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CITY OF NEW ROCHELLE
BOARD OF ETHICS

-----X

IN RE: :

ETHICS COMPLAINT OF ROBERT COX :

-----X

515 North Avenue
New Rochelle, NY 10801
April 4, 2022
3:35 p.m.

Examination of ELIZABETH FRIED, NOAM BRAMSON
& ALBERT TARANTINO, in the above-captioned
matter, held at the above time and place, before
Howard Breshin, a Notary Public of the State of
New York.

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A P P E A R A N C E S:

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP

Attorneys for the ETHICS COMMITTEE

1133 Westchester Avenue

White Plains, New York 10604

BY: PETER A. MEISELS, ESQ.

914 391-3690

ALSO PRESENT:

CHARLES PHIPPS, Ethics Committee Member

DAVID BLUMENTHAL, Ethics Committee Member

NEW ROCHELLE LAW DEPARTMENT

BY: DAWN WARREN, ESQ.

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E L I Z A B E T H F R I E D, a witness called on behalf of the City of New Rochelle, having been first duly sworn, was examined and testified as follows:

THE COURT REPORTER: Can I have your name and address for the record?

THE WITNESS: My name is Elizabeth Fried and my business address is the same as my home address, 35 Whitestone Place, New Rochelle, New York, 10801.

EXAMINATION BY

MR. MEISELS:

Q. Councilwoman, thank you for coming in today. I appreciate it.

How long have you been a member of the City Council?

A. Six years. Six and a half years.

Q. My name is Peter Meisels and I represent the Ethics Board and I am just going to be asking you_--

A. You represent who?

Q. The Board of Ethics.

A. The Board of Ethics, okay.

Q. I apologize, and basically we are just

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reviewing a complaint that was filed_--

A. Okay.

Q. -- By Robert Cox.

A. I have read it.

Q. And we are going to ask you some questions about it and this is investigatory, not prosecutorial, so if there is anything that you think we ought to know that we don't ask you about, please tell us.

A. Will do.

Q. We are just here to find out everything that we can about the allegations, about the complaint.

A. Okay.

Q. You are a member of the City Council now, am I correct?

A. Yes.

Q. How long have you served on the City Council?

A. Six plus years. About six and a half years.

Q. Now, am I correct that New Rochelle has a council manager form of government?

A. Yes, yes. The mayor shares the

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running of the city with the city manager, yes.

Q. Okay. Now, if you were to explain to an uninformed citizen how a council manager form of government operates, how would you do that?

A. I would begin with the city manager job and explain that that person is responsible for the commissioners and the daily working of the city such as the Department of Public Works, the Department of Development, et cetera, the day-to-day working, whereas the mayor is and elected official who is also responsible for the running of the city but from a more legislative prospective.

Q. Okay. Now, what is your understanding-- I am not asking for a legal opinion, what your understanding is as an elective official of the role of the City Council under the city charter in the employment or removal of persons by the city manager?

A. That it is solely, you know, the discretion of the city manager to hire and fire.

Q. Did there ever come a time that the concept of having the city manager appoint the present mayor to the position of commissioner of

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development discussed with you? Was that concept ever discussed with you by anybody?

A. No.

Q. Did you ever raise_-- did you ever initiate a discussion about that concept with anybody?

A. No.

Q. Okay. As you know the complaint that was filed alleges that the mayor made that request.

A. Yes.

Q. Do you know anything about that?

A. No. As we mentioned Covid, due to Covid I was Zooming in. Since Covid I've been Zooming into my meetings. I was not in the building, and the first time I became aware of this allegation was in the article by Bob Cox.

Q. After you became aware of it did you discuss it with anybody?

A. No.

Q. So would it be fair to say you never actually discussed it with the mayor?

A. Correct.

Q. Or the city manager?

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A. Correct.

Q. Or the other members of the council?

A. Correct, did not.

Q. Now, I know that you served in the past as President of the League of Women Voters in addition to the your experience in the City Council.

Based upon your interest and experience in government and familiarity with the council manager form of government, did the idea of having a mayor request the appointment to a position of commissioner of the city manager concern you?

A. Did it? Well, first of all, I knew nothing about it so I wasn't concerned. If you are asking me philosophically whether it would concern me?

Q. Yes.

A. Yes, because it is against the rules of our form of government.

Q. And when you say it is against the rules, are you referring to a section of the charter that basically says no councilperson may request the appointment or removal of any person

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to and from employment by the city manager?

A. Correct.

Q. Okay. In the last-- within the last year, am I correct that the city manager has appointed at least four new department heads?

A. Yes, yes, that sounds correct, yes, ah-hah.

Q. Recently the city manager appointed Adam Salgado to the position of commissioner of economic development, is that right?

A. Yes.

Q. When that happened, was there any discussion amongst council people that making such an appointment towards the end of Chuck's tenure here might limit the options of the next city manager?

A. No discussion whatsoever, no.

Q. And am I correct in the last year the city manager appointed a new finance commissioner?

A. Correct.

Q. Mr. Edward Ritter. At the time that that occurred was there any discussion amongst council people, and I am including the mayor,

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that making the appointment at this time would somehow limit the options of a new city manager?

A. Not that I am aware of. Again, I was Zooming in. I was not here and I was not part of any conversation, not aware of any. No one called me, yes.

Q. I am going to ask you the same question about we have a new commissioner of human resources, am I correct?

When Mr. Strome appointed Robert Yamuder to that position, was there any discussion among council people, including the mayor, that this somehow limited the options of the new city manager?

A. No.

Q. I will ask you the same questions about the new parks and recreation commissioner, Vincent Parisi. Was there any discussion--

A. No.

Q. -- about that. In reference to those four appointments, and quite specifically do you recall if the mayor ever expressed a concern that by appointing four new department heads might constrain a new city manager forming a leadership

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2 structure of his or her choice?

3 A. Under those circumstances the answer
4 is no. However, I did speak with the mayor with
5 respect to Kathleen Gill.

6 Q. Can you explain that to us?

7 A. Sure. What I brought was a timeline.
8 Yes, I would be happy to.

9 So it all began on March 8th, the
10 City Council meeting. We went into executive
11 session which is just the seven of us, the mayor
12 and the six council people to discuss [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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On March 17th I received an e-mail from Chuck which announced the appointment of Adam Salgado as commissioner of development and Kathleen Gill as corporation counsel/deputy city manager and I was thrilled. I love Adam and I love Kathleen and I wrote a congratulations to everyone. I was on board.

