 A That's incorrect.
 9 Q I guess we could have the court reporter go back and
 10 read it to us.
 11 A I would like that. I don't find this, I don't think
 12 that this is humorous. I don't think that this is
 13 funny.
 14 (Discussion off the Record.)
 15 MR. PLAKAS: I'm told by the court reporter
 16 that the machine there doesn't have yesterday's
 17 transcript and it would take a ride home to retrieve
 18 the notes, and in the interests of proceeding --
 19 BY MR. PLAKAS:
 20 Q What was your testimony then yesterday to the best of
 21 your recollection? We'll have the opportunity to
 22 review the notes at a later time.
 23 MR. FUNK: I'm going to object. We're going
 24 to rehash last night's testimony tonight. The
 25 purpose of tonight is my understanding of

1 cross-examination.
 2 MR. SNYDER: That's correct.
 3 MR. PLAKAS: And that's why I asked him isn't
 4 it true that you said yesterday that there was no
 5 written procedures with regard to the hiring of
 6 employees.
 7 Q And you said no.
 8 MR. FUNK: I believe he answered that
 9 question. That that was incorrect.
 10 Q Okay. And if that was incorrect, what is correct?
 11 What is a correct statement?
 12 A I don't recall the specific words.
 13 Q Well, without recalling the specific words, just then
 14 tell me what your understanding is as to whether or
 15 not there was in fact in place any written protocol
 16 with regard to the hiring of employees in the City of
 17 North Canton at that time.
 18 A Can you repeat the question?
 19 Q The court reporter can.
 20 (Question read by the reporter.)
 21 A Certainly there was a protocol.
 22 Q Was it in writing?
 23 A There was not a checklist. There was not, to my
 24 knowledge, there was not a checklist.
 25 Q Isn't it true that Mike Hickey was hired by the City

1 of North Canton at the time of his hiring in absolute
 2 conformance with the written procedures or protocols
 3 which were in place and on the record in the City of
 4 North Canton at the time of his hire?
 5 A That would depend on your interpretation of that.
 6 Q Well, I guess we can be here till Christmas if we
 7 need to. So you can't answer that yes or no?
 8 A Again, I answered that that it depends on your
 9 interpretation of the document and the completion of
 10 the process.
 11 Q Okay. Well, my interpretation is, is there a
 12 document in writing that set out the protocol or
 13 procedures of hiring people in the City of North
 14 Canton at the time that Mr. Hickey was hired?
 15 A I believe there's, there was a checklist, yes.
 16 That's what I was referring to it as a checklist.
 17 Q Okay. Would you -- wouldn't you agree that the
 18 document that was in place regarding the protocol or
 19 the checklist, or whatever you want to call it, was
 20 in fact complied with with the hiring of Michael
 21 Hickey?
 22 A I would have to say again you're confusing me.
 23 MR. SNYDER: Excuse me, Mr. Plakas. Is it
 24 your intention, sir, to introduce that particular
 25 checklist into evidence?

1 A If you have it I'd like to see it.
 2 MR. PLAKAS: Like the city administrator
 3 since he testified yesterday and once again today
 4 that he objected to the process, I'm wondering what
 5 he's referring to, and it seems to me that if a
 6 person under oath states that he objects to the
 7 process he must have something specific in mind in
 8 terms of what he's objecting to and that's all I'm
 9 asking him.
 10 THE WITNESS: Mr. President, if you don't
 11 mind, if Mr. Plakas has the document available I'd
 12 like to see it, the checklist.
 13 Q So right now you don't know, do you?
 14 A Well, I just asked if I could see it. I don't want
 15 to comment on it unless I can see it.
 16 THE WITNESS: I don't have it in one of these
 17 exhibits, do I, Paul?
 18 MR. PUSATERI: No.
 19 A I'd like to see before I comment.
 20 Q And you seemed to be able to testify yesterday
 21 without commenting about it.
 22 MR. FUNK: Is that a question or are we just
 23 testifying for the Record?
 24 MR. SNYDER: I think that was just simply
 25 stating into the Record, sir. I don't, I would find

1 it at this particular time without the actual
 2 document in question it was not spoke of last
 3 evening. To the best of my recollection we spoke of
 4 a new hiring protocol that paralleled and mirrored
 5 the police department but there was nothing talking
 6 about a previous or an existing, and without that
 7 document, sir, I don't think we can go along this
 8 line of testimony. We have nothing to relate it to.
 9 MR. PLAKAS: Sure.
 10 BY MR. PLAKAS:
 11 Q The name Daryl Revoldt ring a bell to you, sir?
 12 A Yes.
 13 Q He was the mayor of North Canton?
 14 A Yes.
 15 Q He would have had the authority to establish hiring
 16 procedures?
 17 A I, I believe so, yes. As well as the administrator.
 18 Q Who is Michael Sumser? Does that ring a bell?
 19 A Previous administrator.
 20 Q So if there would be a document with the -- signed by
 21 Michael Sumser and Daryl Revoldt with regard to
 22 hiring procedures, you would probably agree that that
 23 may be a document that was relied upon by the City of
 24 North Canton?
 25 A Okay.

1 Q If we could pass out --

2 A I would like to bring up a point. When you say

3 "relied upon," when I entered, what is available in

4 my administrative office, that is what I had to work

5 with. So that's why I stated yesterday "to my

6 knowledge."

7 Q So yesterday, to your knowledge, you weren't aware of

8 a document signed by Mr. Sumser, your prior city

9 administrator, and prior mayor Daryl Revoldt; is that

10 what you're --

11 A I'd like to see that. I'd like to see that.

12 Q Okay. But you're not familiar with any document from

13 your recollection, are you?

14 MR. FUNK: Any document at all? Can you

15 specify the document?

16 Q Are you familiar with the document signed by Mayor

17 Revoldt and City Administrator Sumser with regard to

18 hiring procedures?

19 A Where was the document? Where did it come from, what

20 does it pertain to? I don't follow what you're

21 talking about.

22 Q Okay. And you were the city administrator?

23 A Absolutely.

24 Q With responsibility for hiring and firing?

25 A That's correct.

1 MR. PLAKAS: I'd like to at this time, if it

2 please the president, to distribute a document dated

3 October 15th, 1998, with Subject: Hiring Procedures,

4 signed by both Mayor Revoldt and Mr. Sumser.

5 MR. SNYDER: We would mark that Exhibit 18,

6 is that it?

7 MR. HURYN: I would ask with counsel's

8 permission to have the separate exhibit, Mayor Rice's

9 exhibit. This will be marked 1A, 1B, just so we know

10 which charge it loops to, but that will be separate.

11 MR. SNYDER: That's fine. They will be

12 marked TR 1, is that how you would like it marked?

13 MR. HURYN: I would like it 1A but the cover

14 of it does say Mayor Rice's exhibit.

15 MR. PUSATERI: That's fine. It still

16 correlates to the first charge?

17 MR. HURYN: Absolutely.

18 BY MR. PLAKAS:

19 Q I'm handing you, Mr. Held, the document, the first

20 page of which is marked as 1A. The second page 1B.

21 For the Record, the date of the document is October

22 15th, 1998. At the end of the document it's signed

23 October 15th, 1998. Signature line by Mr. Sumser and

24 Mayor Revoldt. For the Record, there's five

25 paragraphs Roman numeral 1, 2, 3, 4, and 5. You

1 talked yesterday about background investigations.

2 Roman numeral 4 makes reference to --

3 MR. PLAKAS: You know, I, I guess at this

4 point, Your Honor, I have no problem with Mr. Funk

5 objecting to something that's -- he believes is

6 improper. I do have an objection to him throughout

7 these proceedings when this witness is under oath to

8 be whispering in his ear and to be coaching him. I

9 think that's inappropriate.

10 MR. SNYDER: I understand, Mr. Plakas, but he

11 is of counsel to Mr. Held, and as you know, with the

12 proceedings at hand not only here but other civil

13 litigation pending, I would think that we would end

14 up in a situation where we would have to get an order

15 to compel Mr. Held otherwise, to testify otherwise.

16 Mr. Funk, I don't know if you care to address that

17 for the Record.

18 MR. FUNK: If I may, Mr. President, number

19 one, I am not coaching my client. And number two, I

20 have a right to confer with my client during these

21 proceedings. And quite frankly, you may not like it,

22 Mr. Plakas, but it really doesn't matter. I have

23 every right to talk with my client.

24 MR. PLAKAS: Actually, in any courtroom

25 anywhere in the United States the right that Mr. Funk

1 claims to have is not, is a nonexistent right. In

2 the search for the truth you try to seek what the

3 witness knows, not what his attorney knows, and I've

4 never been in a courtroom in front of a judge where

5 the attorney is allowed to whisper in his ears. The

6 attorney is allowed to object, and I believe that

7 hinders the search for the truth that we're trying to

8 get to today.

9 MR. SNYDER: Well, sir, I would have to,

10 again, I'm not that familiar with the laws of

11 procedure. I would have to say that it's been quoted

12 by yourself in many areas this, you found this not to

13 be a credible court so I would have to say, sir, that

14 the rules are established that we have established,

15 that I decide and my colleagues decide, and all due

16 fairness to you, Mr. Held and Mayor Rice, I will let

17 the Record state that I will allow the attorney to

18 confer with his client.

19 MR. PLAKAS: And if the Record will also

20 reflect that after virtually every question that I

21 asked Mr. Funk is conferring with his client prior to

22 the client answering.

23 MR. PUSATERI: I don't think that --

24 MR. FUNK: That's a complete inaccuracy.

25 MR. PLAKAS: Well, everyone's eyes and ears

1 will be the judge of that.
 2 MR. FUNK: Yes, they can. For the Record,
 3 that's a complete inaccuracy.
 4 MR. SNYDER: All right, gentlemen. Let's
 5 proceed.
 6 BY MR. PLAKAS:
 7 Q You testified yesterday with regard to your
 8 dissatisfaction with the background investigation
 9 with regard to the hiring of Mr. Hickey. Roman
 10 numeral number 4 identifies the procedures that were
 11 put in place in the City of North Canton with regard
 12 to the background investigation. 4A states that the
 13 procedure is that background investigation will
 14 include background checks will be done by the Bureau
 15 of Criminal Investigation and Identification prior to
 16 hiring at candidate's expense. 4B, Driving records
 17 will be checked via the police department.
 18 With regard to the hiring of Mr. Hickey, Mr.
 19 Held, you would agree that both Bureau of Criminal
 20 Investigation background checks were completed and
 21 driving records were completed prior to the hiring of
 22 Mr. Hickey; isn't that true?
 23 A Do you have a document that I could look at?
 24 Q You've testified in the last half hour that you had
 25 an objection to the process. You testified yesterday

1 were led in your testimony?
 2 A I don't recall.
 3 Q Let me help you with that recollection. You didn't
 4 ask for the document yesterday.
 5 A Okay.
 6 Q Do you have a recollection of who interviewed
 7 Mr. Hickey on behalf of the City of North Canton?
 8 A I did.
 9 Q Pardon?
 10 A I did.
 11 Q You did. And at the time that you completed your
 12 interview did you send a memo or issue a statement to
 13 anyone saying that he should not be hired?
 14 A No, there was -- to my knowledge there was no
 15 document that was sent saying that he should not be
 16 hired.
 17 Q Okay. Following your interview did you tell anyone
 18 that he should not be hired?
 19 A There was concerns that I had in his hiring.
 20 Q Okay. Now, for what position was he first
 21 interviewed, do you know?
 22 A I recall the position that we had available. Well,
 23 originally he had interviewed for, as I understand,
 24 this is prior to my being here, for the water
 25 treatment plant department.

1 that you had objections with regard to them not
 2 somehow contacting the highway patrol. Now, do you
 3 want to change your testimony or not?
 4 A I have no interest in changing my testimony.
 5 Q Okay. Now, as you sit here right now under oath,
 6 wouldn't you agree that the criteria of the
 7 background check both with regard to the Bureau of
 8 Criminal Investigation and the driving records were
 9 completed with regard to Mr. Hickey?
 10 A And I would ask again if I could look at the document
 11 if you have it available.
 12 Q Okay. You don't have a recollection one way or the
 13 other, sir?
 14 A No. That's why I would like to look at the document.
 15 Q Okay. So you testified --
 16 A Just to be sure. I want to be sure.
 17 Q Well, without the documents will speak for
 18 themselves. You're a witness and we're asking you to
 19 speak for yourself. Now, do you have a recollection
 20 as to whether or not that was done?
 21 A Again, I'd like to be very careful in what I'm saying
 22 because I'm under oath and I would like to see the
 23 document if you have it available. I do not have it
 24 available.
 25 Q Did you ask to see the document yesterday when you

1 Q Pardon? That was his --
 2 A As I understand, his first interview he had, there
 3 were a number of occasions where he had attempted to
 4 apply for the position prior to my employment as the
 5 city administrator, but I do believe that he had
 6 applied for the position as a water treatment plant
 7 operator.
 8 Q Okay. And what was the first position for which he
 9 was actually hired?
 10 A As I understand, it was the building maintenance
 11 position.
 12 Q And do you know if anyone else interviewed him with
 13 regard to his initial hire?
 14 A If I recall, he was, he may have been interviewed by
 15 Rich Steinhebel at the water treatment plant. And if
 16 I recall correctly, I would have to ask Rich
 17 Steinhebel about this, but Rich Steinhebel had made
 18 it very clear to me that he had expressed that
 19 Mr. Hickey should not be hired at the water treatment
 20 plant.
 21 Q Of course, that of course is hearsay.
 22 A You asked me the question and so I'm --
 23 Q No, I asked you if anyone else had interviewed him.
 24 Wouldn't it be fair to say that actually rather than
 25 your present incorrect recollection that Mr. Kim

1 Cookie -- Cooksey, actually interviewed him; isn't
2 that true, sir?
3 MR. FUNK: I'm going to object to the form of
4 the question.
5 Q Isn't it true that Mr. Cooksey actually interviewed
6 him?
7 A Mr. Cooksey interviewed Michael Hickey. Yes.
8 Q Sure. And in fact, Mr. Cooksey confirmed that
9 Michael Hickey was a good candidate and quite capable
10 of filling the position for which he was
11 interviewing; isn't that true?
12 A There may be a document as to that.
13 Q There may be. And do you have any recollection one
14 way or the other, sir?
15 A I believe that there's a document referring to that.
16 Q Okay. And would that document, according to your
17 recollection, be consistent with my suggesting to you
18 that Mr. Cooksey actually found him to be, found
19 Michael Hickey to be quite capable of filling that
20 position?
21 A I'm sure that it was positive, yes.
22 Q Okay. Document 1C confirms your testimony in regard
23 that Mr. Cooksey did in fact interview him and found
24 him to be quite capable for the position; isn't that
25 true?

1 A Yes, that's correct.
2 Q We previously in Document 1B made reference to the
3 two standing requirements with regard to the
4 procedures in effect at the time of the hiring of
5 Mr. Hickey, and that is the Ohio Bureau of Criminal
6 Identification and Investigation and the driver's
7 record. I'm handing you 1D and 1E, and you would
8 confirm that these for all intents and purposes are
9 in fact a confirmation that background check with the
10 Bureau of Criminal Investigation was done and that
11 the driver's records were checked pursuant to the
12 policy in force at that time; correct?
13 A Yes.
14 Q And in fact, even though -- there actually as we look
15 at the written policies and procedures in effect at
16 that time, other than the BCI, the Bureau of Criminal
17 Investigation, check and the driving record check,
18 there's absolutely no requirement, according to the
19 written policies and procedures in 1A and 1B that any
20 type of further background check be conducted for
21 this type of employee. He wasn't a policeman, he
22 wasn't a safety worker.
23 A You're referring to this document 1A and 1B?
24 Q That's right. That's right. Background
25 Investigation, 4A and 4B, that doesn't make any

1 reference to having to do anything beyond those two
2 investigations; correct?
3 A Yes, that's correct.
4 Q Okay. In fact, perhaps out of an abundance of
5 prudence there was an attempt to contact a prior
6 employer, and that's Anheuser-Busch, and that would
7 be -- are you aware of any attempts to contact
8 Anheuser-Busch?
9 A Yes.
10 Q Okay.
11 A I recall seeing a fax that they sent, and if I recall
12 correctly without seeing the document that he simply
13 stated that he was employed there, that's correct.
14 Q And he said has good attendance record, that he was
15 punctual, that he had no violations and they provided
16 no information as to any derogatory facts or
17 circumstances or background about him?
18 A I do not believe that there was any derogatory
19 statement.
20 Q Okay. And that would be confirmed by 1F, G and H?
21 A I would like to --
22 Q Wouldn't that be confirmed by 1F, G and H?
23 THE WITNESS: Mr. President, I would like to
24 make it clear once again that my signature stamp was
25 used on this document.

1 MR. SNYDER: What document is that, Mr. Held?
2 THE WITNESS: That's Exhibit 1F.
3 Q Now, you as a city administrator, of course, have
4 full access to the personnel records of city
5 employees; correct?
6 A I'm sorry, repeat that.
7 Q I'm sorry. I'm sorry, I interrupted. You were
8 talking with your attorney.
9 MR. FUNK: That's okay.
10 A That's okay.
11 Q Are you ready now?
12 A Yes, sir.
13 Q Good. You as a city administrator would have had
14 full access to the personnel records of all of the
15 city employees; correct?
16 A Kim George had the key. To the employment files.
17 Q You as city administrator could have clearly asked
18 for and received the key to any employee file?
19 A That's correct.
20 Q So in answer to my question, you had full access to
21 it, you only had to ask for the key?
22 A Through Kim George.
23 Q She didn't have authority to deny you the key, did
24 she?
25 A No.

- 1 Q Okay. Now, as you, had you ever -- when's the first
2 time you actually looked at the personnel file of
3 Michael Hickey?
4 A I don't recall.
5 Q Well, was it during your employment?
6 A Yes.
7 Q With the city?
8 A Yes.
9 Q During your employment. And what were the
10 circumstances that led you to look at the personnel
11 file of Michael Hickey?
12 A I'm not sure.
13 Q You're not sure. And when you looked at the
14 personnel file of Michael Hickey, did you see
15 anything in that file that was out of order that
16 concerned you?
17 A I would recall that no, that there was not anything
18 that was out of order. Due to a short employment I
19 don't, I didn't think that there was a whole lot that
20 was in there.
21 Q Okay. And when you looked at the personnel file and
22 saw the same documents that we've shown you here
23 today and saw your stamp on it, did you remark to
24 anyone, That's my stamp?
25 A No.