Later on that day Noam did call me to discuss -- he said he supported Adam but to discuss Kathleen's appointment as deputy city manager, and I worked with Kathleen now for going on six and a half years. She is the smartest most hard working person I have ever worked with, and so I said to him what kind of problem do you have with Kathleen? To me she is amazing, and his response was he didn't have a problem with Kathleen personally but with the permanent title change that Chuck wanted to give Kathleen. You know, I said she is already doing the job of deputy city manager, so that was his problem and his concern and he voiced it, you know,

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2 intellectually with me, was that if indeed a new
3 city manager were to come in maybe he would not
4 want Kathleen as the deputy and that was that, it
5 was just really sort of an introductory
6 conversation. It didn't go any further than
7 that.

8 The next day Noam did call me back
9 to say have you given this any thought and I said
10 I am one hundred percent on board with Kathleen
11 Gill, I think she should be the next city
12 manager. I support her promotion to deputy and
13 that was it.

14 Basically Noam said would you keep
15 an open mind? I said no, I will always support
16 Kathleen, end of conversation, and that was the
17 end of it. Yes, that was March 18th, yes, and
18 then we have not spoken since.

19 Q. Okay. You basically have had two
20 conversations with him about it?

21 A. Correct, the 17th and the 18th, yes.

22 Q. Did you have occasion to discuss this
23 issue with anyone else besides the mayor?

24 A. I called Kathleen Gill and I said are
25 you interested in the city manager job when Chuck

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retires, and she said yes and I didn't speak with anyone else.

Q. Okay. During your conversations with the mayor did he have any suggestions of some method of expressing displeasure with the appointment to the city manager?

A. No, he was feeling me out basically whether I was-- whether, you know, I supported it or didn't which is how we do business all the time. You know, he will call me on any subject and he will-- you know, sometimes I feel strongly and sometimes I don't and I will ask him questions, he asks me questions, but when I said to him I am one hundred percent in support of Kathleen Gill, that was it, he took no for an answer and that was it.

Q. Okay.

A. He didn't go through it.

Q. Have you learned from any source that he discussed Kathleen's appointment with any other members of the City Council?

A. Yes. He told me he was reaching out to everyone, yes, yes.

Q. And did he relate to you people the

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substance of conversations that he had already had with other people?

A. No, no.

MR. BLUMENTHAL: Peter, may I? First I want to thank you for your service to the city. I have lived here-- I had hair when I moved in, that is a long time. It is only 34 years ago.

What Peter was just asking you, how often-- obviously you are working closely together with other people and you call each other and again, you know, how often do things like this, personnel discussions that happened on the 17th and the 18th, is that something that is unusual?

THE WITNESS: Yes, for personnel discussion I believe this is my first in six years, my first personnel discussion.

MR. BLUMENTHAL: Because again I am not used to public-- this is one of my first things, so if somebody calls

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you up, another member of the council, the mayor, more about economic issues?

THE WITNESS: Agenda items. Very often we will call one another to see how we feel on a specific issue, or if I need support for a vote that affects my district I will call other people and say, you know, will you support building a bridge? You know, whatever or will you support, you know, appropriating funds for a project and that's quite often, I would say.

We meet twice a month and generally the whole first half of the month I try to leave as open as possible because we have a lot of phone calls going into the meeting.

MR. BLUMENTHAL: This type of phone call on 17th and extended on the 18th, would that have struck a cord with you as being unusual or a typical course?

THE WITNESS: No, it was a very casual conversation the way we sort of

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take each other's temperatures on things. It is unusual in that-- and you all know this, I just learned it, the only personnel decision that we have as council is hiring the city manager and so in that way it was unusual.

MR. BLUMENTHAL: Again when you get off that phone call, you know, hang up the phone, I am showing my age, you get off the phone and say that was really odd? It didn't strike you, did it? I mean it is not like--

THE WITNESS: As I said, Noam and I worked together closely for six years and I did say to him how could you have a problem with Kathleen Gill?

MR. BLUMENTHAL: I am not asking that question, not the quality of the employee. I have dealt with her, God, and she is terrific, more the topic, not the nature of her.

THE WITNESS: Not at all because there is nothing that goes on inside

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this room that we haven't discussed by phone casually before because you understand I am not in the building.

MR. BLUMENTHAL: Again_--

THE WITNESS: So there is no_-- we don't have offices here and the only way we communicate among ourselves is by telephone.

MR. BLUMENTHAL: Before Covid 25 months ago you might have spoken to them but because of Zoom phones it had to be over the phone.

THE WITNESS: Even before Covid we don't have offices here. We all work from home so the phones ring and they ring more often going into our meetings, you know, prior to our meetings because we like to show a unified front to the outside world. We don't like to fight on camera, and if I want to know if I have the support of my colleagues, that's how I find out.

MR. BLUMENTHAL: Okay. I am sorry for interrupting.

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BY MR. MEISELS:

Q. Am I correct that any deputy serves at the pleasure of the department head?

A. Yes.

Q. And am I correct that the commissioners serve at the pleasure of the city manager?

A. Correct.

Q. So am I correct that in reference to the four new commissioners that we discussed earlier, a new city manager can fire them?

A. Correct.

Q. Am I correct that if you were to choose a city manager who is other than Kathleen and they were not happy with her as a deputy, they could fire her?

A. Right.

Q. Okay. Did you, and I understand what you already explained to us, you had no discussion at all with the mayor of the appointment of the four commissioners?

A. Nothing.

Q. Did you have any sense of what the difference was in his mind between the

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appointment of the four commissioners and the appointment of Kathleen Gill as the deputy that would cause him to question Kathleen's appointment but not that of the four commissioners?

A. No because we never discuss the commissioners so this is no comparison.

Q. Were you surprised that he raised the question about a deputy versus-- and not about any of the commissioners?

A. I was more surprised because it was Kathleen, to be quite honest. It wasn't really a bureaucratic question, it was more like why wouldn't you want her?

Q. Did he respond to that?

A. Yes. His response was that-- I actually took notes on it because he said he had a problem with her permanent title change because if then the new city manager came in, that that might be a problem for the new person.

Q. Did you understand what that meant?

A. No, I now do but that's why I take notes while I am-- yes.

Q. When you say you now do, what do you

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now understand?

A. Yes. I now understand that of course certainly if a new city manager comes in, that person would have the right to keep Kathleen or fire Kathleen based on, you know, what the new city manager wanted, yes.

MR. BLUMENTHAL: Peter, wouldn't that be a bigger risk for Kathleen than the city?

MR. MEISELS: Having myself been the Deputy County Attorney I can tell you it is the most vulnerable job on the list because you have no civil service protection. You are considered to be a policy maker and you hold your job at the pleasure of the County Attorney.

MR. BLUMENTHAL: I think the issue here to my ear, if I am understanding this correctly, if she gets the change in job, we'll take it based on the e-mail from the 17th, that she is at risk, not the city.