- 1 Q Is it inappropriate that your stamp was on the
2 document in the personnel file of Michael Hickey? Is
3 there anything wrong with that?
4 A There could be.
5 Q When you saw the personnel file of Michael Hickey
6 during your employment and you saw your personnel
7 stamp, did you think at that time there was anything
8 wrong with it?
9 A That my signature stamp was being used?
10 Q Yeah.
11 A Yes. I was very uncomfortable with that.
12 Q Okay. What did you do in response to that?
13 A On the first occasion I took the signature stamp away
14 from Linda Teis and gave it to Kim George.
15 Q Okay. Because you felt comfortable with Kim George
16 versus the personnel stamp, the signature stamp?
17 A Yes. When I gave it to her, yes.
18 Q Then how long did she keep it?
19 A I'm not exactly sure of the time frame.
20 Q Did you ever take it away from her?
21 A Yes. Both of them. There were two of them.
22 Q There were two signature stamps?
23 A That's correct.
24 Q When you had given your signature stamp to both of
25 them you gave it to them with the express authority

- 1 that they could use it; correct? That's why you
2 would give it to them?
3 A Not without my authorization.
4 Q Well, when you give them the stamp you said, Here's
5 my stamp. Isn't that authorization?
6 A No, I didn't say that. I did not say that.
7 Q What does it mean when you give someone your person,
8 your signature stamp? What did it mean to you?
9 A To me it meant that if I was unavailable and there
10 was a signature that was required, that they could
11 contact me via my cell phone if I was out of town or
12 on vacation and I would give them verbal
13 authorization and they could use that, yes.
14 Q Okay. And if they misused that you would clearly
15 take action to undo what they had done; correct?
16 A It depends on, on how it was used.
17 Q Okay. In terms of its -- do you know whether or not
18 you had authorized the use of your signature stamp on
19 the Michael Hickey personnel file?
20 A I'm sorry, say that again.
21 Q Are you able to tell us with specificity whether you
22 authorized or didn't authorize the use of your
23 signature stamp on the Michael Hickey personnel file?
24 A I did not authorize that.
25 Q On any, any of the documents?

- 1 A On the documents I have in front of me? You mean
2 Exhibit 1F?
3 Q Why don't we start with F. Did you authorize that or
4 not?
5 A The question is why would I authorize it.
6 Q No, the question is did you authorize it.
7 A This? No.
8 Q Okay. So did you feel that this was an inappropriate
9 use of your signature stamp?
10 A This is the first time that I've, that I recognize
11 the signature stamp being on here. I do recognize
12 seeing this --
13 Q First question first. The signature stamp on 1F, do
14 you claim that this was an inappropriate use of your
15 signature stamp?
16 A No, I just said that I didn't authorize it.
17 Q Okay. So you would agree that it was used
18 appropriately?
19 A What I'm saying is I don't know why it was utilized.
20 I don't recognize why it was important to utilize my
21 signature stamp on this.
22 Q Okay. The use was appropriate, they were seeking
23 information on a potential new hire; correct?
24 A But my question is why couldn't I have just signed
25 it. I don't believe I was out of town at this time.

- 1 Q Well, do you have your calendar here?
- 2 A No.
- 3 Q Do you know where you were at the time this letter
4 went out?
- 5 A No. The only time that I was ever not available was
6 the period of time when my wife was pregnant, and if,
7 if that's the case, then that's the only time that my
8 signature stamp was when I gave, I did give
9 authorization for purchase orders.
- 10 Q Well, if the only time you were unavailable,
11 Mr. Held, was during your wife's pregnancy, then why
12 would you give anyone your signature stamp during
13 your term here?
- 14 A I would give it to them with the understanding that
15 there's a level of trust that it would be utilized in
16 a manner where I would give them verbal authority.
17 They did not have carte blanche to just stamp
18 whatever they felt was necessary, no. I take my
19 signature stamp very, very seriously.
- 20 Q Okay.
- 21 A And I prefer, personally, to have my signature or my
22 initials on everything rather than a stamp. I think
23 it looks irresponsible. Unfortunately, at times
24 there's a requirement to have your signature stamp.
- 25 Q You've indicated some issues with regard to the

- 1 procedure used in hiring Mr. Hickey. By the way,
2 after Mr. Hickey was hired, then since apparently you
3 had some concerns did you implement new or different
4 or additional procedures?
- 5 A Not to my knowledge.
- 6 Q Not to your knowledge. Okay.
- 7 And after Mr. Hickey was hired, were all the
8 new hires subject to even stricter scrutiny under
9 your guidance and observation, did you want to make
10 sure everything would be done according to Hoyle and
11 not rushed through as you testified to yesterday?
- 12 A Yes. That's correct.
- 13 Q Okay. So if that's correct, then I presume then that
14 everybody else hired afterwards would be more
15 strictly scrutinized, but if I can give you then 1I
16 and 1J, I see that Mr. Hickey was hired on or about
17 March 20th or March 22nd, 2002, and comparing that to
18 a Ted Matthew Schumacher who was hired almost a year
19 later, February 7th, 2003, I note that Mr. Schumacher
20 had no employment checks; is that right?
- 21 A There is no date that there was an employment check.
22 It's not checked off on this list that there was no
23 employment check.
- 24 Q Okay. As you sit here today, do you have any reason
25 to believe that there was actually a person to your

- 1 new more stricter hiring standards of hiring people
2 an actual employment check conducted on Mr. Ted
3 Schumacher?
- 4 A Yes, there was. I believe that was, to my
5 recollection it was delegated to Mr. Rich Steinhebel.
- 6 Q And so that information, if we would all search,
7 should be contained in his personnel file even though
8 it's not checked off here; is that right?
- 9 A I'm not sure about that. I don't have knowledge of
10 that.
- 11 Q You, of course, as we've already indicated, had full
12 access if you thought it was necessary to check
13 personnel records to see whether your stricter,
14 heightened procedures for hiring were being followed;
15 correct?
- 16 A I'm sorry, can you repeat that question.
17 (Question read by the reporter.)
- 18 A That's correct. I had full access.
- 19 Q Now, you know who attorney Tom Treadon is, don't you?
- 20 A Yes.
- 21 Q He was the assistant law director here for a number
22 of years?
- 23 A Yes.
- 24 Q You would agree that Mr. Treadon is uniformly
25 recognized as an excellent attorney and a good public

- 1 servant?
- 2 A I agree.
- 3 Q You know who Roy Batista is, don't you?
- 4 A Yes, sir.
- 5 Q And you would agree that Mr. Batista has served as a
6 law director here for a number of years?
- 7 A Yes, sir.
- 8 Q He, too, is also recognized as an excellent attorney
9 and an excellent public servant, isn't he?
- 10 A Yes, sir.
- 11 Q Mr. Treadon is also an excellent litigator with
12 regard to labor personnel matters, isn't he?
- 13 A That's correct.
- 14 Q You spoke yesterday under oath about two incidents
15 involving Mr. Hickey. The first one involved a
16 Ms. Hertler. Tell me, with regard to that
17 potentially significant personnel matter that could
18 involve in litigation that Mr. Treadon would be
19 called into service for, when that issue with
20 regarding the complaint from Ms. Hertler reached you,
21 did you contact Tom Treadon?
- 22 A I believe so, yes. I made an attempt to contact Tom
23 Treadon. Also Mr. Batista.
- 24 Q Now, I think I heard two things. Did you contact him
25 or did you make an attempt to contact him?

1 A I, I contacted him.
 2 Q Okay. You contacted who?
 3 A Mr., Mr. Treadon, yes.
 4 Q Mr. Treadon. You're certain of that?
 5 A Yes. I believe yesterday I testified that I spoke to
 6 Tom Treadon, and again I'm trying to recall the
 7 testimony yesterday that I did speak to him and he
 8 had deferred or certainly, if I want to say the word
 9 deferred but had in support of the idea that I talk
 10 to the labor attorney.
 11 Q Okay.
 12 A That was verbal. There was not a written document on
 13 that.
 14 Q Now, Mr. Treadon, who's represented the city for a
 15 number of years and is very well regarded in
 16 litigation, you say he didn't give you an answer as
 17 to whether or not you should put the complaint
 18 regarding the Hertler matter in Mr. Hickey's
 19 personnel file; did you talk about that at all?
 20 MR. SNYDER: Mr. Plakas, I believe that is
 21 called hearsay. Mr. Treadon is not here to testify
 22 or rebut the testimony and you admonished me last
 23 evening for the same question, sir.
 24 MR. PLAKAS: Sure, and I thank you. He
 25 opened the door by mentioning his conversation with

1 Mr. Treadon, and now since he's opened the door and
 2 discussed it then we of course are entitled to the
 3 other side of that conversation.
 4 MR. SNYDER: I apologize, sir. Go ahead.
 5 MR. PLAKAS: Thank you.
 6 Q So with regard to your conversation with Mr. Treadon,
 7 what did he tell you, and isn't it true that if you
 8 indeed had that conversation that he told you not to
 9 put the Hertler complaint in the Hickey personnel
 10 file?
 11 A I don't, I don't know.
 12 MR. FUNK: I'm going to object. This is
 13 clearly hearsay. He can't testify as to what someone
 14 else said.
 15 Q You had a discussion with Mr. Treadon. Didn't you?
 16 A Yes.
 17 Q Okay. Did you approach with Mr. Treadon the issue of
 18 whether or not you should put the Hertler matter in
 19 the Hickey personnel file? Did you talk about that
 20 at all?
 21 A I don't recall.
 22 Q You don't recall that?
 23 A No.
 24 Q Wouldn't that have been a logical thing to ask him?
 25 A I was concerned about was the -- I needed guidance in

1 this area.
 2 Q Sure.
 3 A And I recall him deferring to the labor attorney that
 4 was present in our office.
 5 Q The labor attorney who was present in your office?
 6 A Well, who would -- I'm not sure if he was present
 7 exactly at that time. But would be present.
 8 Q Who are you referring to?
 9 A Mike Angelo.
 10 Q Mike Angelo. Now, by custom when you call an
 11 attorney and ask for legal advice, you have to pay
 12 for that legal advice, don't you?
 13 A That's correct. Yes.
 14 Q So although Mr. Treadon was on retainer and being
 15 paid to provide legal advice, it's your testimony
 16 that you wanted to call or suggested calling Mike
 17 Angelo?
 18 A Yes.
 19 Q Okay. So you were going to call Mike Angelo and
 20 spend the funds of the citizens of North Canton,
 21 although you didn't have approval from this council
 22 to engage Mike Angelo on those types of matters, did
 23 you?
 24 A I don't exactly remember the words of the ordinance
 25 that was passed but he certainly was hired by the

1 city as a labor attorney.
 2 Q Well, no. He was hired by the city to do certain
 3 things. And in fact, I think yesterday Mr. Snyder
 4 made it clear that there was a quotation process and
 5 we've got letters going back and forth which we'll be
 6 happy to show you shortly, but wouldn't you agree
 7 that at that time there was never any authorization
 8 from this board to spend the money of the citizens of
 9 North Canton to call Mike Angelo to discuss a matter
 10 that you weren't authorized to spend money on? Why
 11 would you do that?
 12 A There was already an authorization of council for
 13 expenditure of funds to Mike Angelo and to his firm.
 14 Q Yeah. The expenditure of funds was only to review
 15 the formal union labor agreements; isn't that true,
 16 sir?
 17 A That's not correct.
 18 Q That's not correct. So when you introduced Mike
 19 Angelo and his firm to the City of North Canton and
 20 to council, you dispute you introduced them for the
 21 purpose of reviewing the labor agreements and redoing
 22 the negotiations?
 23 A There was also another opinion that had come from
 24 Johnson & Angelo in reference to the water tower.
 25 Q Well, what does Mr. Hickey and this claim by

1 Ms. Hertler have to do with the water tower?
 2 A You just asked me if it was exclusive to, if their
 3 billing was exclusive to the labor agreements.
 4 Q Did you ever ask or seek permission of the council to
 5 expend community dollars to seek the professional
 6 advice of Mr. Angelo or his firm with regard to the
 7 Hickey personnel matters?
 8 A Yes.
 9 Q You did?
 10 A Typically I would always keep council president Jon
 11 Snyder in the loop and I certainly always kept Mayor
 12 Rice in the loop. And I also spoke with the
 13 assistant law director, Tom Treadon.
 14 Q So are you saying that you were --
 15 A Verbal conversations. Nothing in writing.
 16 Q As I understand it, the City of North Canton doesn't
 17 expend funds without specific authorization; isn't
 18 that true?
 19 A That's correct.
 20 Q Okay. Do you claim here under oath that there's an
 21 ordinance or a resolution that authorized you to
 22 spend the funds of the City of North Canton for
 23 personnel matters involving Mr. Hickey with the firm
 24 of Johnson & Angelo of Cleveland that you introduced
 25 to this city?

1 A Yes. That is correct.
 2 Q There's a resolution and ordinance and during the
 3 break we'll be able to find that.
 4 A Yes, that's correct.
 5 Q And approximately when did that occur, do you know?
 6 A I don't recall.
 7 Q And did you bring it to council's attention then that
 8 you wanted an ordinance or resolution to enable you
 9 to expend money for the Hickey personnel matters?
 10 A No, I don't believe that I did.
 11 Q You don't believe that you did?
 12 A No.
 13 Q It just came out of thin air that a resolution was
 14 passed for that purpose?
 15 (Witness conferring with Mr. Funk).
 16 Q After conferring with your counsel do you have an
 17 answer to that?
 18 A Well, I guess the one question that I have is when
 19 you're talking about the ordinance I'd have to defer
 20 to the law director as far as what's required as far
 21 as passing an ordinance for the expenditure of funds.
 22 It certainly I believe is \$25,000, and I also
 23 believe, too, that looking for guidance I don't
 24 believe that there was any bill from Mr. Angelo in
 25 reference to Michael Hickey.

1 Q Well, ultimately the firm of Johnson & Angelo billed
 2 this city more than \$50,000, didn't they?
 3 A That's correct, but I don't think that there was any,
 4 in the billing, if I remember correctly, I don't
 5 think that there was anything specified.
 6 Q So he provided that legal advice to you just as a
 7 favor to you personally?
 8 A I don't believe that, I don't believe that we were
 9 billed for that specifically.
 10 Q Did you, in addition to the issue of whether or not
 11 you should put that information in the personnel
 12 file, did you discuss with the firm of Johnson &
 13 Angelo whether or not Mr. Hickey should be
 14 disciplined or fired or suspended? That's a easy yes
 15 or no?
 16 A There was a discussion with -- repeat the question,
 17 please.
 18 (Question read by the reporter.)
 19 A I discussed with Johnson & Angelo the issue of Mike
 20 Hickey, yes.
 21 Q Isn't it true that respected Assistant Law Director
 22 Tom Treadon gave the opinion that that information
 23 with regard to the Hertler complaint should not be
 24 put in the Hickey personnel file? Isn't that true?
 25 A I don't recall.

1 Q You don't recall that?
 2 A No.
 3 Q Do you deny that?
 4 A No, I don't deny that.
 5 Q And if Mr. Treadon had advised you or anyone in the
 6 administration in North Canton that that information
 7 should not be included in Mr. Hickey's personnel
 8 file, you would have deferred to Mr. Treadon and his
 9 years of experience and service to the City of North
 10 Canton; correct?
 11 A No, I would have liked it in writing from
 12 Mr. Treadon.
 13 Q So you would have deferred to him only if it was in
 14 writing; is that right?
 15 A If I was going to make the decision I would like to
 16 have it in writing.
 17 Q Okay. Then I would presume then if you were going to
 18 rely upon any opinion in regard to Mr. Hickey you
 19 would also have liked that in writing also?
 20 A Not necessarily.
 21 Q Why is that? Why if from Mr. Treadon you want
 22 something in writing, why from Johnson & Angelo you
 23 did not require it in writing?
 24 A Because I was on the telephone with Mr. Treadon and
 25 it was just a conversation with myself and

1 Mr. Treadon and during the conversation he was very
 2 rushed. My conversation with Johnson & Angelo had
 3 Police Chief Grimes, Kim Cooksey and Joe Olesky and
 4 myself present.
 5 Q And that wasn't in writing? Did they confirm it in
 6 writing?
 7 A They did not.
 8 Q Okay.
 9 A To my knowledge, no. Mike Angelo did not put that in
 10 writing, no.
 11 Q So at that point, after that conversation with
 12 Mr. Angelo, did you put something in the file of
 13 Mr. Hickey? Did you then, based on that
 14 conversation, say Okay, regardless of what
 15 Mr. Treadon says I'm going to put something in
 16 Mr. Hickey's personnel file? Did you do that?
 17 A In reference to what?
 18 Q In reference to either one of these two complaints
 19 that you testified about yesterday.
 20 A There may have been a reprimand or a document placed
 21 in the file.
 22 Q Did you see to it that something was placed in his
 23 file?
 24 A Yes. There was a letter that I believe it was from
 25 Joe Olesky that was placed in his file.