THE WITNESS: Correct.

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Absolutely.

MR. BLUMENTHAL: But Noam is not showing is showing concern from her prospective.

THE WITNESS: I think, and the way I interpreted it at the time, and you are pointing to a very important thing, is that he thought it might be a deterrent, I guess, because the implication was if we hire a new city manager that person is going to want to bring his or her own people in so we don't want Kathleen to have this permanent title change so they would then have to fire her.

MR. BLUMENTHAL: Okay.

Q. Is it your understanding that is not a permanent title change at all?

A. Right.

Q. The title change_--

A. There is no such thing.

Q. Correct.

A. There is no job security, right.

Q. And that in terms of the question of

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2 permanence, her new title of deputy is pretty
3 much the same as before the new commissioners
4 have?

5 A. Right, right.

6 Q. They have the same lack of protection.
7 Can you identify a person by the name of Alisa
8 Kesten?

9 A. Sure.

10 Q. Who is that?

11 A. She most recently was head of
12 Volunteer New York. She is an activist in New
13 Rochelle. She is an old friend of mine. She
14 worked together in the League of Women Voters.
15 We raised our kids together. She is a really
16 good person in Democratic politics in New
17 Rochelle.

18 MR. BLUMENTHAL: In Robert Cox
19 complaint he misspells it two different
20 ways in two separate paragraphs.

21 Q. Have you ever heard anyone reference
22 her name in connection with the possibility of
23 her being a candidate for city manager?

24 A. No.

25 Q. Do you know whether or not she was

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active in the mayor's last campaign?

A. I don't believe so. I mean I worked with her on Noam's campaign years ago. She was his campaign manager years ago when our kids were little so we are going back 20 something years but no, in the last campaign, no.

Q. Have you had occasion to discuss your testimony, you know, today, with anyone?

A. No.

Q. Tell us what we ought to know about this that we haven't asked you about.

A. You know, when I step back from this whole thing and I look at it I have to say that my conversations with Noam were very casual.

When I explained that my support for Kathleen was firm, he just backed off. He never once tried to change my mind and he was very respectful of my position and that was the last I heard from him which was, what did I say? March 18, yes.

MR. MEISELS: Do you gentlemen have any other questions?

MR. BLUMENTHAL: I am fresh out of them.

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MR. MEISELS: Thank you very much.
We appreciate it.

MR. PHIPPS: Thank you for your
time.

MR. BLUMENTHAL: Do you have any
questions for us?

THE WITNESS: When do you think
this process, when will you have spoken
with everyone you need to speak with?

MR. MEISELS: That depends on
their schedules.

THE WITNESS: I didn't know if you
had a deadline or something like that.

MR. MEISELS: We don't have a
formal deadline or actually even a
self-imposed deadline other than to do
this as quickly as one reasonably can.

THE WITNESS: I am asking because
originally I was told Friday and then I
got switched to Monday so I was hoping
things are, you know, we are going to
get to the end of this because it is
really hard, as you guys can all
imagine. It is very hard, you know, to

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do business. I feel like there is a cloud over us.

MR. BLUMENTHAL: I think Mr. Cox will tell us when we are finished.

MR. MEISELS: We do want to-- it has been the Board's policy when you get a complaint, first of all we are obligated to investigate it and try to speak to anyone who is willing to talk to us who might have some relevant information.

Then there is the second step where the board has the power to issue subpoenas. Hopefully that is not necessary and so far it hasn't been because that drags things out, not just issuing and serving the subpoena but people generally insist on being subpoenaed may not show up and we have to go to court to enforce the subpoena but none of that has happened, so it is just a matter of speaking to everybody who might have some relevant information.

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THE WITNESS: And then the Board will decide whether there have been violations, there has been a violation or violations?

MR. MEISELS: Well, the Board-- it is just a little bit more complicated than that. The Board's fundamental jurisdiction deals with what is called a board of ethics. In New York State ethics generally deal with money. It is financially reporting, the accuracy, all that.

THE WITNESS: We have to fill those out every year, sure.

MR. MEISELS: However, in the city counsel's wisdom, in approving a local ethics law it added to it violations of any law or ordinance of the city in code, including the charter.

THE WITNESS: The charter, okay.

MR. MEISELS: And if asked by someone who is governed by the code whether or not a particular activity violates the charter, and we deal with

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money, the finances, the Board has the right to issue an advisory opinion. What the asker does with that advisory opinion depends upon other things.

THE WITNESS: When you say the asker--

MR. MEISELS: The person requested. Bob Cox is not covered by the code so he can't request an advisory opinion.

THE WITNESS: Okay.

MR. MEISELS: But someone who is such as the councilperson can ask, can request it.

THE WITNESS: So in this case do we have a councilperson who has requested that?

MR. MEISELS: Yes.

THE WITNESS: I don't need to know who it is, I am just trying to understand the process.

MR. MEISELS: Yes. This is why it is more than what it might normally be.

THE WITNESS: Understood.

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MR. MEISELS: And then, of course, it is an interesting question. It could be a councilperson before the government. They are not all exactly the same but the principals are pretty much the same and I am sure you read somehow it got Foiled, Chuck's memo.

THE WITNESS: Yes, of course. Check shared the memo with council and he also shared the legal opinion of Mr. Toomey with the council which I found both of those very helpful.

MR. BLUMENTHAL: From your perspective, what was your reaction to his memo that was pretty detailed.

THE WITNESS: From the International City Managers Association?

MR. BLUMENTHAL: Yes.

THE WITNESS: My reaction was that Chuck did the right thing, that he was above board and he was trying to make sure that he acted, you know, within the rules and regulations of what he

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should be doing.

MR. BLUMENTHAL: Were you taken
aback-- I hate to use that term, I
don't mean it that way, by the fact
that he was put in that position? Is
that troubling? It doesn't have to be.

THE WITNESS: Of course it was. I
love Chuck. Again, I worked with him
for six and a half years now and he is
a wonderful wonderful city manager, and
if he felt that he needed the opinion
of this professional group, yes, it was
troubling. I am sorry he was put in
that position.

MR. PHIPPS: The city charter, are
you familiar with that, very familiar
with it?

THE WITNESS: I even tell my
constituents, that's why I am so
friendly with Kathleen because I can
read_-- I am not an attorney and I can
read the city charter and of course I
looked at it so I always go to Kathleen
and I ask her if I have a question

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about the charter, yes.

MR. PHIPPS: Is there something that you feel that most council people have your feelings that there is just not enough information about the charter, that you don't have_--

THE WITNESS: You know, I can read the charter all day but I don't know how to interpret it. You know, it is more that I don't have legal training to interpret it.

For example, I will give you an sample when I went to the charter and I really dug through it and tried to understand; it is the whole thing with the leaf blowers. My constituents hate leaf blowers so Kathleen said see the charter, see what laws are on the books and I read it and I still had to call Kathleen, what does this mean?

I would say all the council people work with it and are familiar with it but the interpretation is difficult.

MR. PHIPPS: Do you think it would

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be beneficial at some point city managers or all of you can have someone explain the charter not really in detail but give you an overview that may say this charter is more important, not more important but carries more weight than another charter?

THE WITNESS: Absolutely, since we as council people are put in a position of interpreting it for our constituents, but again, that's when I pick up the phone and call Kathleen, so even if I sat through a tutorial on the charter and I got a question from a constituent I would still call Kathleen and say how do you interpret this.

I have been in situations where I have said to her can we change this provision and sometimes yes and sometimes no so, you know, I guess it is like the Constitution. I think of it like the Constitution of the United States. Same thing, I read it, I studied it but how it is applied I

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would still go to her.

MR. PHIPPS: If you got a tutorial of it you would have a better understanding rather than asking Kathleen to interpret it, asking her questions and therefore it would probably be better for your constituents.

THE WITNESS: Yes and no because when I go to her it is with functional issues so I want to know, you know, during what hours can people blow their leaves, that's in the charter so she will send me the_-- you know, then I will say to her well, I am hearing that Scarsdale does this and Pelham does this, our neighbors do different things, is it possible to rewrite the charter and that's really a legal question, so yes, by all means becoming more familiar with the charter is a good thing but I still wouldn't make any decision without, you know, our city's attorneys, but absolutely.

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But in this case, this whole issue with Chuck retiring and, you know, the council side, I mean council only gets involved when it comes to the city manager and Chuck has been here for what, 30 something years or something. It is the first time it has ever come up, yes.

MR. MEISELS: My time working with the city, I came at the very end of Sam Kissinger, I think, or when he left, Peter Korn and then Chuck, there has not been a lot of city managers.

THE WITNESS: No. So yes, you know, you learn stuff-- I mean learned that is our only personnel function which is why I never got involved in any of the commissioners because I knew that wasn't part of my job.

MR. PHIPPS: It is not in your lane.

THE WITNESS: Yes, exactly.

MR. MEISELS: If you can have the time to go to an ICMA meeting

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2 convention you will find fascinating
3 and you will be able to go at a good
4 price because you are a municipal. It
5 is about five thousand city, county
6 managers from all over the world, not
7 just the United States. Most of them
8 are from the U.S. and Canada and it is
9 a group of people who are committed to
10 this form of government which is much
11 more popular in states like Sardon
12 Virginia and has gotten less popular in
13 New York.

14 It used to be, as you know,
15 Yonkers was one city council manager
16 form of government and they went back
17 to strong mayor and there was a debate
18 whether or not that was a good thing,
19 but the people who believe in this and
20 obviously the City of New Rochelle did
21 back in 1932, this is the law and it
22 was interesting meeting a bunch of city
23 managers from Texas and it was very
24 interesting because politics there seem
25 to be a little bit more wilder than it

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is here, and drawing the line that no, you don't have a say in who we hire and fire, it has to be merit selection is apparently extremely important to keep government operating in some places.

THE WITNESS: Right.

MR. MEISELS: You would enjoy it. It is great conventions.

THE WITNESS: Very interesting, and it worked, until now everything worked really smoothly, yes.

MR. BLUMENTHAL: Thank you very much.

MR. PHIPPS: Thank you for your time, appreciate it.

MR. MEISELS: Enjoy the rest of your day.

MR. PHIPPS: Have a wonderful evening.

(Witness excused.)

(Mayor Noam Bramson and his attorney, Steven Leventhal, enter the chambers.)

MR. LEVENTHAL: We have just

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2 arrived at the appointed time for our
3 interview before the Board of Ethics
4 and learned for the first time that the
5 Mayor's comments will be transcribed.
6 The Mayor's desire to participate and
7 cooperate with the Board of Ethics has
8 overwhelmed my concerns about the
9 unfairness of this process.

10 The reason I say the process is
11 unfair is because no charges have been
12 proffered. The mayor has not had the
13 due process that would be accorded to a
14 respondent in an administrative
15 proceeding and that is the right to be
16 present and hear what his accuser has
17 to say and to actually hear the
18 testimony of the other witnesses before
19 being interviewed himself. This is the
20 normal universal practice.

21 We came here with the intention of
22 answering whatever questions the Board
23 of Ethics might have. We are going to do that but it is over my
24 very
25 serious objection and recommendation to
 the Board of Ethics. Although I am not

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his counsel, you have highly qualified counsel, it is my recommendation in the future the Board of Ethics seriously reconsider that process. I have no problem with a Board of Ethics doing triage, doing it preliminary, a formal investigation to see whether the circumstances warrant a more formal proceeding with charges, but to actually take testimony and record that testimony as a record of the proceeding in my opinion under these circumstances is unfair.

MR. MEISELS: Is there anything else you want to add to the record?

MR. LEVENTHAL: No.

MR. MEISELS: Proceed.

MR. LEVENTHAL: Sworn testimony?

MR. MEISELS: Absolutely.

MR. LEVENTHAL: This is an informal meeting in which we are giving you the opportunity to interview the mayor. If you want the mayor to be sworn, proffer charges, conduct a

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formal proceeding and the mayor will be sworn.

The mayor is not going to give sworn testimony. You haven't given me the opportunity to adequately provide advice and counsel to the mayor. This is completely different than what my understanding was about this proceeding.

MR. MEISELS: Firstly, I thought I was very clear that we do this on the record and we even had a discussion earlier today that it ultimately could be Foilable.

MR. LEVENTHAL: There was no mention of a transcribed record.

MR. MEISELS: I can't imagine-- we always do it on the record. This is how we always have done it and of course it is sworn testimony. This is not prosecutorial, it is investigatory, but every witness who testifies here takes an oath and does it on the record.

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Obviously we invited your client. We did not subpoena your client and you are here voluntarily and you can leave voluntarily if that's your best legal advice.

MR. LEVENTHAL: I understand that.

MR. MEISELS: If we are going to take testimony it is going to be sworn testimony.

MR. LEVENTHAL: You never characterized this as a meeting to take sworn testimony. You never did.

MR. MEISELS: It is an investigation and I am not aware of any investigation like this-- we have done or other similar bodies where people have not taken an oath before they testify.

MR. LEVENTHAL: Does the Board of Ethics have rules of procedure that it has adopted?