1 Q And you made sure that it went in the file?
 2 A Well, I -- there's a certain level of trust that you
 3 have with your administrative assistant. I didn't
 4 personally.
 5 Q Who did you tell to put the Olesky letter in the
 6 file?
 7 A I don't recall.
 8 Q Did you tell --
 9 A Is it in the file? I don't recall.
 10 Q And you don't recall if it actually was in the file?
 11 A I would assume but I don't know for sure.
 12 Q But you don't know, you didn't put it in there
 13 yourself?
 14 A I did not put it in there myself.
 15 Q Okay. In terms of your job responsibilities, and we
 16 talked about you testified yesterday about you trying
 17 to do your job and issues with regard to that so we
 18 can identify what difficulties you claimed you
 19 thought you were having doing your job, you would
 20 agree that one of your job responsibilities was
 21 responding to complaints or questions from the
 22 citizens of North Canton; correct?
 23 A Yes, that's correct.
 24 Q Okay. And would it be fair to say that that's a
 25 primary responsibility of an administrator in your

1 position?
 2 A Service definitely is a primary. Safety I would say
 3 is primary. Safety to the employees and safety to
 4 the residents. And then service, of course, is.
 5 Q And a number of calls come in on a regular basis from
 6 the citizens with regard to complaints or requests
 7 for service, things like that; isn't that true?
 8 A That's correct.
 9 Q And would it be fair to say that you did not relish
 10 always having to respond to these calls?
 11 A No, I had no trouble responding to those calls. I, I
 12 felt that that clearly was a strength of mine.
 13 Q Okay. So you felt that was a strength of your
 14 performance here at the city?
 15 A Yes.
 16 Q That you promptly and effectively responded to the
 17 calls for service or complaints of the citizens of
 18 North Canton?
 19 A Often times I delegated. I would have to. For the
 20 sake of time I would have to delegate that
 21 responsibility.
 22 Q And who would you delegate to?
 23 A It could be to a department head or to Kim George or
 24 Linda Teis. Or at times the mayor.
 25 Q With regard to your job responsibilities as the

1 full-time city administrator, it would be fair to say
 2 that the water tower project was also a
 3 responsibility that you had?
 4 A Overall, everything that took place in the city
 5 ultimately was my responsibility. But there
 6 certainly is hierarchy and chain of command.
 7 Q Okay. You just testified that you felt that one of
 8 your strengths, or your strength was responding to
 9 the citizens. Did you also feel that you performed
 10 well and capably in regard to the water tower
 11 project?
 12 MR. PUSATERI: I'll object, just this is in
 13 pending litigation. The City of North Canton is
 14 engaged in talks right now so I really don't want him
 15 testifying to any of this. I don't know if you know
 16 that or not but --
 17 Q So let me just ask you this. It would be fair to say
 18 that the water tower project was one of your primary
 19 responsibilities during your term here?
 20 A Well, the person, if I recall correctly, who was
 21 directly in charge of that was the water
 22 superintendent was the project manager for that.
 23 Q And you were his superior in terms of overseeing
 24 that?
 25 A Yes.

1 Q Okay. And I understand that that project is now in
 2 litigation?
 3 MR. PUSATERI: That's right.
 4 Q Okay. So apparently not everyone lived happily ever
 5 after on that project; would that be fair to say?
 6 MR. FUNK: Objection. Relevance.
 7 MR. PUSATERI: Just it's in litigation. I
 8 prefer he not testify to anything on that matter.
 9 Q Another responsibility that you had as city
 10 administrator was overseeing and facilitating the
 11 contract negotiations with the police; is that right?
 12 A Yes.
 13 Q Okay. And for that that's what you had sought to and
 14 had in fact recommended the hiring of the firm of
 15 Johnson & Angelo for?
 16 A Yes.
 17 Q Is that part of what they did?
 18 A Yes.
 19 Q And in fact, shortly after a new contract was
 20 negotiated with the police, there were difficulties
 21 with the police filing a grievance and going to
 22 arbitration; is that true?
 23 A That's correct.
 24 Q Ultimately the union, the police lieutenants I
 25 believe won that arbitration?

1 A As I understand, yes, they did.
 2 Q Okay. And in fact, because of the issues created in
 3 that, in the new contract that you used Johnson &
 4 Angelo for, in fact as I understand it, former police
 5 chief Lindower, now councilman, actually had to come
 6 in and help resolve and did successfully resolve what
 7 could have been a sticky and difficult situation with
 8 the police union. Isn't that true?
 9 A I'm not following what you're saying.
 10 Q Wasn't it necessary for former police chief Lindower
 11 to actually come in and, and resolve a sticky
 12 situation where the police and police lieutenants
 13 were unhappy with certain interpretations in their
 14 new contract?
 15 A Mr. Lindower certainly assisted in bridging the gap
 16 with, with, with I believe it was the police
 17 lieutenants.
 18 Q And the gap that needed to be bridged occurred very
 19 shortly after you had just gotten done negotiating a
 20 new contract; isn't that right?
 21 A Well, the contract was negotiated, but the next step
 22 is that it had to be approved by council. And
 23 Councilman Lindower was the chairman of that
 24 committee, and so in order for it to be approved by
 25 council Mr. Lindower as the chairman of that

1 committee had discussions, as I understand, with the,
 2 with the lieutenants.
 3 Q You were well satisfied with all the services that
 4 the firm of Johnson & Angelo gave to you and the City
 5 of North Canton during your tenure here?
 6 A I was not.
 7 Q You were not?
 8 A No.
 9 Q Do you hold yourself responsible at all with regard
 10 to the difficulties with regard to the, the
 11 difficulties and the arbitration and the grievance
 12 over the police contract?
 13 MR. FUNK: Objection. How is that relevant
 14 to any of the issues we have here?
 15 MR. PLAKAS: Well, if I may, the relevance is
 16 that, I believe that Mr. Held has intimated and has
 17 suggested to this council that he was improperly
 18 terminated, and he has intimated that he was
 19 terminated because he wasn't doing the things that
 20 the mayor wanted. If in fact that's what he wants
 21 you to believe and suggest that because he wasn't
 22 complying with the mayor's wishes, which he thought
 23 were inappropriate, that he was terminated, then we
 24 have the right to show you that in fact there were
 25 very valid reasons and reasons for his termination.

1 And if in fact you have the primary
 2 responsibility to do certain tasks, whether it's a
 3 water tower project, whether it's a new police
 4 contract, whether it's spending more than \$50,000 of
 5 the citizens' money on a brand-new law firm and him
 6 not being satisfied with that selection, whether it's
 7 responding adequately to citizens' complaints, if in
 8 fact those things weren't done properly then I think
 9 we would all expect the mayor to in fact say, If
 10 you're not doing the job for the citizens I have to
 11 terminate you. So since he's raised the issue of I
 12 did a great job and it's unfair to have terminated me
 13 and Mayor Rice was wrong to do it, then there has to
 14 be an ability to look at the other side of that coin.
 15 MR. SNYDER: Due respect, sir, if I recall
 16 since we're discussing this, I don't know that that
 17 was ever proffered that the mayor discharged Mr. Held
 18 relative to his performance of his ability of
 19 operating as city administrator. It is documented,
 20 uncontroverted documented when he interviewed The
 21 Repository two months prior to the discharge he gave
 22 him glowing grades and everything, and that bill had
 23 been paid, had been paid prior to that so I don't
 24 think anything in this quasi judicial court last
 25 evening any reason, he was not given a reason so

1 consequently I don't think that's really open into
2 the scope of this interrogation.

3 Now if the mayor is ready to issue a
4 statement and put it in paper the reason he
5 discharged Mr. Held was because of his incompetency,
6 I would question Mayor Rice's authority as his
7 immediate supervisor why it wasn't done sooner prior
8 to the expending of money. But for that fact I don't
9 think we'll go down and I will ask my colleagues that
10 you confer with that that we do not continue that
11 line of questioning. Is that fine?

12 MR. PUSATERI: That's a valid decision on
13 your part, yes.

14 MR. PLAKAS: And my only comment,
15 Mr. President, follow up, there is I guess I'm
16 harkened and heartened by the fact that you are now
17 indicating that quotations of city officials in the
18 newspapers will become part of the Record here.

19 MR. SNYDER: No, sir, I did not tell you
20 that. I'm saying if you needed, if you needed that
21 obviously I'm sure you'll attend and I'll stipulate
22 to that quotation.

23 MR. PLAKAS: I think your quotes and
24 Councilwoman's Kiesling quotes are among the most
25 prolific in the various media so I think that's fine

1 fair to say that you were very angry about being
2 terminated; correct?

3 MR. FUNK: I'm going to object to the form of
4 the question as far as motivation. I believe he was
5 subpoenaed to be here and that's why he's here
6 providing testimony. There's no motivation other
7 than to tell the truth and that's what he's doing.
8 Other than that, go ahead and answer the question.

9 Q Wouldn't it be fair to say that you were very angry,
10 very upset about being terminated from this position?

11 A It wasn't a pleasant experience.

12 Q So the answer to my question is yes, that you were
13 angry and upset?

14 A I was not happy.

15 Q The answer to my question is you were angry and
16 upset?

17 A I wouldn't say that I was angry. I wasn't, I wasn't
18 happy.

19 Q You actually to the mayor's face threatened to ruin
20 him, didn't you?

21 A That is an absolute lie. Unequivocal lie.

22 Q Okay. What did you say to his face? What did you
23 say to his face?

24 A I thanked him for the opportunity. And he told me
25 that, "David, I know you're a man of integrity and

1 and I think we can all rely on the truth and veracity
2 and the consequences of your quotations and
3 Councilman Kiesling. That's fine with me as long as
4 what's good for the goose is good for the gander.

5 MR. SNYDER: Okay.

6 BY MR. PLAKAS:

7 Q So in regard to that subject, sir, would, would you
8 agree that in fact that there was a reasonable basis
9 to terminate you because of your responsibilities
10 and, and difficulties in performing some of these
11 projects that we've talked about? Would you agree
12 with that?

13 MR. FUNK: Objection. Didn't we just cover
14 this issue or am I mistaken?

15 MR. SNYDER: Again I will rely I believe on
16 his testimony last evening he was given no reason so
17 he would have no knowledge of why he was left go. He
18 serves at the pleasure. The charter says he serves
19 at the pleasure of the mayor. It's up to the mayor
20 if he wakes up with him on his mind, doesn't want him
21 there, he wasn't there to give a reason for his
22 discharge and I don't think he was given so Mr. Held
23 is not in a position to answer that question.

24 Q In regard to your credibility and your motivation for
25 your testimony here today and yesterday, it would be

1 I'm very sorry about this but politics is politics."

2 That's the day that I was terminated. That's what he
3 said.

4 Q Okay. And you thanked him after your termination?

5 A Yes, I did.

6 Q And can you recall in sum or substance your actual
7 words to him as you were thanking him?

8 A I thanked him for the opportunity.

9 Q And that was it?

10 A I appreciate it, yes.

11 Q And subsequent to that did you change your tune in
12 terms of being thankful for the opportunity for which
13 you had been terminated?

14 A No. I'm still thankful for the opportunity.

15 Q Are you thankful for the termination?

16 A Some days, yes.

17 Q Okay. You actually, you actually were given the
18 opportunity to resign, weren't you?

19 A Yes, I was.

20 Q Initially you indicated that you would resign; isn't
21 that true?

22 A Yes, I did.

23 Q You then took a few days to consider whether you
24 would resign or would require the mayor to terminate
25 you; correct?

- 1 A The mayor wanted my immediate resignation. It was
2 shortly after I believe January 22nd when I took away
3 the signature stamps from Kim George and after I had
4 an altercation with her, shortly after that when she,
5 she threatened me with my job because I took away the
6 signature stamp, that's when the mayor later that
7 night after a North Canton wrestling match called me
8 on the phone and told me that he wanted the
9 resignation.
- 10 Q Okay. You made reference to an altercation with Tim
11 George. With Kim George, excuse me. Kim George.
- 12 A Yes.
- 13 Q You're a wrestling coach?
- 14 A Not now I'm not, no.
- 15 Q You were at that time?
- 16 A No.
- 17 Q You look pretty fit. Look like you can still
18 wrestle.
- 19 A I don't.
- 20 Q You had an altercation with Kim George.
- 21 A Well, I should restate my words. She was very upset.
- 22 Q Well, you said altercation. What did you mean by
23 that?
- 24 A She was very upset with me.
- 25 Q And you were cool, calm and collected the whole time?

- 1 A Yes, I was.
- 2 Q And since you chose the words altercation, what
3 actually happened in that regard?
- 4 A I asked her for a copy of a -- it started out I think
5 it was like around nine o'clock, I believe if I
6 remember correctly, January 22nd, I asked Kim George
7 for a copy of the meeting, a copy of the memo that
8 called a board of control meeting, and specifically
9 that board of control meeting was called to, one of
10 the topics on there was to hire people to clean, an
11 organization to clean city hall.
- 12 Q Okay.
- 13 A And the reason it stands out in my mind is because,
14 because of the cleaning contract. And when that
15 meeting took place, I did not authorize the
16 meeting -- I restate that. I did not authorize her
17 to use my signature stamp, and she, she utilized that
18 in order to call the board of control meeting. And
19 we met with Paul Pusateri, the finance director, and
20 myself and the mayor. And when I, in the meeting I
21 recognized that my signature stamp once again was
22 used without my authorization. I asked Kim to give
23 it, or I asked her for a copy of the meeting. She
24 said, "What for?" I said, "I'd just like to see a
25 copy of the memo." She said, "What for?"

- 1 She became very upset with me and she told me
2 she would call off sick and I wouldn't be able to
3 find anything in this office without her. And I
4 said, "That's fine. You can call off sick if you so
5 choose." She said, "Don't worry, you're going to get
6 yours. I promise you that." I remember that very
7 vividly.
- 8 Q Okay.
- 9 A And I asked Kim, "Is that a threat, Kim? What do you
10 mean by that?" And she giggled. "Don't worry,
11 you'll get yours." And I asked for the signature
12 stamp and she chucked it at me and I said, "And
13 please give me the second one," so she chucked that
14 at me.
- 15 Q How were your reflexes? Did the chucking hit or
16 miss?
- 17 A I don't think that this is funny.
- 18 Q Well, you used the word "chuck," you used the word
19 "altercation." So after that when the mayor asked
20 for your resignation initially you said I need to
21 think about it; is that what you said?
- 22 A As I recall, yes. When he asked me for the
23 resignation, yeah, certainly I had to think about
24 that.
- 25 Q Okay. Who did you talk to over the next couple days

- 1 with regard to that resignation?
- 2 A My wife.
- 3 Q Okay. Who else?
- 4 A Jack DeSario.
- 5 Q Now, he's a gentleman that is your neighbor that
6 introduced this law firm in Cleveland to the city; is
7 that right? So you talked it over with DeSario?
- 8 A Yes.
- 9 Q Who else?
- 10 A That's, I believe, I believe that's it.
- 11 Q Well, you spoke with some of the members of council,
12 didn't you?
- 13 A I do not believe that I did. I don't recall speaking
14 to the members of council.
- 15 Q Are you sure?
- 16 A Not about the resignation.
- 17 Q What did you talk to them about?
- 18 A I'm not sure. I don't, I don't believe I talked to
19 them. The only person I would talk to would be the
20 council president.
- 21 Q And did you talk to the council president?
- 22 A I don't recall talking to him about whether or not I
23 should resign, no.
- 24 Q Didn't you tell any of the council members that the
25 mayor had requested your resignation?

1 A Not at that time, no.
 2 Q When did you first tell them that the mayor had
 3 requested your resignation?
 4 A I believe the first communication that I had was that
 5 I was fired. I called up Jon Snyder and told him
 6 after it happened.
 7 Q How many days passed between the time that the mayor
 8 asked you for your resignation and the time that you
 9 were terminated?
 10 A I would say less than a week.
 11 Q Less than a week. And your testimony is that in that
 12 approximate time, that's up to but less than a week,
 13 you didn't talk to any of these council members?
 14 A Oh, I've talked with them certainly.
 15 Q During that period of time?
 16 A Yes.
 17 Q Okay. But and then is it your testimony that even
 18 though you had been asked for a resignation and
 19 during that ensuing almost up to a week you talked
 20 with these council members you didn't once tell them
 21 that your resignation had been asked for?
 22 A No, I don't believe so, because the mayor would make
 23 many comments throughout the terms of my employment
 24 and he would change his mind. He would make comments
 25 and then change his mind. He would get angry and

1 then make comments and then change his mind.
 2 Q I understand that you spoke with some members, some
 3 other publicly elected officials between the time
 4 that your resignation was asked for and the time that
 5 you were terminated. Is that true?
 6 A I'm sorry, restate the question.
 7 MR. PLAKAS: Would you repeat that, please?
 8 A The only people that I recall talking to about that
 9 is my wife and Jack DeSario.
 10 Q No other publicly elected officials?
 11 A No. Not to my knowledge, no.
 12 Q Not even outside the City of North Canton?
 13 A Not to my knowledge, no.
 14 Q And your testimony is here under oath that during
 15 that, those ensuing days you didn't speak to any of
 16 these council members?
 17 A Not to my knowledge.
 18 Q Not Mr. Snyder, not Mr. Sarbach, not Mr. Peters?
 19 A I spoke to them, I spoke to them on other issues I'm
 20 sure in the normal course of business.
 21 Q Councilperson Kiesling; did you talk to her about it?
 22 A I don't recall talking to her about my resignation.
 23 I'm sure that I talked to her, you know, about
 24 various issues about the city, I'm certain of that,
 25 but it's not something for someone to be proud of.

1 It's not something that I would -- I talked to my
 2 wife and I talked to Jack DeSario.
 3 Q Did you at the time that you were considering whether
 4 you were going to resign or, or be terminated, did
 5 you discuss what your employment alternatives were?
 6 You're with the waste management district now; is
 7 that true?
 8 A Yes.
 9 Q That's an appointed position?
 10 A That's correct.
 11 Q Okay. And how does one go about being appointed to
 12 that job?
 13 A You apply and then you're interviewed by a board of
 14 nine members. And they approve you.
 15 Q Okay. And which board approved you?
 16 A The board of the solid waste district.
 17 Q Okay. And who's on that board?
 18 A You have three commissioners from three different
 19 counties, so you have three commissioners from Stark
 20 County, three commissioners from Wayne and three from
 21 Tusc. Tuscarawas.
 22 Q And that, that board, that waste district has a
 23 responsibility of waste disposal and ecological
 24 issues in those three counties, doesn't it?
 25 A That's correct.

1 Q And what was your experience with regard to waste
 2 disposal at the time that you applied for the job?
 3 MR. FUNK: Objection. I don't know how this
 4 is relevant to the charges we have pending before
 5 this council.
 6 MR. SNYDER: Are you going somewhere with
 7 this? Or are we just -- and please.
 8 MR. PLAKAS: Just because I don't have
 9 anything else to do tonight.
 10 MR. SNYDER: I realize you're on an hourly
 11 rate, but I mean --
 12 MR. PLAKAS: When I was going through law
 13 school, Mr. President, I said, I hope one time in my
 14 career I get to come in front of a tribunal like this
 15 that's different than anything we've ever done in our
 16 life and I hope this goes on as long as possible
 17 because it's so enjoyable.
 18 MR. SNYDER: What I'm saying is, you know,
 19 we -- really I don't know how germane it is as to
 20 hold us responsible, "us" being the citizens sitting
 21 here, you and everybody else, to the hiring practices
 22 of the Tri-County Waste District.
 23 MR. PLAKAS: I think I'll be able to connect
 24 everything. And the time we spent discussing it he
 25 probably could have answered.

1 MR. SNYDER: Please try to connect it then.
 2 I would ask if we could move.
 3 Q Just answer and we'll go on.
 4 MR. FUNK: Objection. I think he said how is
 5 it relevant.
 6 MR. PLAKAS: Can you just have him answer
 7 that?
 8 Q Did you have any experience?
 9 MR. FUNK: Objection.
 10 Q Did you gain any experience while you were here in
 11 the City of North Canton in waste disposal issues?
 12 MR. FUNK: Objection.
 13 MR. SNYDER: Asked and answered, sir. I was
 14 going to say is this a good time?
 15 MR. PLAKAS: I think so for everybody.
 16 MR. SNYDER: I apologize. At this time I
 17 think we'll take about a six, seven-minute break.
 18 Need ten? Is that probably more realistic?
 19 (WHEREUPON, a recess was taken.)
 20 MR. SNYDER: All right. We're back on the
 21 Record. Mr. Plakas.
 22 MR. PLAKAS: Thank you.
 23 BY MR. PLAKAS:
 24 Q With regard to Michael Hickey, I can try to figure
 25 out what, what your, the impact, if any, of your

1 testimony was yesterday. With regard to the hiring,
 2 I, I believe it's still unclear. The decision to
 3 hire Michael Hickey was not specifically objected to
 4 by you; is that correct? And you didn't try to get
 5 him unhired, if that's a word.
 6 A That's correct.
 7 Q Okay. All right. So he was hired, you knew he was
 8 hired, and you didn't, in your position, try to get
 9 him, quote, unhired?
 10 A That's correct.
 11 Q Okay. Now, and we've talked about your primary
 12 responsibility is for the best interests of the
 13 citizens of North Canton rather than your best
 14 interests; correct?
 15 A That's correct.
 16 Q So it's your responsibility to do what's right;
 17 correct?
 18 A That's correct.
 19 Q Now, as we go along and Mike Hickey now is working
 20 and one or two incidents arise, did you feel that
 21 Mike Hickey and keeping Mike Hickey as an employee
 22 for the City of North Canton would be harmful or
 23 dangerous to the citizens of the City of North
 24 Canton?
 25 A I'm going to have to say that the difficult part as

1 the city administrator is you are relying on
 2 information that people give you. And I wanted to be
 3 extremely careful in every decision that I made in
 4 the city. Working as the city administrator, of
 5 course, we can see here to have documentation lends
 6 itself to good decision making.
 7 Q I think my question was, as the city administrator
 8 with the authority and responsibility to terminate a
 9 city employee, was there ever a point in time when
 10 you felt that Mike Hickey was a danger to the
 11 citizens of North Canton or to the city and should be
 12 terminated?
 13 A I would not say a danger, no.
 14 Q Okay. Because if you had felt that there was a
 15 danger or it would be in the best interests of the
 16 citizens of North Canton to terminate him, regardless
 17 of your own job security you would have at that point
 18 done the right thing and you would have terminated
 19 him because that would have been in the interests,
 20 best interests of the City of North Canton and its
 21 citizens; correct? You would have done the right
 22 thing?
 23 A I will always do the right thing.
 24 Q Okay. So by not terminating him, that was a
 25 decision, as you've just said, you made at that time

1 that you didn't feel that he was a danger to the city
 2 or the citizens of North Canton; correct?
 3 A I did not feel he was at that time a danger.
 4 Q And throughout your term here in every decision you
 5 would agree with me that your primary responsibility
 6 was always what was in the best interests of the
 7 citizens of North Canton and the city rather than
 8 what was in your best interests in terms of job
 9 security; correct?
 10 A Absolutely.
 11 Q Okay. So if at any time you felt that anyone in the
 12 city, from the mayor on down, was doing something
 13 that was wrong or inappropriate, even if your job was
 14 on the line, you would have stopped it or you would
 15 have refused to participate; correct?
 16 A Yes.
 17 Q We talked earlier about with regard to Mike Hickey
 18 and questions raised about him and I questioned you,
 19 you know, did you go to Tom Treadon or Roy Batista or
 20 why did you go to this, this firm in Cleveland and we
 21 talked about whether you were authorized to expend
 22 money, and although to be frank your suggestion that
 23 you may have been authorized to spend money surprised
 24 me. While we only had a ten-minute break and I don't
 25 have access to all the documents here, I do have some

1 documents that I want you to look at in terms of
2 whether or not the scope of the engagement of the
3 firm of Johnson & Angelo in any way authorized you to
4 go and spend citizens' money or go and inquire and
5 get legal advice as to personnel issues as opposed to
6 the issue for which this city council authorized you
7 to retain Johnson & Angelo.

8 MR. PLAKAS: And ladies and gentlemen of
9 council, we're going to have to in an orderly fashion
10 supplement your notebooks just because we weren't
11 prepared for his testimony in that regard. So what
12 we'll do --

13 MR. PUSATERI: You need some help?

14 MR. PLAKAS: What I was going to do is
15 probably give one package of this to president of
16 council, just for the Record, one for the witness and
17 then we will make copies.

18 MR. PUSATERI: I'll run copies off right now.
19 Is that it? Okay.

20 MR. PLAKAS: I think so.
21 (Off the Record.)

22 MR. SNYDER: This is to be marked Tom Rice
23 No. 2; is that correct?

24 MR. PLAKAS: That would be fine.

25 MR. PUSATERI: Two, does that relate to the

1 second charge?

2 MR. SNYDER: That's 2 dealing with -- you
3 want it supplemental dealing with the, I'm sure this
4 goes along to --

5 MR. PUSATERI: What do you think, Chris?
6 (Off the Record.)

7 MR. PLAKAS: Mr. President, if it please
8 council, during, as I indicated, during the last
9 ten-minute break we attempted to assemble some of the
10 documents that I thought were responsive to the
11 testimony that was elicited before the break. And
12 again I apologize to council that it wasn't in a
13 notebook. And what we have is a package of primarily
14 first correspondence back and forth between Johnson's
15 firm and Mr. Held and the city, and then there are
16 some minutes of North Canton council minutes, and
17 what I tried to do with Mr. Held's copy is put
18 everything in chronological order. I sense that the
19 copies you have may not be in total chronological
20 order and for that I apologize. But I believe that
21 everything is going to be in the stack and just for
22 purposes of, of chronology we'll go through them.

23 BY MR. PLAKAS:

24 Q And Mr. Held, what generally I'll be asking you with
25 regard to these documents starting with the document

1 that's the letter of February 11th and in council's
2 package it's toward the back rather than toward the
3 top, and this is a letter dated February 11, 2003,
4 from Mr. Held to Gary Johnson who I believe is with
5 the firm of Johnson & Angelo. And that is your
6 signature, Mr. Held, at the bottom of that February
7 11th, 2003, letter?

8 A That's correct. Yes, sir.

9 Q And you dictated and authorized this letter?

10 A That's correct.

11 Q And this letter requests on behalf of the City of
12 North Canton a quote for the assessment of labor
13 agreements; is that correct?

14 A That's correct.

15 MR. PUSATERI: I'm sorry, Lee. This is going
16 to be Exhibit 1L then that you're talking about right
17 now?

18 MR. PLAKAS: 1L would be fine.

19 MR. PUSATERI: Sorry.

20 MR. PLAKAS: No, that's all right.

21 Q The next letter in chronology I believe is the letter
22 back from Johnson & Angelo, February 21st, 2003. And
23 with regard to the letter you sent and the response
24 letter, that solely dealt with quotes for evaluating
25 and assessment of the union labor agreements for the

1 City of North Canton; is that correct?

2 A That's correct.

3 Q Okay. And in fact, as I look at the letterhead of
4 Johnson & Angelo, although you mentioned talking with
5 Mr. DeSario I don't see him listed as an attorney
6 with Johnson & Angelo; isn't that correct?

7 A That's correct. That's not listed on this document
8 here.

9 Q Okay. The next document, which would be N, is a memo
10 dated February 24th, 2003, from Law Director
11 Batista -- oh, from you to Law Director Batista and
12 that's signed by you?

13 A February 24th, 2003, memo.

14 Q February 24th, 2003.

15 A Yes.

16 Q Okay. And that once again with regard to this need
17 to employ Johnson & Angelo only refers to the
18 collective bargaining agreements; correct?

19 A That's correct.

20 Q The next document is a letter back to you from
21 Mr. Batista dated February 27th, 2003, and he
22 indicates that there is a need to review the
23 collective bargaining agreements?

24 MR. FUNK: I apologize in advance for
25 interrupting, but Attorney Plakas, can you just

1 identify what the exhibit number when you refer?
 2 MR. PLAKAS: Yes, this would be 10.
 3 Q And it's a memo from you -- from Batista to you dated
 4 February 27th, 2003?
 5 A Yes.
 6 Q And that refers once again solely to the collective
 7 bargaining agreement and retaining Johnson & Angelo
 8 solely for that; is that correct?
 9 A That's correct.
 10 Q Okay. The next document would be P, and that's a
 11 letter from Johnson & Angelo dated April 25th, 2003,
 12 and that makes reference to a contract analysis and
 13 that refers to the collective bargaining agreements;
 14 is that correct, sir?
 15 A That's correct.
 16 Q And once again on the letterhead of Johnson & Angelo
 17 I don't see the name of Mr. DeSario; is that correct?
 18 A That's correct.
 19 Q And the next document will be Q. And that's a letter
 20 dated May 20th, 2003, a letter from Gary Johnson of
 21 Johnson & Angelo to you?
 22 A That's correct.
 23 MR. PUSATERI: There are two, I'm sorry.
 24 Mr. Plakas, there are two May 20th documents from
 25 Johnson & Angelo.

1 MR. PLAKAS: The first one would be the
 2 consulting agreement.
 3 MR. PUSATERI: Okay. And the next May 20th
 4 letter will be R.
 5 Q And that makes reference to a professional fee
 6 schedule.
 7 A That's correct.
 8 Q And on the letterhead of both Q and R there's no
 9 reference to Mr. DeSario; is that correct?
 10 A That's correct.
 11 Q And in the professional fee schedule in terms of the
 12 hourly fees charged by each attorney, there's no
 13 reference to Mr. DeSario and any charges that
 14 Mr. DeSario would charge; is that correct?
 15 A That's correct.
 16 Q The next letter, the next document would be S and
 17 that's June 10th, 2003, and that's the letter once
 18 again to you from Johnson & Angelo and that makes
 19 reference solely to the City of North Canton labor
 20 agreements; is that correct, sir?
 21 A That's correct.
 22 Q And once again, Mr. DeSario isn't listed on their
 23 letterhead?
 24 A That's correct.
 25 Q The next document will be T. And that's a home page

1 of the Web site of Johnson & Angelo, and is there any
 2 reference to Johnson & Angelo having an attorney
 3 DeSario there on the Web site?
 4 A No, sir.
 5 Q The next document will be U. That's a letter of May
 6 29th, 2003?
 7 MR. PUSATERI: I'm sorry to interrupt once
 8 again but we've been numbering every page. If that
 9 can be 1U and 1V; is that correct?
 10 MR. PLAKAS: The letter, yes. 1U and 1V.
 11 Q And that's a letter from Mr. Batista to you?
 12 A Yes.
 13 Q And he indicates that he has no opposition to the
 14 retention of a specialized public sector law firm for
 15 the purposes of the negotiations, and that makes
 16 reference to the collective bargaining agreement
 17 coming up with your unions in the city; is that
 18 correct, sir?
 19 A That's correct.
 20 Q Now, for the time being, those are the letters all of
 21 which refer solely to the collective bargaining
 22 agreement. Then the next step of information will be
 23 transcribed portions of council meetings. First one
 24 will be W.
 25 MR. SNYDER: Mr. Plakas, I question that as

1 to the authenticity. Those aren't certified
 2 transcripts. Who actually transcribed them and where
 3 did they come from? We do have, we keep
 4 contemporaneous records but I don't know, those are
 5 just typed pages of blank paper. We have no known
 6 source of who typed them, who authenticated them as
 7 being actual council meetings.
 8 MR. PLAKAS: Okay.
 9 MR. SNYDER: So I would object to their
 10 introduction as to their certification. Who
 11 transcribed them?
 12 MR. PLAKAS: What I propose to do then,
 13 Mr. President, is submit them subject to your
 14 ultimate determination as to whether they will
 15 ultimately be accepted.
 16 MR. SNYDER: Very good, sir.
 17 MR. PLAKAS: Okay. So the first document we
 18 will proffer is June 16th, 2003, and it will be W and
 19 X, two pages of proffered transcribed council
 20 minutes. Next will be Y, Z, double A, double B, and
 21 double C. And we proffer those as transcribed
 22 minutes of the --
 23 MR. PUSATERI: I don't have double C.
 24 MS. KIESLING: I have double D also.
 25 MR. PLAKAS: You have double C?

1 MR. PUSATERI: None of us do.
 2 MR. PLAKAS: All right. Then we'll go to
 3 double B. And we will also proffer those as
 4 transcribed minutes of the council of the whole dated
 5 September 22nd, 2003, and it's subtitled Legislation
 6 to Grant Additional \$15,000 for Labor Negotiations.
 7 BY MR. PLAKAS:
 8 Q Now, as indicated, Mr. Held, during the break during
 9 your testimony we did what we could to accumulate
 10 additional documents. None of these documents make
 11 any reference to your authority or the propriety of
 12 seeking personnel advice from someone other than
 13 Mr. Batista or Mr. Treadon in terms of any personnel
 14 issues or questions that you might have had with
 15 regard to Mike Hickey. Are you aware of any
 16 documents anywhere that we can go find and bring to
 17 this council that would document the authority and
 18 propriety of you seeking advice from a law firm that
 19 by the documents that we have in front of us was
 20 solely retained for the purposes of the collective
 21 bargaining labor agreements? Is there anywhere that
 22 you would suggest that we go for that?
 23 A No, not to my knowledge I don't believe that that
 24 exists.
 25 Q And you've already indicated that with regard to

1 Mr. Hickey you didn't try to unhire him, and you
 2 already indicated that if you felt that he was a
 3 threat to the city or the citizens of North Canton
 4 you would have done the right thing and you would
 5 have terminated him regardless of the consequences to
 6 you and we know you didn't do that. And you would
 7 agree that if Mr. Treadon or Mr. Batista had
 8 suggested that, for example, the Hertler complaint
 9 not be included in Mr. Hickey's personnel file that
 10 you wouldn't have disputed them or overruled them in
 11 terms of the propriety of including that or not
 12 including that in the file; right?
 13 A That's correct.
 14 Q You would have relied on their expertise?
 15 A Yes, that's correct.
 16 Q And if they wouldn't have advised that you wouldn't
 17 have thought there was anything improper or fishy or
 18 inappropriate about following that advice, would you?
 19 A That's correct.
 20 Q Now, this proceeding that we are all enjoying, end of
 21 quote, arises out of a complaint that was referred to
 22 the city prosecutor of Canton. While you were
 23 employed here, the city prosecutor of Canton, Mr.
 24 Frank Forchione, investigated another complaint with
 25 regard to North Canton city government; correct?

1 A That's correct.
 2 Q Okay. And what was that complaint in regard to?
 3 A I believe that was the ethics charge, if I remember
 4 correctly, is the Frank Forchione investigation.
 5 Q During your tenure here was there an investigation by
 6 Mr. Forchione in regard to a complaint against
 7 another councilperson, Mr. Osborne?
 8 A There was an investigation to, I believe it was the
 9 removal of Mr. Osborne.
 10 Q Okay. And for guidance in that issue, North Canton
 11 city council sought out the advice of Mr. Forchione;
 12 correct?
 13 A That's correct. I believe he conducted the
 14 investigation. Am I correct on that?
 15 Q And in that regard he actually conducted an
 16 investigation, did interviews similar to this one, in
 17 fact issued a report where he recommended that
 18 Mr. Osborne be reprimanded but he recommended that
 19 the ultimate issue of whether Mr. Osborne be removed
 20 or not removed be left to the citizens of North
 21 Canton pursuant to their right to elect public
 22 officials; is that correct?
 23 A Yes. That's correct.
 24 Q Okay. And you were aware of that?
 25 A Yes.

1 Q And you didn't disagree with that, did you, at that
 2 time? You felt that the right of citizens to elect
 3 public officials and to judge them based on their
 4 performance at the next election was appropriate;
 5 correct?
 6 A I didn't have an opinion.
 7 Q You didn't have an opinion?
 8 A No.
 9 Q Okay. With regard to this situation, once again
 10 Mr. Forchione was asked to investigate the situation,
 11 once again he issued a report that suggested, as he
 12 had done with the Osborne matter, that there be a
 13 reprimand, but once again he suggested that the issue
 14 of the removal of the public official in this
 15 case, Mayor Rice, be left to the citizens of North
 16 Canton to exercise their right to vote or retain
 17 public officials in office at the next election;
 18 correct?
 19 A As I understand it, yes, that's correct.
 20 Q Okay. Unlike the, in the Osborne situation, the city
 21 council gave due deference to the investigation of
 22 the Canton prosecutor and followed his recommendation
 23 and left it to the citizens to ultimately decide
 24 whether Mr. Osborne would, would be retained or
 25 continue to be a part of the government.

1 In this case with regard to Mr. Rice,
2 although the same exact recommendation was made, the
3 city council ignored that recommendation and in fact
4 decided not to reprimand Mr. Rice but -- and not to
5 allow the citizens to make a decision as to whether
6 to retain him at the next election but instead to
7 take matters into their own hands in this proceeding
8 and make that decision themselves. How were you a
9 part of those discussions?

10 A I was not.

11 MR. FUNK: Objection.

12 Q How did you learn first learn that the city council
13 was considering ignoring the advice of Prosecutor
14 Forchione --

15 MR. SNYDER: Mr. Plakas, Mr. Held is not an
16 elected member of the council. This happened outside
17 the scope of the actual charges. Mr. Held's opinion
18 or Mr. Held's value in the action of council is not
19 germane to this issue.