MR. MEISELS: I am not certain.

MR. LEVENTHAL: Are there published rules of procedure that

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someone who is a respondent_--

MR. MEISELS: These are all questions that you could have asked before today and you had an opportunity to counsel your client before today.

MR. LEVENTHAL: I would have asked them and I would have counseled my client had we given a clue that there would be sworn testimony.

MR. MEISELS: The clue is that this proceeding, the way any other investigatory proceedings proceeds.

MR. LEVENTHAL: Maybe in the City of New Rochelle but not elsewhere.

MR. MEISELS: That is all I am concerned about is the City of New Rochelle. This relates to the City of New Rochelle.

MR. LEVENTHAL: How many other investigations involving the sworn testimony have been taken?

MR. MEISELS: I am not under oath, first of all, okay, so I am not going to answer any questions.

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MR. LEVENTHAL: You are telling me this is a normal procedure. Is it in fact a normal procedure?

MR. MEISELS: This is a normal procedure and you are entitled to deal with it as you please, so you just have to go speak to your client and make a decision what you want to do and whatever you want to do, you know, is acceptable to us. What can I say.

MR. LEVENTHAL: My client will answer your questions but once again, I want to register my objection.

MR. MEISELS: You are free to register whatever objection, of course.

MR. LEVENTHAL: This is testimony by ambush but please proceed.

MR. MEISELS: I want you to be able to say whatever you would like to say on the record but I am not getting into an argument with you about it.

MR. LEVENTHAL: I said what I wanted to say.

MR. MEISELS: You said what you

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want to stay and you are free to come back another time if you think that's appropriate so you don't feel ambushed. Would you like to do that? You want to come back another time?

MR. LEVENTHAL: The mayor wishes to proceed today.

I will say one more thing. This is not the tone that we hoped to set for this. We came here in good faith to cooperate.

MR. MEISELS: Well, so far I don't see how that is any different. Certainly as far as the Board is concerned nothing has changed as far as this regards. I can't speak for your side of it but we don't see any reason why this isn't cooperative.

MR. LEVENTHAL: Let's proceed.

N O A M B R A M S O N, a witness called on behalf of the City of New Rochelle, having been first duly sworn, was examined and testified as follows:

THE COURT REPORTER: Can I have

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your name and address for the record.

THE WITNESS: Noam Bramson, 515
North Avenue, New Rochelle, New York,
10801.

EXAMINATION BY

MR. MEISELS:

Q. Mr. Mayor, welcome.

MR. LEVENTHAL: One more thing
just occurred to me. Sir, I am asking,
do you have a card.

THE COURT REPORTER: Yes.

MR. LEVENTHAL: If you will
provide it to me at a convenient time.

Q. Thank you for coming.

A. My pleasure.

Q. We are here to investigate the
multifaceted complaint filed by Robert Cox which
I presume you already read, but what I have done
is made copies of it, given you a copy and your
attorney a copy in case you want to refer to it.

We would like to know everything
that you would like to tell us about his
allegations, all right, so if we miss a question
or we fail to cover something that you think

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should be covered and we should know, feel free to volunteer.

A. Sure.

Q. Okay. Am I correct that you were elected to be a councilperson before you became mayor?

A. You are.

Q. When were you first elected?

A. 1995.

Q. How long did you serve as a councilperson?

A. Ten years.

Q. When were you first elected as mayor?

A. I was first elected in November of 2006 but prior to that I was appointed. The prior mayor was elected to higher office. Under those circumstances the City Council appoints an interim mayor so I became mayor in January of 2006 by appointment.

Q. You have been the mayor since your appointment?

A. Correct.

Q. Now, does the City of New Rochelle have a City Council form of government?

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A. Of course.

Q. They had that since 1932?

A. I don't know the exact year but it has been many decades.

Q. Before you even got elected?

A. Yes.

Q. And if I were to ask you to explain to an uninformed citizen how the council manager form of government operates in New Rochelle, how would you explain it?

A. I will answer it in a moment. Can I say something first which I intended to say before we got into that initial kerfuffle?

I realize this is kind of an uncomfortable situation for all of us. As you can imagine it is not pleasant for me to have my integrity challenged, particularly in a public context and I have to believe this is awkward for you as well. I just want you to know that I very much respect each of you as individuals. I respect the roles that you have here and I realize that you are handling as well as you can a burden that has been thrust upon you and I appreciate very much that I have counsel who is

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2 sticking up for my legal interests. I am not a
3 lawyer myself. I would offer the same testimony
4 whether I was under oath or not under oath
5 because I have only one story to tell and it is a
6 truthful story but I just want to perhaps reset
7 the tone of this dialogue and make it clear that
8 I recognize the role that you have and I hope I
9 could be helpful in sharing with you my
10 prospective of what transpired and providing any
11 other information that may be helpful to the
12 Board in your consideration of this whole matter.

13 MR. BLUMENTHAL: In the same
14 context I was going to make a
15 statement also. I have known you for
16 many years and I just wanted to thank
17 you for your years of service and the
18 word distasteful does come to my mind,
19 not only what you are going through,
20 what everyone is going through. It is
21 an unfortunate situation, whether
22 there is kernels of proof, I have no I
23 clue.

24 We have to make a recommendation
25 when we are done but I appreciate all

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you have done for the city and all the citizens of this city.

THE WITNESS: Thank you for saying that. We'll all do our best to get to the right conclusion, so...

MR. PHIPPS: You know where I come from. We have been around a long time.

THE WITNESS: The fact that we know each other personally makes it more awkward, so with that, your question I felt it was necessary to say that in light of how we began.

State the question, how would I describe the council manager system?

Q. An uninformed citizen just moved to New Rochelle, they came from Yonkers and they asked you how does a council manager form of government work in New Rochelle, how would you explain it?

A. So I would say in contrast to the classic separation of powers that most of us learn about in political science class where there is an elected chief executive and elective legislature, there is a unified branch of

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2 government in which the City Council assumes
3 primary authority over legislation and has the
4 opportunity to hire or fire the city manager but
5 the city manager is responsible for the
6 day-to-day operations of the city government and
7 makes personnel decisions and assumes executive
8 authority.

9 The administration is ultimately
10 accountable to the public through the council but
11 again, the City Council is primary with respect
12 to policy making and legislation, the city
13 manager is primary with respect to personnel and
14 operations.

15 Q. Now, when you say the City Council
16 manager is primary when it comes to operations,
17 what is your understanding of the city manager's
18 authority to hire and fire persons who report to
19 the city manager?

20 A. The city manager has total authority
21 to hire or fire.

22 Q. As far as you are aware, and I am not
23 asking for a legal opinion, as far as you are
24 aware as mayor, is there any provision in the
25 charter that prohibits councilpeople from

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attempting to influence those decisions?