20 BY MR. PLAKAS:

21 Q I would just ask, regardless of your opinion, so I
22 would agree you don't have to have an opinion on
23 that, what discussions as the city was determining
24 whether or not to ignore the advice and
25 recommendation of the prosecutor, what discussions

1 you did have with any of the city council members in
2 regard to their proposed action?

3 MR. FUNK: Objection. I'm going to object as
4 to the relevancy. This line of questioning.

5 MR. SNYDER: Again I would have to reiterate,
6 sir, Mr. Held has no elected position in the city. I
7 don't think Mr. Held was an employee of the city. He
8 was left go around the 29th, 30th of January. This
9 was discussed I believe March of the same year so he
10 would have no privileged information and technically
11 his opinion outside of a citizen means nothing to the
12 council.

13 MR. PLAKAS: Sure, and that's a great point
14 and you hit a great point. The fact that he wasn't
15 an employee after the fact but the fact that he may
16 have indeed spoken with a couple of you while you
17 were making this decision, it becomes extremely
18 germane because at that point you've brought him in
19 as your star witness. The first witness, the star
20 witness. We have a right to determine what
21 discussions he had with several of the members here
22 that prompted him to testify and that prompted these
23 members to take the action they did which is
24 absolutely contrary to the action they took in a very
25 similar case involving Mr. Osborne with the same

1 well-qualified Canton city prosecutor making
2 identical recommendations. So I think it's fair game
3 to ask him that.

4 MR. SNYDER: Sir, I think you alluded to
5 Mr. Forchione's, which I believe is, might be in our
6 Exhibit 1.

7 MR. PUSATERI: Exhibit 7.

8 MR. SNYDER: Exhibit 7. Mr. Forchione did
9 call Mr. Held, Mr. Held responded of his own free
10 volition and that's what we based our witness list on
11 as to Mr. Held's conversation with independent
12 members of council. Counsel, I would say a chapter
13 from your book that's hearsay. I have no knowledge,
14 no record of anybody speaking to him, and if they did
15 it's no different than you or I talking as we have
16 done and we're becoming professional friends.

17 MR. PLAKAS: If you and he, for example, or
18 you and he and Ms. Kiesling, for example, had
19 conferences in regard to the subject matter of, the
20 subject of the information he knew or Mr. Sarbach,
21 for example, and discussed testimony and discussed
22 issues, wouldn't it be relevant?

23 MR. SNYDER: You can object, sir, but you're
24 assuming something that's not been presented as
25 evidence to prove he had that discussion.

1 MR. PLAKAS: Of course, the only way it can
2 be presented in evidence is if you allow me to ask
3 him the question under oath.

4 MR. SNYDER: A discussion he possibly could
5 have called his councilman, Mr. Sarbach, or one of
6 the at large or Mr. Lindower, I have no idea.

7 MR. PLAKAS: For a hypothetical.

8 MR. SNYDER: Please.

9 MR. PLAKAS: Mr. President. Assuming for the
10 sake of discussion that you and Mr. Held sat down and
11 you, as the affidavit from Plain Township trustee
12 Mr. Giavasis says, that you expect to be mayor soon
13 and you sit down with Mr. Held pursuant to the sworn
14 testimony of Mr. Giavasis that you're expecting to be
15 mayor soon and there's evidence and testimony that
16 you've sat down with Mr. Held and planned his
17 testimony to enable you to be mayor, would that be
18 relevant?

19 MR. SNYDER: Well, I would say if I had that
20 conversation. But you cannot present any evidence,
21 nor can you present anybody or can Mr. Held say that
22 because it never took place in my case. I don't know
23 with the other members, and this again assumes that
24 you're saying that I had a conversation with
25 Mr. Giavasis or anybody else that you've given me an

1 affidavit for. But again, that's one sided, sir.
 2 MR. PLAKAS: Sure.
 3 MR. SNYDER: Judge Brown wouldn't permit you
 4 to bring it in the back door, I can't let you bring
 5 it in over here. It's really irrelevant to these
 6 charges. I'm not going to permit you to ask this
 7 witness things of a private conversation which he had
 8 an expectation of privacy to assume when he's either
 9 talking to a councilman or to me as his friend and it
 10 isn't, I didn't necessarily speaking to him -- excuse
 11 my stutter because I lost my train of thought. That
 12 I had a conversation, that I would coach this
 13 gentleman into what to say against the mayor. I
 14 didn't work with the mayor, Mr. Held did.
 15 MR. PUSATERI: Just to interrupt. I'm just
 16 going to add something. I think that Mr. Plakas
 17 certainly has a right to ask if Mr. Held's testimony
 18 has been coached or created by a councilman. I mean,
 19 if that's the line of questioning I think he's trying
 20 to ask, that's certainly allowable. That's different
 21 than the affidavit of Giavasis.
 22 MR. SNYDER: Right. I understand that.
 23 That's an honest question.
 24 MR. PUSATERI: Yeah, that's an honest
 25 question. I don't see why he can't ask those types

1 of questions. It goes directly to his credibility as
 2 a witness here today. It's different than the
 3 affidavits that were presented earlier in the opening
 4 statement. I think at some level he can go through
 5 those types of questions.
 6 MR. SNYDER: Fine. I'll allow him to
 7 question, the questions. Just ask him a direct
 8 question.
 9 MR. PUSATERI: Again, my role is to make sure
 10 the mayor receives due process. If in fact council
 11 coached Mr. Held about how to testify today, that
 12 certainly is relevant.
 13 MR. PLAKAS: Mr. President, just so I can
 14 make a Record, I believe respectfully, sir, that your
 15 comments during the last five minutes underscore and
 16 crystallize what's wrong with this proceeding.
 17 Because it's very difficult for you, if not humanly
 18 impossible, when there's about to be or the threat of
 19 testimony adverse to your position and your future as
 20 the mayor of the City of North Canton, it's humanly
 21 impossible for you to take an unbiased view and just
 22 say let all the evidence come in. You'd be for --
 23 before Mr. Pusateri interrupted and that evidence
 24 isn't coming in and then you went on for five minutes
 25 and testified, not being under oath, that it never

1 happened.
 2 MR. PUSATERI: Mr. Plakas, you're testifying
 3 now too.
 4 MR. PLAKAS: Well, only after he testified.
 5 MR. PUSATERI: I understand. But just move
 6 on.
 7 MR. SNYDER: Mr. Plakas, I'm not a trained
 8 attorney. I apologize to you and to the mayor.
 9 However --
 10 MR. PUSATERI: That's fine.
 11 MR. PLAKAS: However, in terms of his
 12 testimony versus mine, I'm not in position to become
 13 the mayor of North Canton if he rules against Mayor
 14 Rice.
 15 MR. PUSATERI: Just ask the question.
 16 MR. PLAKAS: So mine isn't testimony.
 17 MR. PUSATERI: Okay. I'm sorry. Just I
 18 agree that those questions are germane if as you
 19 requested. That's why I stepped in to make sure we
 20 have due process. This is an issue if it were to be
 21 appealed would cause some difficulties, so yes, I
 22 think he should be allowed to ask these questions.
 23 MR. FUNK: For the Record, if I may. I
 24 believe the question on the floor is whether or not
 25 Mr. Held was coached by any member of council with

1 respect to his testimony at these proceedings. Is
 2 that accurate, Mr. Plakas?
 3 MR. PLAKAS: No, that wasn't my question.
 4 MR. FUNK: I believe that's what the city
 5 solicitor has indicated would be allowed with respect
 6 to your line of questioning.
 7 MR. PLAKAS: Well, I'm going to ask my
 8 questions, and ultimately a court and a court of
 9 public opinion will determine whether they're
 10 appropriate questions and fair questions. I know,
 11 Mr. Funk, you don't want me to ask these questions.
 12 I know you don't want to answer them, but I will ask
 13 them.
 14 MR. FUNK: Quite frankly, Mr. Plakas, it has
 15 nothing to do with what I want or don't want.
 16 MR. PLAKAS: Why are you objecting then?
 17 MR. FUNK: I'm trying to stay focused on the
 18 facts that are germane and relevant to the issues at
 19 hand.
 20 MR. SNYDER: Gentlemen, that's enough.
 21 MR. PLAKAS: Facilitating the procedure by
 22 objecting is an odd way of doing it.
 23 MR. SNYDER: Please continue.
 24 BY MR. PLAKAS:
 25 Q Mr. Held, I'm going to ask you a series of questions.

1 I'm going to remind you that you're sworn to tell the
2 truth and under oath.

3 A Yes, sir.

4 Q Okay. Isn't it true, sir, that between the time that
5 Mister -- that Mayor Rice first asked you for your
6 resignation and today's date, you have had
7 conversations with Councilperson Kiesling about the
8 removal of Mayor Rice. Isn't that true?

9 A I've had conversations with Marcia Kiesling.

10 Q About the removal of Mayor Rice?

11 A No conversations, no. I made it very clear that if I
12 was subpoenaed I would testify truthfully. I'm on
13 the record for that I believe in the paper.

14 Q Okay.

15 A And that was the advice that I was given by my
16 attorney.

17 Q Between the time that you were first asked for your
18 resignation and today's date, how many conversations
19 have you had with Councilperson Kiesling?

20 A I would say maybe a few. You know, I would see her
21 at the swimming pool with her kids.

22 Q Which swimming pool?

23 A Dogwood.

24 Q Okay.

25 A See her just in passing. I wouldn't say

1 conversations. Hello and introductions, but I
2 wouldn't necessarily say conversations, no.

3 Q So is it your testimony under oath that you never had
4 any conversation with her other than about swimming
5 at Dogwood?

6 A I would say there may have been conversations, but
7 you're asking in reference to the removal of Tom Rice
8 and I'm making that clear that I was given the advice
9 of my attorney that if I was subpoenaed I would
10 discuss that in front of council.

11 Q Sure. But your attorney didn't come on the scene
12 until about a month ago; isn't that right?

13 A Well, as far as the official hiring. Yes. But I
14 also had counsel from other attorneys that I spoke
15 to. So and I also spoke with Jack DeSario, who is an
16 attorney, but I didn't, you know, he's not billing
17 me, so when I should say -- when I say attorney I'm
18 not necessarily referring to Dan Funk.

19 Q So that we're clear as you testify under oath, then
20 is it your testimony that from the time that you were
21 asked for your resignation until today's date you and
22 Councilperson Kiesling have never discussed the
23 matters involving the removal of Mayor Rice,
24 Mr. Hickey, the law firm in Cleveland, Johnson &
25 Angelo, Jack DeSario, the selling or requesting sale

1 of campaign tickets, the political action committee,
2 the Heiser property. Is that your testimony that
3 you've never had any discussions with Councilperson
4 Kiesling about those matters?

5 A It's my recollection that my conversations with
6 Marcia Kiesling or any member of council in reference
7 to any, any of the hearings or probable testimony of
8 me before council I made it very clear that if I was
9 subpoenaed that would be the time to talk about that.

10 Q I'll ask you the same question with regard to
11 Councilperson Peters. Since the time that you were
12 first asked for your resignation until the present
13 date have you talked with him at all about the
14 subject matter of these hearings, which include all
15 those things we mentioned involving you. Have to go
16 through the litany or do you --

17 A Okay. No, that's not necessary. Certainly there may
18 be a comment in passing if I see them out on the
19 street, which is very easy to do since we all live in
20 the same community and there might be a remark like,
21 Hey, how's it going up at city hall? Good luck.
22 Comments like that, but certainly refrained from any
23 discussion because I was very careful that I did not
24 want to, I did not want to get into that.

25 I was given an opportunity by the city to

1 come and discuss any grievance or to make any
2 statement to city council on a formal basis when I
3 was let go and I elected not to do that. I waived
4 that right.

5 Q I will ask you, by the way, when you say that
6 Mr. Peters may have asked you in passing, How's it
7 going with the city, why would he ask you that if you
8 had already been terminated?

9 A No, I'm saying that I would ask that.

10 Q You would ask that?

11 A I don't recall the exact words, but you know, just in
12 casual conversation when you're walking by somebody,
13 Hey, good luck.

14 Q What would you say?

15 A I don't recall. Laugh usually. Hey, aren't you glad
16 you're out of there.

17 Q I'll ask you the same question with regard to
18 Mr. Sarbach.

19 A Yes.

20 Q And?

21 A Same thing.

22 Q You've never had any conversations with him regarding
23 the subject matter of these hearings?

24 A It's my recollection of any conversation, again we
25 can go through the list if you like of any of the

1 council members.
 2 Q We're going to stop with Mr. Snyder.
 3 A Okay, Mr. Snyder.
 4 Q Would you answer for the Record those with regard to
 5 Mr. Sarbach?
 6 A With regard to Mr. Sarbach, my recollection of all
 7 conversations that I had I was very careful to make
 8 sure that, that I repeated to them that if I was
 9 going to speak on this matter that I would do so if I
 10 was subpoenaed. Because again, I did waive my right
 11 to speak to council here as a body when I was allowed
 12 to under the charter after my removal and I chose to
 13 waive that.
 14 Q I'll ask you the same question under oath with regard
 15 to the council president Mr. Snyder.
 16 A Uh-huh.
 17 Q And your answer, have you had -- in response to my
 18 question have you had any discussions with Mr. Snyder
 19 with regard to the subject matter of these hearings?
 20 A Again I -- my recollection of the conversations that
 21 I would have with any member of council is I made it
 22 very clear that if I was subpoenaed I would talk. I
 23 would, I would, I would talk about what I know and I
 24 would answer truthfully and honestly and
 25 cooperatively, and that was stated in the press.

1 Believe a number of months ago, because I was asked
 2 repeatedly by a number of people.
 3 Q So in answer to my question, did you or did you not
 4 have those type of conversations with Mr. Snyder?
 5 A My conversations with Jon Snyder were very much
 6 limited to casual conversation.
 7 Q Did they include any discussion about subject matter?
 8 A No, I deliberately, I deliberately wanted to keep
 9 myself away from that subject.
 10 Q Okay. You have a computer, don't you, at home and at
 11 work?
 12 A Yes. Yes.
 13 Q Okay. You know how to e-mail, don't you?
 14 A Yes.
 15 Q Okay. I've asked you about conversations, and that
 16 generally means oral conversations.
 17 A Yes.
 18 Q I will now ask you the same question with regard to
 19 each one of these people with regard to e-mail.
 20 A Yes.
 21 Q Electronic communications or any other type of
 22 written communications. With regard to the same
 23 question as to different types of communication, do
 24 you have the same answer with regard to each one of
 25 these councilpeople, starting with Councilperson

1 Kiesling?
 2 A No. There was -- I understand she has an e-mail, but
 3 again I restricted myself and I had no reason to do
 4 that.
 5 Q Did you communicate with her by e-mail?
 6 A I may have on time to time in my employment in North
 7 Canton, but it was, if it was it was extremely
 8 infrequent. Where she may have sent an e-mail to me
 9 at home or at city hall.
 10 Q With regard to Mr. Peters, did you communicate with
 11 him either electronically or in writing?
 12 A No.
 13 Q With regard to Mr. Sarbach, did you communicate with
 14 him either electronically or in writing?
 15 A Mr. Sarbach, he had sent me e-mails actually at city
 16 hall while I was the administrator and at the time he
 17 was not a city council member, so there was e-mails
 18 from Mr. Sarbach.
 19 Q What was the subject matter of those?
 20 A Oh, complaints about residents. The, you know, snow
 21 plowing or something that needed to be done, but
 22 that's, that was it.
 23 Q Okay. Did you ever have any electronic or other
 24 written discussion or communication with Mr. Sarbach
 25 with regard to the subject matter of this hearing?

1 A I believe there was an e-mail that was sent from
 2 Mr. Sarbach, I think, I believe if I remember
 3 correctly it was forwarded from Mr. Sarbach where he
 4 had sent an e-mail to -- an individual in the city
 5 who was complaining about me through, through the
 6 Comments section of the Canton Repository and
 7 Mr. Sarbach had responded to that individual, I think
 8 it was Dave Aulshouse, and I think I did get a
 9 communication with regard to what Mr. Sarbach sent.
 10 I'm not sure, I don't recall whether it was sent by
 11 Mr. Sarbach or Mr. Aulshouse but I did get that
 12 communication.
 13 Q And Mr. Sarbach came to your defense in that
 14 communication?
 15 A Yes.
 16 Q With regard to Mr. Snyder, what type of electronic or
 17 written communications would you have had with him
 18 that would touch on the issues that we're dealing
 19 with in this proceeding?
 20 A I don't believe he has e-mail. Or a computer.
 21 Q Or mailing address?
 22 A I'm sorry?
 23 Q How about mail?
 24 A A normal U.S. postal mail?
 25 Q Yes.

1 A No. I did not. Do not recall that.
 2 Q Now, with your -- in terms of your affiliation, your
 3 relationships with any of these four councilpeople,
 4 in addition to seeing Ms. Kiesling at Dogwood Pool,
 5 what other, what other groups or clubs or
 6 relationships are you both members of?
 7 A The Republican, I'm a central committee person and
 8 she's a central committee person.
 9 Q So the Republican central committee?
 10 A That's correct.
 11 Q You both are members of that?
 12 A Right.
 13 Q Anything else?
 14 A To my knowledge that's all I can think of. Dogwood
 15 Swimming Pool.
 16 Q All right. Mr. Peters?
 17 A I don't, I don't recall any that I know.
 18 Q Mr. Sarbach?
 19 A I do not recall any. I mean, unless maybe I'm not
 20 sure if Mr. Sarbach is a precinct committee member or
 21 not.
 22 Q A Republican precinct committee member?
 23 A That's correct. If he is, then of course.
 24 Q And Mr. Snyder?
 25 A I don't believe that he is a member of the -- well, I

1 believe he's an at-large member of the Republican
 2 party for the North Canton council --
 3 Q The Republican Central Committee makes
 4 recommendations on political appointments?
 5 A Yes.
 6 Q You've in the past, and even after you were
 7 terminated from the City of North Canton, were
 8 seeking a, a political appointment position, weren't
 9 you?
 10 A Yes.
 11 Q Okay. And what was that?
 12 A Auditor.
 13 Q Okay. And Ms. Kiesling supported you in that, didn't
 14 she?
 15 A No. As a matter of fact, she told me that she was
 16 voting against me for that appointment.
 17 Q Ultimately how did she vote?
 18 A I don't know. Because it's secret ballot.
 19 Q Okay. Did Mr. Snyder support you in your quest to be
 20 auditor?
 21 A I don't know what his vote was.
 22 Q Okay. And how about Mr. Sarbach?
 23 A But I certainly heard conflicting views as far as
 24 whether I had support or not.
 25 MS. KIESLING: Not from me.