A. I am aware of the charter provision that is cited in the complaint which I am sure you are making reference to right now. It does prohibit the City Council from--

MR. LEVENTHAL: The charter section speaks for itself.

MR. MEISELS: I am asking the mayor if he is aware of it.

MR. LEVENTHAL: He is aware of it.

MR. MEISELS: You can't testify.

MR. LEVENTHAL: I am not testifying.

Q. Are you aware of it?

MR. LEVENTHAL: I don't want the mayor--

MR. MEISELS: No.

MR. LEVENTHAL: Excuse me, let me do my job.

MR. MEISELS: This is an investigation, this is not adversary and you can really can't obstruct it.

MR. LEVENTHAL: We are making a sworn transcript to I need to be able

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to represent my client.

MR. MEISELS: If you want to let him the answer and then counsel him you can but you can't keep testifying for him.

MR. LEVENTHAL: I am not testifying. Well, I am advising him. I don't want you to characterize the charter provision. If the question is what does the charter provide, we should read the charter provision into the record.

Q. The question is, what do you understand it to mean?

A. I understand it to mean that the City Council and the mayor should demonstrate respect for the city manager's appointments and personnel authority and not interfere inappropriately with that appointment authority.

Q. What is your understanding, what would be an inappropriate interference?

MR. LEVENTHAL: I am going to object again because the city_-- the charter provision is precise. It has

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words. The words mean something.

MR. MEISELS: Can we have the question read back?

MR. LEVENTHAL: I would like to speak to my client. You have a pending question, I won't do it while the question is pending but after this answer I would like to speak to my client.

THE WITNESS: Just say the question again, please.

Q. I want to know what you think it says and what you think it means and we'll have the question read back. I am not asking you for a legal opinion.

A. I think it is intended to prevent an inappropriate compulsion or coercion of the city manager.

MR. LEVENTHAL: Before you ask the next question I would like to speak to my client.

MR. MEISELS: Mayor, you know better what the rooms are like here, help yourself?

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THE WITNESS: We'll speak quietly.

MR. MEISELS: Take your time. It is kind of dark.

(Recess.)

Q. Now, from a review of the complaint, okay, do you understand that the allegation is-- I emphasize the word allegation, is that you had made an inappropriate effort to have the city manager appoint you to be a commissioner of development?

A. I understand that is the allegation.

Q. Correct, in capitals, allegation, okay? First of all, is that true?

A. No.

Q. Second of all, was the concept of your being appointed commissioner of development ever discussed with anyone?

A. Yes.

Q. Who was it discussed with?

A. The city manager.

Q. Was it discussed with anybody else that you can recall?

A. For my part I discussed it with my wife and I discussed it with a number of friends

1 FRIED

2 who have no connection to the city.

3 I am aware that the city manager
4 discussed it with a number of other individuals.

5 Q. Okay. And do you recall when you
6 first discussed it with the city manager?

7 A. It was, I believe, in approximately
8 the spring of 2021. You want me_-- would you
9 prefer_-- I am wondering if I should answer yes
10 or no or you want a more expansive narrative.

11 Q. Let me explain. This is
12 investigatory. We would like to hear what you
13 have to say so you go ahead and tell us what
14 happened.

15 A. Let me first, if I could, make an
16 observation about the complaint from 20,000 feet
17 and then I am happy to get into whatever level of
18 detail would be helpful to these discussions.

19 Q. Sure.

20 A. In my estimation, the complaint
21 mischaracterizes conversations that did actually
22 occur and it holy fabricates other conversations
23 that never occurred, and the effect and its
24 totality is to create an entirely misleading
25 impression that is frankly typical of this

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2 particular complainant who you may be already
3 familiar with and whose method of operation is to
4 blend facts with conjecture and conspiracy theory
5 and to weave from those things a false native.

6 So to be very clear, I utterly
7 reject that false narrative. It is my belief
8 that every conversation I had with either elected
9 or appointed officials was entirely ethical and
10 appropriate and that is how I always conduct
11 myself. I assign the highest value to ethics in
12 public service and believe that that is
13 enormously important for anyone in a position
14 like mine.

15 So that said, let's get into the
16 details, and I guess there is two components of
17 the complaint, one which you began questioning is
18 the development commissioner conversation and the
19 city management appointment.

20 Q. I would like you to actually talk
21 about the development commissioner. As I
22 understand it it was first discussed
23 approximately a year ago?

24 A. Correct.

25 Q. Can you tell us in words or substance

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what the communications were that you had with the city manager approximately a year ago?

A. Yes.

Q. Concerning this topic?

A. Yes. So the city manager had been disappointed with the outcome of our initial search for development commissioner, felt that the candidate pool included plenty of competent planners but that is something we had already an abundance in our development department. What it lacked was a more forceful leader who could communicate the city's visions to relevant constituencies and search as more of a face for the city's development goals.

The city manager approached me to suggest that I take a serious look at the position. That suggestion had a certain plausibility. I have been immersed in development issues throughout my service as mayor. It has probably been my primary focus.

I worked closely with prior development commissioners. I have relationships with real estate professionals with whom development-- the department of development works

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2 on a regular basis. It is common for me to
3 present for the city in the context of seeking
4 grants that are related to the development in the
5 context of gathering real estate professionals ,
6 regional planners, et cetera, et cetera.

7 Because of that the city manager
8 thought this was something I should look at
9 seriously. On the other hand, I think we were
10 both aware that an appointment of this kind would
11 be highly unconventional, potentially
12 controversial and there was a lot about it that
13 would be odd and would have to be sort of thought
14 through very carefully.

15 So I was initially quite skeptical
16 of the suggestion and expressed that to the city
17 manager. It would require a pretty comprehensive
18 redefinition of who I am professionally as well
19 as the oddity of going from being nominally the
20 head of the organization to being a subordinate
21 which is a strange transition.

22 Nonetheless I thought about it
23 carefully. As I said I had conversations with my
24 wife and with a few other close friends to get
25 their guidance, and after a few weeks I came back

1 FRIED

2 to the city manager and indicated that I was in
3 fact interested. I concluded that perhaps I am
4 feeling a little exhausted by politics. This is
5 an example of why I am feeling exhausted by
6 politics, while at the same time I continue to
7 feel passionately about development and planning
8 in the city, and so this was an opportunity to
9 minimize one and embrace more fully the other.