1 A And I can definitely say I believe Mr. Sarbach, if I
 2 remember correctly, did not support me for that as
 3 well. Now those, those statements also could change,
 4 too.
 5 Q Your testimony could change?
 6 A No. No. That's not what I meant. I'm saying that
 7 the positions of council could change as to whether
 8 or not they supported me for auditor. That's been my
 9 experience. But it's political so --
 10 Q It's clear that even after leaving the City of Canton
 11 you -- North Canton, you do have and maintained
 12 political aspirations, don't you, sir?
 13 MR. FUNK: Objection. As to relevancy.
 14 Q Isn't that true, sir?
 15 MR. FUNK: Objection.
 16 MR. SNYDER: Is there a reason that you need
 17 to go here, Mr. Plakas?
 18 MR. PLAKAS: I think so.
 19 MS. KIESLING: Obviously.
 20 MR. SNYDER: Well, we'll note the objection
 21 on the Record and proceed.
 22 A As of today, no.
 23 Q When did that change?
 24 A Mayor Rice had asked me, had encouraged me at one
 25 point that I should, that I would be a good mayor.

1 Q Well, after you left the City of North Canton you
 2 still had political aspirations because you wanted to
 3 be auditor. You've run for county commissioner?
 4 A That's correct.
 5 Q Before. Unsuccessfully; is that right?
 6 A That's correct.
 7 Q You were unsuccessful in your quest to be auditor?
 8 A For the appointment, that's correct.
 9 Q Okay. You subsequently received an appointment to
 10 the waste management position?
 11 A That's correct.
 12 Q And you would not rule out in the future a career in
 13 politics, would you?
 14 A I mean, I guess I would have to make a decision based
 15 upon something that's presented. But right now I
 16 have no plans today.
 17 Q Through the entire time you were here at North Canton
 18 and had the opportunity to very closely watch
 19 everything that was going on, including the mayor and
 20 the mayor's conduct and everybody else here in city
 21 administration, at no time did you think anything
 22 rose to the level that you, because of your
 23 conscience and because you always had the best
 24 interests of the citizens of North Canton in the
 25 forefront, at no time did you voluntarily terminate

1 or walk away from the position here as city
 2 administrator?
 3 A No, I did not.
 4 MR. PLAKAS: I have nothing further.
 5 MR. SNYDER: Thank you, sir.
 6 MR. PLAKAS: I would reserve, based on the
 7 document and we believe there's other issues in other
 8 documents, and at this point we would reserve our
 9 right to recall Mr. Held and will be asking
 10 Mr. Pusateri for a subpoena to recall him during our
 11 case in chief.
 12 MR. PUSATERI: No problem. Do you want to
 13 take a break now?
 14 MR. SNYDER: We'll take a short break and
 15 we'll come back and redirect Mr. Held. Thank you,
 16 Mr. Plakas.
 17 (WHEREUPON, a recess was taken.)
 18 MR. SNYDER: All right, we're back on the
 19 Record. Mr. Pusateri, you have a question before we
 20 continue?
 21 MR. PUSATERI: Yes. I'd like to ask Mr. Held
 22 a question. Ms. Kiesling approached me during the
 23 break and I just want to, for clarification,
 24 understand, Mr. Held, if you had any conversations
 25 with Ms. Kiesling or any of the council members

1 concerning any of the charges that are being brought
 2 against the mayor today. And do you understand my
 3 question?
 4 MR. PLAKAS: If it please the Court, I think
 5 I asked that question about a half dozen times in
 6 several different ways. If in fact Mr. Held, as he
 7 was under oath, sworn to tell the truth under
 8 penalties of perjury, answered correctly --
 9 MR. PUSATERI: Mr. Plakas, let me finish my
 10 question.
 11 MR. PLAKAS: Paul, come on. What kind of
 12 procedure is this where after caucusing with
 13 Councilperson Kiesling you now come out and ask a
 14 question for him?
 15 MR. PUSATERI: I'm asking questions that will
 16 clarify his understanding of your questioning.
 17 MR. PLAKAS: Paul.
 18 MR. PUSATERI: And an opportunity -- let's
 19 read back the question to see if there's any
 20 confusion. You'll have an opportunity to
 21 cross-examine him after this.
 22 MR. PLAKAS: You know, this is the stuff of
 23 which kangaroo courts are made. You can't ask him
 24 that question. He's under oath, he answered it. Mr.
 25 Snyder's ready to go and what are you doing asking

1 him to clarify a question that's not confusing to
 2 begin with and I asked him it a half dozen times.
 3 THE WITNESS: What is the question?
 4 MR. PUSATERI: I asked the question. Can you
 5 clarify your earlier testimony concerning any
 6 conversations you had with Councilperson Kiesling
 7 concerning any of these charges that are being
 8 brought against the mayor.
 9 MR. PLAKAS: You know, I object and I --
 10 MR. PUSATERI: That's fine.
 11 MR. PLAKAS: I think that's outrageous.
 12 MR. PUSATERI: That's fine.
 13 MR. FUNK: I would like to note a
 14 clarification as to time frame.
 15 MR. PUSATERI: After you, after you left
 16 employment with the City of North Canton.
 17 THE WITNESS: So the question is my
 18 conversations with Marcia Kiesling?
 19 MR. PUSATERI: Or any council members. And
 20 understand that Mr. Plakas will then have an
 21 opportunity to follow up with these questions.
 22 MR. PLAKAS: Just for the Record, I would
 23 object.
 24 MR. PUSATERI: I understand that.
 25 MR. PLAKAS: For the additional reason that

1 clearly during the break, Mr. Pusateri, respectfully,
 2 you and Ms. Kiesling were in fact conferring.
 3 MR. PUSATERI: That's why I started the
 4 questions by saying Ms. Kiesling approached. I'm not
 5 trying to hide anything, Mr. Plakas.
 6 MR. PLAKAS: Obviously Mrs. Kiesling has
 7 detected Mr. Held has not testified accurately and
 8 she doesn't want the session to end without you
 9 giving him a chance to save his chestnuts.
 10 MR. PUSATERI: That's your observation.
 11 MR. PLAKAS: And that's the truth and you
 12 know it. So I object to you intervening.
 13 UNIDENTIFIED SPEAKER: As a citizen I do,
 14 too.
 15 MR. PLAKAS: Excuse me?
 16 UNIDENTIFIED SPEAKER: As a citizen I do,
 17 too.
 18 MR. PLAKAS: As citizens you all should. You
 19 all should.
 20 THE WITNESS: So the question is as far as
 21 conversation --
 22 MR. PUSATERI: I'm just asking for
 23 clarification in understanding.
 24 MR. PLAKAS: You can't clarify something that
 25 isn't confusing. He told me, how many times did he

1 tell me, how many chances did I give him. We all
 2 know.
 3 THE WITNESS: You asked me --
 4 MR. FUNK: Don't say anything. You can read
 5 the question back that was asked.
 6 MR. PUSATERI: That's fine. Let's do it that
 7 way.
 8 MR. FUNK: He asked the question that was
 9 addressed specifically to Ms. Kiesling.
 10 (Discussion off the Record.)
 11 MR. PUSATERI: At the pleasure of council,
 12 Mr. Held can remain on the stand.
 13 MR. SNYDER: I'm sorry, you'll have to
 14 clarify what procedure you want to do.
 15 MR. PUSATERI: Do you want to take a break
 16 here, come back in 15 or 20 minutes if she can find
 17 the questions or whatever date.
 18 MR. SNYDER: Let's do it today. Stay here
 19 tonight. That's fine. All right. I'll declare a
 20 ten-minute recess.
 21 MR. PLAKAS: Mr. President, I would at this
 22 time move that in light of the rather bizarre events
 23 that have just occurred, I would respectfully request
 24 that you order the witness, who's under oath, sworn
 25 to tell the truth, to have no discussions with anyone

1 recess and reconvene Tuesday evening at this point
 2 and I will instruct Mr. Held not to speak with
 3 anybody about it and I think it will be easier for
 4 her to put it on the computer and read it. The only
 5 other option that we have is let her run home and get
 6 a computer so she can get, put it on the computer.
 7 So if that's all right with council, I think we've
 8 exhausted that. Is that all right with you, sir?
 9 MR. FUNK: That's fine. Counsel, that's your
 10 decision.
 11 MR. SNYDER: Mr. Plakas, Mr. Huryn?
 12 MR. PUSATERI: I don't know. He's asking a
 13 question, Mr. Plakas.
 14 MR. PLAKAS: I'm sorry. May I confer?
 15 MR. SNYDER: Please. Let's go off the Record
 16 and you ask me the question.
 17 (Off the Record. Portions of testimony read
 18 by the Reporter.)
 19 MR. SNYDER: Now, if I asked you, you can ask
 20 him questions to repeat that question to answer those
 21 questions that were proffered by Mr. Plakas.
 22 MR. PUSATERI: I simply asked whether there
 23 were any clarifications to those questions. Answers.
 24 I'm sorry. It's getting late. If he wants to
 25 clarify any answers to those questions.

1 other than his attorney and not speak with any of the
 2 council members or Mr. Pusateri in regard to his
 3 anticipated change of testimony.
 4 MR. PUSATERI: That's fine. That's good.
 5 MR. SNYDER: Mr. Held, I'll have to admonish
 6 you, sir, to have no discussions with anybody in
 7 here, be it council member, attorneys for the city or
 8 members of the audience till we reconvene, sir.
 9 THE WITNESS: That's fine.
 10 MR. PLAKAS: Is that fine, Mr. Plakas?
 11 MR. PUSATERI: That's fine. You guys take a
 12 break.
 13 (WHEREUPON, a recess was taken.)
 14 MR. SNYDER: Let's say this. We're
 15 officially on the Record, but unfortunately the
 16 verbal portion of the reporter reading it will not be
 17 captured. So if she'll read it and then --
 18 MR. PLAKAS: That's fine.
 19 MR. SNYDER: And they can have a chance to
 20 respond first, you give your okay and then -- I've
 21 got the attorneys, counsel to Mayor Rice and the
 22 city, the audience, I respectfully ask you to please
 23 understand it's very difficult for her to read that,
 24 she's been at that for a long time as well as working
 25 all day so I'm going to ask you, request that we just

1 MR. PLAKAS: And I would reiterate my
 2 objection because I believe the questions were asked
 3 three times. I believe they were clear and his
 4 answers are very clear and there's no ambiguity, no
 5 lack of clarity, and I think it makes this truly a
 6 kangaroo court to since I think everyone in this
 7 courtroom knows that he didn't testify to the truth
 8 with regard to the relationship and the conversations
 9 with Ms. Kiesling. And I think under oath, sworn to
 10 tell the truth, he is stuck with those answers rather
 11 than being prompted by Councilperson Kiesling or
 12 anyone on behalf of the City of North Canton to give
 13 him an opportunity to now change his testimony.
 14 Because it makes a mockery out of all of us sitting
 15 here for the last two or three hours and expecting
 16 that we were getting truthful answers when we all
 17 know that that wasn't the correct.
 18 MR. SNYDER: Well, I can't go, and I'm
 19 speaking now about myself as the president and I
 20 refer to the members. It would be very difficult, I
 21 would think, to change the testimony once it was
 22 written, read into the Record. And I can't attest to
 23 the veracity of the answers because I don't know. I
 24 wasn't in his mind. But I would say it would be very
 25 difficult at this point to change the testimony.

1 MR. FUNK: Mr. President, we have no
 2 intention of changing the testimony.
 3 MR. SNYDER: That's fine. Then your
 4 question, Mr. Pusateri, is a moot one and at this
 5 point and I will, I'll so say that we'll order it
 6 stay as it was transcribed. Is that comfortable to
 7 the members of this dais? Any objection to that?
 8 Then the material stands as it has been recorded.
 9 MR. PLAKAS: Good. I have some follow-up
 10 questions in light of the rather unusual things that
 11 just occurred.
 12 MR. FUNK: I am going to object to that. I
 13 believe that the questioning was stopped by
 14 Mr. Plakas pending any follow-up questions which were
 15 addressing the issue, which I don't think has
 16 happened in this case.
 17 MR. SNYDER: And at this particular time I
 18 feel that it's appropriate probably to adjourn this
 19 meeting at this hour.
 20 UNIDENTIFIED SPEAKER: Why?
 21 MR. PUSATERI: Questions? Have questions?
 22 It's up to council.
 23 MR. SNYDER: Sorry. Well, then let's
 24 continue. Mrs. Kiesling, do you have any questions?
 25 MS. KIESLING: Why do I get to begin?

1 MR. PUSATERI: I thought, Jon, you start with
 2 the questions first.
 3 MR. SNYDER: I'll start first. Let me put my
 4 glasses on. I apologize. I just have a couple.
 5 REDIRECT EXAMINATION
 6 BY MR. SNYDER:
 7 Q Mr. Held, you were asked by Mr. Plakas relative to
 8 the fact at the hiring of Mr. Hickey that you felt
 9 that he was not a threat to the citizenry of the City
 10 of North Canton, I believe. I'd like you to expound
 11 on that, sir. Was Mr. Hickey, in your position as
 12 director of administration, were you ever asked to
 13 rule on the situation where he did present a threat
 14 to any fellow or other employee in the city of North
 15 Canton.
 16 A There were instances where there, several employees
 17 where there were confrontations. And, and those
 18 confrontations were brought to my attention by the
 19 employees or their supervisor. However, I was
 20 unwilling to get cooperation from those individuals
 21 as filing any sort of formal report but I did ask
 22 them to keep a record for their own sake of any
 23 occurrences that may have happened. But they would
 24 essentially come to me and say, I don't want to lose
 25 my job --

1 MR. PLAKAS: Objection. Hearsay.
 2 MR. SNYDER: All right.
 3 A They expressed concerns.
 4 MR. PLAKAS: Objection. Hearsay.
 5 BY MR. SNYDER:
 6 Q Mr. Held, at that time in the capacity of
 7 administrator, did you advise the mayor of this
 8 situation?
 9 A I brought that to his attention, yes.
 10 Q And he said to you what?
 11 MR. SNYDER: And I think that's, you know
 12 that's within the scope.
 13 A That's hearsay also.
 14 MR. PUSATERI: No.
 15 Q You were part of that conversation.
 16 A The mayor made it clear to me that if he felt that it
 17 was, these were -- it was a conspiracy against him
 18 from some of the workers that didn't like him. And
 19 that he didn't like Mike Hickey because he, he didn't
 20 fit in with the group. And, and that they're afraid
 21 that any information that takes place in the
 22 workplace is going to get back to him.
 23 Q Okay. And another question I have, I know he spends
 24 a little time questioning your judgment or your
 25 actions relative to consulting with Attorney Angelo,

1 the law firm of Johnson & Angelo. And is it safe to
 2 say, sir, that that took place at the time when
 3 Director of Law Batista was in a transition period,
 4 him leaving the city, had proffered his notice that
 5 he was leaving the city?
 6 A I believe so. I recall that he was not available.
 7 Q And you testified that at the particular time in your
 8 conversation with Attorney Angelo present there was
 9 Chief of Police Grimes?
 10 A At that meeting with Mr. Angelo it was, if I recall
 11 correctly, Police Chief Grimes, Kim Cooksey, Joe
 12 Olesky and myself.
 13 Q That meeting was called precisely to discuss the
 14 alleged sexual misconduct?
 15 A That's correct.
 16 Q Or harassment?
 17 A Yes.
 18 Q And Mr. Johnson from Johnson & Angelo, was he
 19 summoned here or was he here on matters?
 20 A He was here for negotiations.
 21 Q And as a courtesy he, he gave you pro bono advice; is
 22 that what you're saying?
 23 A Yes. He gave us guidance as to how to handle the
 24 matter.
 25 Q And it was your understanding that that was to be pro

1 bono, that was not to be a per diem?
 2 A I did not expect to be billed for that, no.
 3 Q Okay. And did you request him to submit that in a
 4 written form?
 5 A No.
 6 Q He was not if he asked to request that in written
 7 form. I'm sorry, I didn't mean to talk down, I
 8 apologize.
 9 And did you inform Mayor Rice of that
 10 conversation that you had with Attorney Angelo in a
 11 meeting?
 12 A Yes.
 13 Q And was that done in a form of a memo or interoffice
 14 communication?
 15 A Verbal, verbal conversations.
 16 Q Now, normally it was a practice in your office
 17 anything that would relate to misconduct or anything
 18 it was always done without developing some type of a
 19 trail, whether it be in form of a memo or in the form
 20 of some appropriate --
 21 A What we're trying to do, number one, I was not
 22 comfortable personally with the removal. Of Michael
 23 Hickey. I felt that it was too harsh. Because
 24 formally the one resident was unwilling to give a
 25 report to the police or there was discussions with

1 the detective. But there was not people that had any
 2 sort of confrontation were not cooperative. In the
 3 respect of providing information on a formal basis.
 4 What I was concerned about was there was a consistent
 5 pattern of complaints through a series of people, and
 6 as each complaint would come through that's where my
 7 concern grew stronger and stronger and stronger. And
 8 then I had an incident myself that after each
 9 altercation or each report that I had, because my
 10 relationship with Mr. Hickey up until that point I
 11 didn't have, I didn't have any problems.
 12 Then when it came down to the report of the
 13 young girl and the confrontation with the young girl,
 14 I was very concerned about that. And I did speak
 15 with Michael Hickey and he did not have any
 16 recollection of any sort of altercation with the
 17 young lady, so I had two conflicting reports. In the
 18 case of the female employee I had two conflicting
 19 reports. Very conflicting reports. But what
 20 concerned me was the nature of the complaint, and
 21 what also concerned me were the number of incidents
 22 that I had in reference to Mike Hickey. And I
 23 wasn't -- common sense would tell me that I wasn't
 24 sure how to handle it. I wasn't sure how to handle
 25 on a formal basis.

1 Q Let me ask you this, sir. Wouldn't -- I would think
 2 general business acumen and good business acumen
 3 would dictate anything sensitive as a reprimand or
 4 the actual accusation of misconduct by an employee
 5 under your charge ultimately responsible to the
 6 mayor, wouldn't one think that you would document
 7 that and put that in some type of either a separate
 8 file and -- is there any attempts made to do that?
 9 A That was what I was concerned about, and the mayor
 10 brought this to my attention and I was very concerned
 11 about I didn't want to wrongfully accuse Mr. Hickey.
 12 And, and that's why I tried to do the best that I
 13 could to speak with him and to speak with the
 14 resident over the phone and to speak with other
 15 employees that had a confrontation. And as far as
 16 the employees that had a confrontation, none of them
 17 wanted to take a formal, any formal action or any
 18 formal report. But they did want it to be brought to
 19 my attention. And that put me in a difficult spot.
 20 Because they just wanted me to know but they didn't
 21 want me to act on it at that time.
 22 Q And your testimony here tonight is, sir, that the
 23 mayor ordered you or the mayor instructed you or
 24 suggested to you that no documentation be written up
 25 and placed into the personnel file?

1 A Specifically to the complaint with the lady in
 2 Finance, he felt that it was outside the scope of,
 3 well, it certainly was outside the working hours.
 4 And, and, and, and then --
 5 Q Even though that federal law requires if an
 6 allegation is made that there be an investigation
 7 launched and be documented whether the complainant
 8 wants it or not?
 9 A Well, the first thing I referred to --
 10 Q And that sign doesn't hang in the office of
 11 Administration relative to the sexual harassment; any
 12 complaint lodged to a supervisor will be investigated
 13 whether the complainant requested it or not. Are you
 14 familiar with that?
 15 A I felt that it was satisfied certainly when there,
 16 when I knew that she was talking to the police
 17 because she made it very clear to me that she did not
 18 want me to take any action. And I said then I would
 19 request that you talk with the police, and I believe
 20 at that time she said that she already did. I'm not
 21 sure if it was the Jackson Township police or the
 22 North Canton police.
 23 Q Now, in your term as director of administration from
 24 the time December 1, 2001, until you were terminated
 25 or were terminated January of this year, was there

1 any written or verbal communication articulated to
 2 you relative to documentation or relative to memos or
 3 you at your will, sir, you could have written the
 4 documentation and sent it and sent it over, you had
 5 that power?
 6 A Yes.
 7 Q It would not have had to have been approved or would
 8 not --
 9 A Well, Mister -- Mayor Rice had, it was very clear
 10 that no memos were sent from me out of the office
 11 unless I checked it and he checked it. So there was
 12 no memos. I, in the course of my tenure I did not
 13 send out any memos unless he -- there was a section
 14 where Kim George would put my initials, his initials.
 15 Every document that left with my signature. In the
 16 form of a memo. He had to check and I had to check.
 17 Q You just assumed that was the protocol?
 18 A Well, that was, that was informally. I don't
 19 recognize it to be an ordinance but that was an
 20 agreed-upon protocol that we had.
 21 Q And that's an ordinance if we were going to flush the
 22 streets or spray for mosquitoes?
 23 A Every memo, every memo that came out there was a
 24 check. That was the intention so that, so that there
 25 was clear communication.

1 Q Well, if you had a pressing issue that needed to be
 2 communicated, how did we go about that? We just --
 3 A I don't recall, I believe there may have been a time
 4 when, when the mayor was in New York a memo was sent
 5 without him checking his initials but it was
 6 certainly communicated to him what was taking place
 7 over the phone so he was, had full knowledge of any
 8 memos that were sent out.
 9 Q And then I just have two final questions relative to
 10 the hiring. I call your attention to Mayor Rice's
 11 Exhibit 1I. Do you have a copy of that?
 12 A Yes.
 13 Q This is what you referred to as the checklist?
 14 A Checklist, yes.
 15 Q I notice dates and date received, date sent, so
 16 forth. Those were all, those were all -- that's your
 17 penmanship there? You did all that?
 18 A No, that is Linda Teis's.
 19 Q That's normally how that's done?
 20 A Yes, the administrative assistants would handle that.
 21 Q Okay. And I don't have the exact number but I know
 22 that there was an order sent, a request to include an
 23 employee from Administration and Finance, there's a
 24 document that transmits between the two. We have
 25 that one and I notice that is void of your signature.

1 Is that normally procedure, sir, when someone's hired
 2 it is sent over and you don't sign it or authorize
 3 it?
 4 A You mean this document?
 5 Q No, no, we have a document here.
 6 A Payroll notice?
 7 Q Yes, a payroll notice.
 8 A Payroll notices I would typically sign or initial.
 9 MR. PUSATERI: That's 1B, Jon, I believe.
 10 MR. SNYDER: 1B.
 11 MR. PUSATERI: Yeah.
 12 MR. FUNK: D or B?
 13 MR. PUSATERI: This is from exhibits
 14 yesterday. Council's Exhibit 1B.
 15 Q 1B. And there was two of them, I believe there was
 16 one --
 17 MR. PUSATERI: 1B. And 1E. I believe is
 18 what we're referring to, Mr. President.
 19 BY MR. SNYDER:
 20 Q Yes. I noticed one is signed and one isn't, and the
 21 one that is signed is with a stamp.
 22 A That's right. That's, those are my signature stamps.
 23 Q And if I recall, and I apologize, I don't know, you
 24 testified that you did not either stamp that or
 25 initial that authorizing the hire of Mr. Hickey?

1 A I did not authorize the signature stamp on these
 2 documents.
 3 Q Matter of fact, you were not, you were not even
 4 available to do that at the time? You were on
 5 maternity leave?
 6 A No, I was, I certainly was available. To my
 7 knowledge I was available, yeah. I mean, there's
 8 multiple things. The only time that I recall taking
 9 off --
 10 Q Is it normal procedure you do sign in longhand or
 11 stamp?
 12 A No, I don't use a stamp.
 13 Q You sign it longhand?
 14 A Yeah, I sign it longhand or initial it.
 15 MR. SNYDER: That completes my questioning.
 16 MS. KIESLING: Well, honestly, Jon, you
 17 asked every single one of my questions, which is a
 18 good thing.
 19 MR. SNYDER: Now they're going to think you
 20 and I are in collusion.
 21 MS. KIESLING: I do have a question. More to
 22 Paul or Mr. Plakas. How -- I obviously have a couple
 23 questions for Mr. Held but I don't feel as if I
 24 should be the one. They're regarding me. So I can't
 25 ask him questions, I mean -- you know, I'd like to

1 clarify some things that have happened and I don't
2 feel as if I should be the one doing it.

3 MR. PUSATERI: All I can tell you, if you
4 have questions you can ask them. You're welcome to
5 ask questions.

6 MS. KIESLING: I just know that Mr. Plakas
7 has been quoted as saying it's humanly impossible to
8 take an unbiased view. He said that to Jon but I
9 think he meant all of us. And if I beg to differ, I
10 think it is humanly possible. I think that's --
11 we're running into a problem here. You read back the
12 question and I wrote it down and I'm not going to ask
13 you to read it back again.

14 REDIRECT EXAMINATION

15 BY MS. KIESLING:

16 Q But between resignation and today you've had a
17 conversation with -- have you had a conversation with
18 myself regarding the removal of Mayor Rice? That is
19 my question to you again. Between the time he, the
20 first time he said I want you to resign, then a week
21 later you were fired. Between then and today have we
22 had conversations and, you know, I guess we're being
23 very particular to words but I realize as attorneys,
24 and I'm not one, that words are very important when
25 it comes to questioning. Have we had conversations

1 don't recall exactly what it was about, providing
2 information or a letter, and I made it clear that if
3 I was subpoenaed I would talk about the removal. But
4 as far as activities or the behavior of Tom Rice,
5 yeah, I've talked with Marcia Kiesling about that.

6 Mr. Plakas asked specifically about the
7 removal, and again I want to make it clear I don't
8 have a concern either way whether Mayor Rice is
9 removed or not.

10 UNIDENTIFIED SPEAKER: Bullshit.

11 MR. FUNK: You know, would you cool it?

12 MR. PUSATERI: Jon, Jon. Tell him you can't
13 talk.

14 MR. SNYDER: First of all, sir, we're not
15 going to entertain, if you use that language I'll ask
16 you to be removed from the chambers.

17 UNIDENTIFIED SPEAKER: Fine. It's so hard.

18 Q Let me just --

19 UNIDENTIFIED SPEAKER: Why don't we just talk
20 straight.

21 Q The next question, because the question was asked by
22 Mr. Plakas, I wrote it down myself, was how many
23 conversations did we have.

24 A Conversations or discussions about the removal?
25 There was numerous conversations that we had.

1 regarding the actual removal of Mayor Rice?

2 A We have had numerous conversations. Regarding the
3 removal. I've attempted to make it very clear that
4 the removal of Mayor Rice, because of the sensitive
5 nature towards it and the fact that I really, it
6 doesn't matter to me. I'm, as far as his removal
7 that is not in my scope of authority. That is city
8 council. And so specifically when I was asked for
9 the removal or whether I was coached, I was not
10 coached by any council member.

11 Q Yeah, that question sort of was asked.

12 MR. PLAKAS: Yeah, just point of
13 clarification, I didn't ask that question. That was
14 a question --

15 Q Then I can ask that question.

16 THE WITNESS: Specifically to removal,
17 specifically to removing, I did not want to talk
18 about the removal. Marcia Kiesling is very
19 inquisitive. Asks a lot of questions. Did this
20 happen, did that happen. In reference. And I would
21 try to answer questions to her, try to give her
22 information when I would talk to her. But as far as
23 the removal, I made it very clear that if I was going
24 to go on the Record, I was asked by Councilman
25 Snyder, a letter was written to me as far as he, I

1 MS. KIESLING: I don't know where else to go.

2 MR. PUSATERI: Ask your questions.

3 MS. KIESLING: I'm done.

4 MR. SNYDER: Mr. Peters.

5 REDIRECT EXAMINATION

6 BY MR. PETERS:

7 Q I just have a few questions of clarification here.
8 In regards to Michael Hickey complaint, you indicated
9 in your conversations with the mayor the mayor said
10 in regards to the alleged sexual harassment of the
11 city employee that was outside of your scope of
12 duties.

13 A No, it happened, the incident, that the incident
14 happened outside of normal working hours.

15 Q When, when was that conversation between you and the
16 mayor?

17 A It was throughout the week. I mean --

18 Q After, after Lieutenant Nist and Lieutenant Grimes,
19 or Chief Grimes had sent the e-mails? Let me just
20 direct you real quick to 1I. Exhibit 1I.

21 MS. KIESLING: Our exhibit, right?

22 MR. PETERS: Our exhibit.

23 Q Got it?

24 A Yes.

25 Q The fourth sentence, I'll just read it. "I received

1 a call today from Laurie Hertler. She advised me
2 Mike Hickey has been harassing her. She had called
3 and left a message to Kim Cooksey." This is the
4 sentence that I want to emphasize. "This problem
5 occurs after work hours as well as at work."

6 Okay. The next one, 1J, the very next page.
7 Second paragraph, it looks like it's a portion of the
8 first sentence. "Laurie advised Lieutenant Nist that
9 another city employee, Mike Hickey, has been
10 bothering her, has made inappropriate sexual
11 suggestions to her both during duty hours and also
12 after duty outside North Canton." Now, I guess my
13 question is, he said to you that it happened after so
14 it was out of your scope, but this clearly states
15 that it happened during work hours also. Were you
16 aware of that during that conversation, were you
17 aware of these, these two items during that
18 conversation or were you aware of those after that
19 conversation?

20 A Well, the main focus, a lot of focus was clearly on
21 the, I would say the key point that was brought to my
22 attention through my conversation with, with the
23 employee was what took place at the bar. Or at the,
24 you know, the evening out. That's where, that's
25 where the main problem was at. And she also asked me

1 if, if he was just transferred to another area or
2 just kept out of her work area, that she would be
3 fine with that.

4 Q With all due respect, I think the main problem is
5 what happened at work. I'm just, I want to get very
6 clear on this. You were aware of these, the mayor
7 was aware of these during that conversation and I
8 just, I need to find out what the line of thinking
9 was to make it seem like it was not in your scope of
10 duties. If the harassment happened at work.

11 A One of the things that's hard is when you have, for
12 lack of a better term, a victim that is not
13 cooperative, when you have conflicting stories, I
14 mean --

15 MR. FUNK: If I may clarify with respect to
16 scope, I think what he testified to was the complaint
17 by the employee addressed a situation that was
18 outside of the scope of work. He didn't, I don't
19 believe he has testified that whether or not to
20 address the in work or out of work situation of
21 harassment was within or without the scope of his
22 duties.

23 MR. PETERS: Okay.

24 MR. FUNK: I think his testimony was when he
25 testified with respect to the complaint that

1 situation was outside the scope of work regarding
2 this specific allegation of sexual harassment.

3 BY MR. PETERS:

4 Q So the complaint that was brought directly to you
5 regarded what happened outside of work.

6 A Right. If I follow the questioning, it's the --
7 yeah. Specifically, "Last night Mike showed up." In
8 my mind the major incident in all the conversations
9 we, that we had with Laurie Hertler and Mike Hickey
10 centered around the Harmon's Pub incident. What made
11 it difficult, at least from my observation, is prior
12 to that I did not know of the confrontational
13 relationship between, between the two of them at that
14 time. As a matter of fact, it was a, it was a
15 friendly relationship. And then this happened, and
16 considering that they're both married, and I had
17 stories that were diametrically opposed and
18 Ms. Hertler I believe in the one statement that she
19 made to me also expressed in one of these memos that
20 Laurie told me that she wants Mike to leave her
21 alone, she does not want to make this a public
22 affair, is not after his job, she just wants him to
23 cease following her and talking, and talking about
24 inappropriate matters.

25 Q Okay.

1 A And so -- I'm sorry, go ahead.

2 Q No, go ahead. Please finish.

3 A Well, it's just I'm trying to be respectful of all
4 those that are involved and it's not, it was not an
5 easy situation to handle. That specifically was very
6 difficult. Because you have conflicting stories.

7 Q At the time this happened we had a sexual harassment
8 policy in place; correct?

9 A Well, there was one that was on, that was passed via
10 ordinance. However, that was not in the personnel
11 handbook. And so it was not until a later date that
12 I discovered that it was actually, it was actually an
13 ordinance that was passed. There was a memo that was
14 written on sexual harassment, I believe by
15 Mr. Sumser, but there was no ordinance that was
16 attached to that. And it was stuffed in a binder, a
17 labor agreement binder. But it did not have, as I
18 recall, an ordinance number attached to it nor the
19 ordinance that was, that had the personnel -- the
20 personnel policy manual did not have any direction on
21 sexual harassment. I did find out through the course
22 of this that there is on the books a sexual
23 harassment policy.

24 Q I guess what I'm trying to get to here is --

25 A Okay, I guess let me clarify something then. One of

1 the things, in my mind the first thing that happened
2 was a conversation that I had with the finance
3 director, Julie Herr. She made it clear to me that
4 she wanted Laurie Hertler to come and discuss a
5 problem with me. She's very upset.

6 She came, she expressed the problem. Stated
7 to me her side of the story. And I had, I had
8 advised her that in my own mind at that time that she
9 should fill out a police report. And as if I
10 remember correctly, she told me that she did or that
11 she was going to. Because it happened in I believe
12 Jackson Township. And then I said okay, and she
13 goes, "Well, I don't want anything to happen. I
14 don't want you to do anything." I said okay. I said
15 I would like to talk to Mr. Hickey, I think that's
16 the responsible thing to do.

17 Now, in her conversation with me she never
18 mentioned sexual harassment to me. But she provided
19 a description of the, of the event, and then when I
20 talked to Mr. Hickey it was almost a reversal of her
21 story and so, so at that point I said maybe you
22 should talk to the police chief. Make sure that you
23 talk to somebody within the City of North Canton.

24 Q And did she?

25 A Yes. Yes. And she also talked with Kim Cooksey.

1 And, and there was also some, you know, sensitive
2 issues going on too because, you know, it was made
3 very clear to me by Ms. Hertler because she
4 recognized that any documents that were produced are
5 a public record and she did not have any desire for
6 anything to be made public. She was very, very
7 sensitive about that. Because I reminded her, I said
8 that anything that we state or do or put in any memos
9 is public record.

10 Q But from an administrative standpoint is there
11 protocol when an allegation is made regardless of
12 whether that witness after the fact wants to follow
13 up with that, is there a procedure that has to be
14 taken with the person --

15 A I recognize now that there was an ordinance.

16 Q But there wasn't before?

17 A Well, I wasn't aware of that, an ordinance at the
18 time because again what I referred to was the labor
19 agreement. I was always had the habit of referring
20 to the labor agreement and the personnel policy, and
21 then in areas where I wasn't knowledgeable I would
22 always talk to the labor attorneys or the assistant
23 law director or the law director. In this case I had
24 a brief conversation with Mr. Treadon, it was verbal,
25 nothing in writing, no opinions, and then I had a

1 conversation with Mr. Angelo in the presence of
2 Grimes, Cooksey and Olesky.

3 Q Okay.

4 A And so I felt that, I felt that I was doing the best
5 that I could to be as responsible as I could to cover
6 and at the same time being sensitive to both
7 individuals.

8 MR. PETERS: Okay. I'm done, Jon. Thank
9 you.

10 MR. SNYDER: You're welcome. Mr. Sarbach.

11 REDIRECT EXAMINATION

12 BY MR. SARBACH:

13 Q Mr. Held, in any of the conversations with the mayor
14 regarding this issue was there ever expressed to you
15 a need or an urgency to protect the city or to follow
16 it up or would you characterize it more to protect
17 the individuals involved? I guess what I'm saying,
18 did he share any of your concerns about this
19 particular issue?