10 So I told the city manager, you
11 know, I am interested, let's see if we can make
12 this work. The city manager at that time felt
13 that it was important for him to do his due
14 diligence and to seek input from professional
15 colleagues in management roles. He did so, and
16 either as a result of those conversations or
17 perhaps as a result of just his additional
18 reflection, I think it is fair to say as I
19 became more enthusiastic city manager became
20 somewhat more skeptical so our roles to some
21 degree sort of reversed in the conversation.
22 Nonetheless we continued to discuss the
23 possibility.

24 To be clear, although these
25 conversations were extended they were not

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2 constant. Weeks or months would go by without us
3 mentioning it to each other and there might be
4 something like what is going on with this?

5 Fast forward a few months, the
6 city manager thought it would be wise to have a
7 second search for a development commissioner,
8 felt that that process might produce a better
9 candidate. In the event that it did not produce
10 a better candidate, then it might make more sense
11 to reconsider my potential appointment. I agreed
12 with that logic.

13 The search process was somewhat
14 delayed because of the completely unrelated
15 difficulties with our human resources
16 commissioner that you are all very familiar with.
17 Ultimately that search process did proceed. At
18 the same time the city manager sought a formal
19 opinion from the ICMA, the International City
20 Managers Association. That opinion, as you know,
21 concluded that my appointment might violate
22 certain professional standards for a city
23 manager. The city manager shared that opinion
24 with me. I accepted it as conclusive.

25 If I felt any frustration it was

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2 perhaps we should have sought it earlier in the
3 process because it would have saved us many
4 months of thinking through this possibility but
5 that was that.

6 What I want to emphasize is that
7 at no point in these conversations was there any
8 coercion, was there any threat, was there any
9 indication that there would be professional
10 repercussions in the event that I was not
11 appointed. These were at all times civil good
12 faith conversations between colleagues
13 considering the possibility and a concept that
14 has pros and cons and ultimately concluding the
15 cons outweighed the pros.

16 To the extent the city manager
17 felt any discomfort which I think you maybe
18 detect in the memo he wrote to me, I think that
19 was based on our personal relationship. Keep in
20 mind we worked together for 25 years. I like to
21 think we are friends in addition to being
22 colleagues, and I think the city manager was
23 concerned that our professional relationship
24 might be intact but our personal relationship
25 would suffer and I don't believe that's the case.

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That has not proven to be the case and certainly I always made it clear to him that what was primary was the city's interests and whether this appointment made sense for the city and I know that he viewed it in the same light.

Q. You mentioned a memo that you received from the city manager. I am going to show you what we marked as Exhibit B for identification. Is that the memo that you are referring to?

A. Yes.

Q. Okay. You have reviewed that memo?

A. I have.

Q. I gather. Okay. Is there anything in particular that jumps out to you in that memo that you think is either not completely accurate or completely inaccurate or doesn't accurately reflect what occurred between the two of you?

MR. LEVENTHAL: Just for the record, the exhibit, Exhibit B contains more than the memo. I don't know if that is intentional or inadvertent.

MR. MEISELS: The memo includes the opinions that the mayor-- that he attached to the memo, is that what you

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are referring to?

MR. LEVENTHAL: There is an e-mail message and the opinion from the ICMA.

MR. MEISELS: Correct, that was attached to the original.

MR. LEVENTHAL: The record should be clear what Exhibit B is, that's all.

MR. MEISELS: Certainly. The opinion from the ICMA was included in the original but we can ask the mayor was the opinion_--

MR. LEVENTHAL: I am not challenging you, I am just saying the record should be clear what Exhibit B is, that's all.

MR. MEISELS: Okay, and you have a copy of it.

MR. LEVENTHAL: It is not that I have a copy.

MR. BLUMENTHAL: He is saying the memo did include an attachment that is still attached.

MR. MEISELS: It is as it was.

MR. BLUMENTHAL: The record should

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show that.

MR. MEISELS: Yes.

A. Yes, I think this is an accurate statement of the city manager's prospective and I don't dispute any factual component with it.

Q. Okay. Just last Friday you were quoted in the Journal News saying something that you had actually just said again and that's what I thought was interesting. You were quoted, "I think over the course of these discussions I would say Chuck went from sort of encouraging to being skeptical and I went from being skeptical to being encouraging."

You said that again today?

A. Yes.

Q. Could you be a little more specific about what you mean by your becoming, going from skeptical to becoming encouraging?

A. Well, I thought to some degree I explained that but I am happy to elaborate further.

As I said, when this concept was first raised my reaction was too largely dismiss it. I felt it would be a very sort of unusual

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2 change in my career track. It is not a role I
3 ever envisioned for myself and wasn't clear to me
4 that I was frankly prepared to give up all the
5 things about being mayor that I really enjoy and
6 find satisfying and it was just difficult to wrap
7 my mind around it.

8 We literally joked about it
9 initially, you know, started as almost a joke and
10 evolved into a more serious conversation. As I
11 said, when I had a chance to reflect on it more
12 fully and when I had a chance to get advice from
13 a small circle of people whose opinion I trust, I
14 became intrigued by the possibility of being able
15 to delve more fully and concentrate more fully on
16 the aspect of local policy making which I have
17 the greatest interest, while setting aside
18 aspects of my current job that maybe I have less
19 interest in at this stage in my life.

20 So that is how I became sort of
21 more interested in the possibility.

22 Q. Okay. Other than your lawyer, of
23 course, in addition to the city manager, did you
24 have occasion to discuss the possibility of your
25 appointment, the commissioner's position with

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anyone else?

A. Only in the sense that there were a couple of occasions in which people raised it with me and I was rather taken aback by that because I have the impression that these conversations were private until and unless the city manager and I made a joint determination that we would move forward, and in those cases I simply switched the topic without engaging.

Q. Do you recall the people who raised it with you?

A. I do. I just have some discomfort with the notion that I am perhaps betraying confidences when I do this but is it truly relevant to your inquiry?

Q. Yes.

A. The people who raised it with me were Councilmember Albert Tarantino, councilmember Ivar Hyden and former Development Commissioner Luis Aragon, and in each case, as I said, I simply did not engage. I was astonished to have the issue raised.

Q. When Councilman Tarantino_-- tell me in words or substance how he raised it with you?

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2 A. I think he said something like to the
3 effect, this was_-- in addition to the regular
4 meetings we may have all the time we have sort of
5 once a year at the beginning of the year I make a
6 point of sitting down with each councilmember to
7 talk about our priorities for the year, and he
8 said something along the lines of so what is this
9 I hear about your becoming development
10 commissioner? And I think I responded well, that
11 is an interesting idea and then moved on so that
12 was the extent of it.