20 A He made it very clear to me that, that he certainly
21 did not want Mr. Hickey to be wrongly accused or that
22 we were making any false allegations. And I
23 certainly didn't want to do that either, but at the
24 same time we're trying to be sensitive to, certainly
25 to Ms. Hertler, and then you have the labor attorney

1 that's saying given the circumstances that we
2 verbally had presented to him and he said fire him.
3 And at the time I was not comfortable with that
4 either but I did express it to the mayor that, that
5 that was the guidance I was given and he did not
6 agree with that as well.

7 Because I did not have the cooperation, I
8 felt, to take any formal action when I was made very
9 clear, it was made very clear to me, Ms. Hertler,
10 that she didn't want this a public affair. At all.
11 And she told me that she would permit me to talk to
12 him. And that if he was not seen in this building
13 then she would find that satisfactory.

14 Q Did the mayor at any time suggest to you to look into
15 the issue further to maybe get to what the truth
16 really was or it was just don't accuse anybody
17 wrongly?

18 A That was, it was basically limited to you better be
19 damn careful about what you're doing and what you're
20 alleging. And you better, you know, something along
21 those lines.

22 MR. SARBACH: Yeah. Thank you. That's all I
23 have.

24 MR. SNYDER: Mr. Foltz?

25 MR. FOLTZ: No questions.

1 MR. SNYDER: Mr. Lane?
 2 MR. LANE: Yeah, I just have a couple.
 3 REDIRECT EXAMINATION
 4 BY MR. LANE:
 5 Q I was going to ask you this tonight and you brought
 6 forward so I thought I would at least ask the
 7 question of why. Why did you not take the
 8 opportunity in January, February, that you were
 9 afforded under the charter to come here and bring any
 10 or all of this forward to us and let us know about
 11 it? Just curious.
 12 A You mean written?
 13 Q No. You had an opportunity to come before council
 14 after your firing and at least state your case as to
 15 why perhaps you shouldn't have been fired. I'm just
 16 curious.
 17 You've got the exact? "Director of
 18 administration may be removed at the pleasure of the
 19 mayor. In case of dismissal, director of
 20 administration may request the courtesy of a hearing
 21 in regular meeting of council and statements
 22 pertaining to conditions of dismissal shall be
 23 recorded in the journal of council. The decision of
 24 the mayor in regard to removal shall be final."
 25 Obviously he wouldn't have overturned that.

1 MR. PUSATERI: Just for the Record, that's
 2 part of the charter section.
 3 MR. LANE: 302. Right.
 4 MR. PUSATERI: Yeah. 302.03.
 5 Q 3.02. I'm just curious, a couple of times in my
 6 career that I've been let go for one reason or
 7 another, in my business you serve at the pleasure and
 8 as an at will employee it serves both. You can walk.
 9 And ask you, at some point in time I would have loved
 10 the opportunity but I never got it. I'm curious as
 11 to why you didn't come forward and say, I don't think
 12 I should have been fired from the administrator's
 13 office.
 14 A I don't think that's true, it's very, very clear in
 15 the charter that I work at the pleasure of the mayor
 16 and he doesn't have to give a reason and he didn't
 17 give a reason. He's allowed to do that.
 18 Q Right.
 19 A And as far as at the time, I didn't feel that the
 20 city was in danger of Michael Hickey. I had serious
 21 concerns. Very serious concerns. And I was, I was
 22 extremely nervous about handling it properly.
 23 Because you have a woman that is stating that her 14-
 24 or 15-year-old daughter was being stalked. I mean,
 25 it was, it was sickening to me. But at the same time

1 I wasn't there and so I need to be careful about how
 2 it was being handled. And there was no cooperation
 3 from the woman. I called her probably three times.
 4 And she made it very clear. That's why I sent the
 5 police. I felt covered when I sent the police out.
 6 In reference to coming forward, you know,
 7 there's a lot of great memories that I have working
 8 in the City of North Canton. Mayor Rice did give me
 9 an opportunity. And I still am grateful to the
 10 opportunity that he gave me. And I've known him
 11 since 1996. For a long time. And --
 12 MR. SNYDER: Excuse me, Mr. Held. I can't
 13 allow you to just pontificate without a direct
 14 question. You'll have to have a direct question.
 15 Q So you never, or did you ever anticipate this hearing
 16 or something similar in a court of law based on any
 17 of this? Is that another reason perhaps why you
 18 didn't come forward at that time?
 19 A I'm sorry, say that again.
 20 Q Did you ever anticipate this hearing or perhaps
 21 another one in a court of law for one reason or
 22 another here being here relating to Mr. Hickey or any
 23 of these other things that were going on that you
 24 were aware of that would have kept you from coming
 25 forward at the time or did you want to be out of it?

1 A No, at that time I didn't anticipate. At that point
 2 in time I wanted to make sure I just moved on and,
 3 you know, I was done with this and get another job.
 4 Q I've been there and I can understand. I'm just
 5 wanting to make sure there wasn't another shoe to
 6 drop at some point in time which is why you didn't
 7 want to come forward at that time.
 8 A Right.
 9 Q The other only other question I had, this goes to
 10 atmosphere. You alluded to this last evening that
 11 many times you were fearful of your job on a weekly
 12 basis but I can understand how atmosphere can relate
 13 to that. But at any time were ever the words used,
 14 Do this or you're done. Do, do this or you're fired?
 15 I know you felt the implication was there, but was
 16 that ever used by the mayor?
 17 A Absolutely.
 18 Q It was?
 19 A Oh, definitely.
 20 Q Can you relate any particular instances?
 21 A He made it very clear that it worked, I work at the
 22 pleasure of the mayor. "Do you understand what that
 23 means you work at the pleasure of the mayor?"
 24 Q Was never the words, Do this or you're gone?
 25 Obviously that implication was there, I understand

1 that.

2 A Yeah. I mean it was, I don't know how much clearer I

3 can make it, but he reminded me that I worked at the

4 pleasure of the mayor and when I give you a direct

5 command I expect it to be done. And that was, I mean

6 it was just real clear. It was crystal clear to me,

7 but I've also been reminded that I make sure I follow

8 the process and he felt that I drug my feet too long

9 because I would check with the finance director and

10 the law director too often. And if I was doing

11 things properly I wouldn't have to check with the law

12 director and the finance director all the time or

13 check that -- I wouldn't have to, you know, make

14 everything such a monumental decision, but I just

15 wanted to make sure to follow the process and that I

16 didn't do anything wrong.

17 Q Was that an atmosphere or a feeling or something that

18 came about from the very beginning or was this

19 something that built up over time?

20 A It was before I was hired he made it very clear that

21 you work at the pleasure of the mayor, do you

22 understand what that means. Loyalty to the mayor is

23 number one and you've got to be willing to fall on

24 the sword for the mayor. It was made very clear.

25 Q From the beginning?

1 A I'm expendable. "I'm sorry" -- these are his words.

2 "You are expendable. That's politics. I'm sorry,

3 but that's how it is." It was made crystal clear to

4 me from day one repeatedly.

5 MR. LANE: Okay. Those are my questions.

6 Thank you.

7 MR. SNYDER: Mr. Lindower.

8 MR. LINDOWER: I only have a couple things

9 here. With the indulgence of the attorneys and Mr.

10 Snyder, I would like to again rather than go through

11 my experiences here in the city just remind everyone

12 that I've been here as a department head for eight

13 years. As a department head for eight years, in

14 being on the police department for 35 years I had

15 quite a few experiences with a lot of different

16 management styles with mayors, also the city

17 administrators.

18 Having said that, the eight years that I was

19 the chief of police I kept files in my office that

20 were not actually what we would call an official

21 file. The official files are kept in the office of

22 the administration. And the files that I kept, to be

23 brief about it, and the officers that are here can

24 testify about this, minor issues that are dealt with

25 a citizen complaint or whatever were documented and

1 kept in each officer's file for a certain length of

2 time and then disposed of. Reason being to establish

3 whether there's a pattern of behavior or not that

4 needed to be corrected. Never became a problem.

5 REDIRECT EXAMINATION

6 BY MR. LINDOWER:

7 Q Basically what I'm saying, what I'll ask you, Mr.

8 Held, is underneath the locked-up official personnel

9 files that are in the office did you maintain any

10 files on any of the employees or anyone that was

11 brought to your attention as a problem employee in

12 addition to the personnel files that were kept under

13 lock and key?

14 A I had my own set of files, yes.

15 Q Did you --

16 A That I would have personal notes in and so forth.

17 Well, notes that I would keep for myself, yes.

18 Q Okay. And did you at that time have any information

19 in your own files, I asked you last night about

20 documents 1I, J, K, L, M, N, which are the police

21 issues that were brought up from Jackson Township and

22 North Canton. But in addition to those did you have

23 any other notes or files in your office?

24 A I had yellow pad notes.

25 Q Okay. I have, and I still do this today, tend to put

1 a time and a date on everything I write on

2 practically and saves me a lot of times. Do you have

3 any of those records that have time and dates on them

4 in regards to maybe Mr. Hickey's behavior or maybe

5 another employee who you feel may be a problem

6 employee?

7 A There was, I believe that there are, that there may

8 be documents that were not in my possession at the

9 administrative offices but they're in the possession

10 of I believe the street department or the park

11 department.

12 Q So the department head themselves may have those

13 things?

14 A Yes. To those.

15 Q Okay. But at this particular time the incident of

16 Mr. Hickey, we asked you about these other documents,

17 the exhibits we have, 1I, J, K, L, M, and N, you

18 stated last night I believe that, that you don't know

19 whether they were in the files upon, or just prior to

20 your departure; is that correct?

21 A You mean what the, with the other departments?

22 Q The police reports basically. Do you know that those

23 were in his official personnel file the day you were

24 fired?

25 A I, I did not believe that those documents needed to

1 be in, entered into the personnel file because I felt
 2 that they were certainly on file in the police
 3 department so that there was a record of that.
 4 That's what I, that's what I felt most, most
 5 comfortable with. And after, you know, various
 6 discussions that that would be the best way to handle
 7 it. Because I felt that it was, it was now turned
 8 over to the police and I felt that there was nothing
 9 better than to have, you know, to have the police
 10 handle this. That this is more of a police matter.
 11 Q Okay. The reason I stated it the way I did is, and
 12 you're correct the police do keep records not only
 13 here but in Jackson Township and everywhere else in
 14 law enforcement. Disciplinary issues, for instance,
 15 a shirt detail, I believe there's a piece of
 16 equipment, disciplinary letter, so forth, those would
 17 have been kept in the file?
 18 A Yes. I believe that those were the file about the
 19 shirt and the backhoe. Those were in the file.
 20 Q And that's probably the reason I asked those
 21 questions is because if a person established a
 22 pattern of behavior, and action is taken against that
 23 person by in this case either yourself or the mayor,
 24 or an attorney in a civil case or something, those
 25 records are all supposed to be available. I call

1 them my field notes, but everything that's documented
 2 has got to be available. You don't have any of those
 3 kinds of notes here to date?
 4 A I do not.
 5 MR. LINDOWER: Thank you. That's all.
 6 MR. SNYDER: I have one more question then
 7 we'll defer back to Mr. Plakas.
 8 REDIRECT EXAMINATION
 9 BY MR. SNYDER:
 10 Q Mr. Held, are you familiar in your capacity as
 11 administrator of the City of North Canton with the
 12 federal and state sexual harassment laws?
 13 A No.
 14 Q It's posted in there, and I have to say, sir, I'm
 15 appalled that this administration, if it is lodged,
 16 it is a federal law that if sexual harassment or
 17 harassment is alleged it must be investigated, it
 18 must contain a separate file of the investigation.
 19 Pursuant to the fact that whether the person that's
 20 alleged it wants an investigation or not, those, I
 21 believe those records are generally subject to public
 22 scrutiny but I would ask you, sir, tonight this city
 23 has been put at great financial jeopardy by there
 24 could be cause of action. I don't know what the
 25 statute is on that, but what authority did you -- did

1 you decide that on your own or were you directed by
 2 the mayor not to do that?
 3 A The mayor made it very clear to me that he did not
 4 want any of those, any of those documents surrounding
 5 the, that incident with Laurie Hertler in the file.
 6 And I felt confident at that point that because it
 7 was recorded in the police department that, that I
 8 had at least had things covered and I also felt
 9 comfortable with the fact that at least I had a
 10 conference with the labor attorney and the three
 11 department heads that there was, that everybody was a
 12 aware of it and also the finance director, although
 13 she wasn't in that meeting. So I felt that we were
 14 very thorough and that I covered that.
 15 Q But I'm saying that you just capriciously and
 16 arbitrarily decided. The mayor directed you not to
 17 do it, and you spoke to the finance director and you
 18 assumed, what you assumed put the city at great
 19 financial risk. You made that yourself or you made
 20 that predicated on the directive of the mayor?
 21 A The mayor made it clear to me he did not want me to
 22 put any of those documents in the personnel folder
 23 because he said Mike Hickey would own the city.
 24 Q What about the complainant?
 25 A That was the other thing. It was a difficult, it was

1 a difficult situation.
 2 Q I'm somewhat put back, sir. I don't understand that
 3 at what point that the prudent individual you would
 4 have come to me or somebody and said, you know,
 5 there's a problem here. You know, and I apologize,
 6 I'm not putting you on trial here but, you know, I'm
 7 appalled the fact that this city is placed, it's not
 8 six figures, it's several dollars that we could have
 9 been at risk at least defending the suit. I mean, I
 10 understand we're insured, but I mean, there's a
 11 negligence factor and I believe that's misfeasance or
 12 malfeasance and I want to know for sure, and let me
 13 understand one more time, I realize it's been asked
 14 and answered, you were directed not to keep any
 15 contemporaneous records, you were directed not to put
 16 anything in a personnel file related to the
 17 allegations of sexual harassment of the young girl at
 18 Eastwood or the employee of the City of North Canton
 19 when in fact that did happen on the premises right in
 20 this city hall. Is that your testimony?
 21 A I was instructed not to put any documents in the
 22 file.
 23 Q By the mayor?
 24 A Yes.
 25 MR. SNYDER: Thank you. That's all I have.

1 Mr. Plakas.
 2 MR. PUSATERI: Can I suggest that we need to
 3 take five minutes.
 4 (WHEREUPON, a recess was taken.)
 5 MR. SNYDER: We're back on the Record.
 6 MR. PLAKAS: Thank you.
 7 MR. SNYDER: Mr. Plakas.
 8 MR. PLAKAS: Yes, Your Honor, two things. In
 9 deference to the court reporter, I think we have
 10 stressed her. We appreciate all the work she's done,
 11 she's entitled to combat pay and I have no objection
 12 whatsoever to continuing or completing my cross at
 13 the next session.
 14 MR. SNYDER: I appreciate that.
 15 MR. PLAKAS: The only other thing I have is
 16 that because all citizens deserve their, their
 17 rights, Mr. Osborne thought that I had perhaps
 18 misspoken in terms of suggesting that the --
 19 Mr. Forchione had reprimanded or had suggested a
 20 reprimand. So in the interests of verbatim clarity
 21 and with due deference to all citizens of North
 22 Canton, if in fact I misspoke then I would like to
 23 say that with regard to my reference that Mr. Osborne
 24 had been reprimanded, what I relied upon was the
 25 statement from Mr. Forchione and information that

1 Mr. Forchione had given me. The statement I'm
 2 reading from is November 14th, 2002, and very briefly
 3 I'll just say that the language says, "At this point
 4 Mr. Osborne's telephone calls to Mr. Casner violates
 5 Section 1 through 3. Mr. Osborne's reasons for, or
 6 reason for placing the call does not justify his
 7 actions under this definition." It goes on at the
 8 end, "The opportunity to dissent is the foundation of
 9 our nation's freedom. However, the privilege to
 10 dissent shall be exercised in a manner consistent
 11 with the responsibility the public expects in the
 12 privilege of election to office. Unilateral action
 13 to interfere with the collective will of the
 14 majority, while not rising to the level to justify
 15 removal from office, certainly is not responsible
 16 action in light of the potential liability and
 17 adverse results.
 18 My recommendation is that there should be no
 19 recall instituted. Good government requires
 20 cooperation, mutual respect, and the ability to work
 21 with others to achieve goals which benefit the
 22 community. If the voters feel Mr. Osborne has not
 23 represented them properly or in their best interests
 24 they can simply choose not to reelect him in
 25 November." So if in fact there's a difference

1 between the language here and a reprimand I stand
 2 corrected.
 3 MR. SNYDER: Appreciate that, but you say
 4 that was Mr. Forchione's opinion, correct, sir?
 5 MR. PLAKAS: Yes.
 6 MR. SNYDER: His personal opinion.
 7 MR. PLAKAS: That was his report to the --
 8 MR. SNYDER: To the council?
 9 MR. PLAKAS: It's entitled a Report to the
 10 Council in Regard to the Investigation of Council
 11 Member Charles Osborne dated November 14, 2002.
 12 Mr. Osborne handed me this, I don't -- I presume it's
 13 the most current. I'm not sure if there's other
 14 document.
 15 MR. SNYDER: That's fine. We appreciate
 16 that.
 17 MR. PLAKAS: In deference to all citizens of
 18 North Canton.
 19 MR. OSBORNE: If I may summarize.
 20 MR. SNYDER: No, sir. Please.
 21 MR. PUSATERI: We're meeting Tuesday then?
 22 MR. SNYDER: We are meeting on Tuesday at
 23 5:15. We will meet again on Wednesday at 5:15. I
 24 appreciate everybody. Mr. Held, I must again
 25 admonish you not to discuss your testimony with

1 anyone. You're still under oath. Unless his
 2 attorney. Thank you for being here. Ladies and
 3 gentlemen, we're adjourned.
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 5 Hearing adjourned at 10:22 p.m.
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STATE OF OHIO)
)SS
STARK COUNTY)

I, Laurie Maryl Hart, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that this hearing was by me reduced to Stenotype and afterwards transcribed by computer-aided transcription, and that the foregoing is a true and correct transcription.

I do further certify that this hearing was taken at the time and place in the foregoing caption specified. I do further certify that I am not a relative, counsel or attorney of either party, or otherwise interested in the event of this action, or is the court reporting firm with which I am affiliated under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Canton, Ohio, on this 12th day of September, 2004.

Laurie Maryl Hart, RMR & Notary Public.
My commission expires January 6, 2007.