13 Q. And with Councilwoman Hyden?

14 A. Almost identical.

15 Q. In words or in substance what do you
16 recall him saying to you and what do you recall
17 saying to him?

18 A. Almost identical to the conversation
19 with Albert Tarantino.

20 Q. Almost identical. Any difference?

21 A. I didn't take a transcript at the time
22 and my recounting of the conversation with
23 Tarantino was an approximation so I would offer
24 the same approximation.

25 MR. BLUMENTHAL: I am just

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wondering how they would have heard about it. It was just you, your wife, a couple of friends and the city manager, he had to bounce it off some people too. It is a pretty tight circle on both sides.

THE WITNESS: The city manager as indicated in this memo chose to discuss this with two members of the city council.

MR. BLUMENTHAL: That's how the word got out?

THE WITNESS: And with others, and I can only assume that is the process through which it got out.

MR. BLUMENTHAL: He was sort of caught off guard with the question?

THE WITNESS: To be clear, the city manager and I always understood if the two of us actually decided simultaneously that we should proceed with this, there never was a moment where both of us at the same time were ready to turn the key.

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If we did reach that time we knew full well this would require extensive consultation with members of the council and other interested parties, this isn't something that would be dumped onto the city organization or the community, but in my opinion we had not reached a point where the subject of discussion was ripe.

MR. BLUMENTHAL: Lets go in retrospect. Again, this is not as much for this investigation, but if you both decided that was the right way, the right thing for the city, you know, now in retrospect would you say would that be the right path? I am not asking_-- the same issues would have arisen because again, whether it is Cox or other people would have said oh wait, you are jumping the line here, you put pressure, and I am not saying you did, please, I don't want to be misunderstood, but could that have ever come up?

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Chuck certainly knows the code pretty well. You know the code certainly ten times better than I do, but would that ever come up if you both agreed? Couldn't that have been an issue that, you know, someone who does not have the city's best interests in mind?

THE WITNESS: It might have been, and I think the way this has actually played out certainly gives some weight to that view, and I think the ICMA opinion, as I said, is dispositive. My regret is we did not seek it earlier in the process so yes, I think a good case can be made that this was a flawed concept from the get-go.

MR. BLUMENTHAL: He brought it up to you, you didn't bring it up to him?

THE WITNESS: Correct.

MR. BLUMENTHAL: From your perspective, again I am taking your words at faith. He mentioned it to you. He brought it up, whatever the

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terminology is, and you just responded to him and it just kind of_--

THE WITNESS: David, that is exactly right. That is how the conversation was initiated. It was an ongoing off and on conversation from that point forward, consistently amicable and consistently focused on what is best for the city.

You know, one can reasonably make judgments about whether it was wise to consider this course of action but that's entirely different from saying it is unethical, this course of action and, you know, I think that is what is at issue here, whether there was an ethical transgression and I don't see how that_-- if you believe Mr. Cox's account of things, how you can reach that conclusion, but based on what actually transpired, I don't think there is any ethical transgression at all.

Q. Did you ever have occasion to have a

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conversation with any member of the council about broadening the charter qualifications for the position of commissioner of economic development to include experience with not-for-profits?

A. No, never.

Q. Did you ever have occasion to discuss the possibility of your becoming the commissioner of economic development with Sara Kaye?

A. No.

Q. Martha Lopez-Hanratty?

A. No.

Q. Al Tarantino other than what you already testified to?

A. No.

Q. Yadira Ramos-Herbert?

A. My name often has to be spelled out too. Just to clarify, I did speak to all of these people after the news after it was clear that Cox was going to publish something but I assume your question refers to prior to that.

Q. Before the complaint, yes.

A. So the answer is no.

Q. Okay. You already told us your conversation with Ivar Hyden. Did you ever have

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occasion to discuss it with any former council people?

A. No.

Q. A former mayor by any chance?

A. No, the city manager did, I believe.

MR. BLUMENTHAL: I think you left one city councilmember out, for the record.

MR. MEISELS: Who did we leave out?

MR. BLUMENTHAL: Liz Fried.

THE WITNESS: No.

MR. MEISELS: So let me make sure.

MR. BLUMENTHAL: I kicked off my shoes.

MR. MEISELS: I appreciate that.

Q. I want to make certain you never discussed the possibility of your appointment to the position of commissioner of economic development with Liz Fried.

A. I did not, not prior, again, to this becoming public, correct.

Q. And did you have occasion to discuss it with her after it became public?

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A. I discussed it with several members of the council because once I was aware that Mr. Cox intended to publish something, I felt it was important for councilmembers to hear from me directly rather than learning about this secondhand.

Q. Fair enough. Which council people did you have occasion to discuss it with after you became aware this complaint was going to get published?

A. I remember speaking to councilmembers Kaye, Fried and Ramos-Herbert. I don't think I spoke with councilmembers Hyden and Tarantino nor did I speak to councilmember Lopez and the reason is, now I am remembering, the city manager told me that he had spoken to councilmembers Tarantino and Lopez in order to get their feedback early in the process and therefore I did not think it was necessary to make them aware of these conversations since I knew they were already aware of it.

Q. Okay. So you spoke to, as I understand it, you spoke to Sara Kaye?

A. Yes.

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2 Q. And how many times did you do that
3 after you became aware that the complaint was
4 going to be published?

5 A. I mean I had one conversation during
6 which this was the purpose of the conversation.
7 I truly can't remember whether it came up in
8 passing in other discussions that we had on other
9 subjects but there was only one meaningful
10 conversation about this.

11 Q. In reference to that one meaningful
12 conversation, what did you say to her and what
13 did she say to you?

14 A. I recounted in a summary form the
15 description of the conversations between the city
16 manager and myself that I just shared with you.
17 I said I want to let you know this is something
18 that transpired. I am aware that there is
19 something going to be published, I wanted you to
20 hear it from me rather than reading about it.

21 Q. When you said you did in summary form,
22 give us an idea what that means. What did you
23 say to her?

24 A. I said the city manager and I have had
25 on and off conversations about the possibility of

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my becoming development commissioner. During the

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course of those conversations our interest in

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this waxed and waned. There was no moment at

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which both of us were jointly prepared to move

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forward with this.

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The city manager requested an

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opinion from the ICMA, shared that with me with a

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memorandum. That had the effect of bringing the

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conversations to a definitive close. I am happy

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with appointment of Adam Salgado as the

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development commissioner. He is going to do a

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great job.

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The memorandum was Foiled by

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Robert Cox. He has received it. He also sent me

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an e-mail or a text or whatever it was asking for

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comment. I responded briefly, therefore it is my

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understanding there is going to be an article

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about this, you know, tomorrow or the day after

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or whatever and I want you to hear about it from

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me.

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Q. Okay. What did she say to you about

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that, if anything?

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A. Thank you for letting me know. I

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appreciate it and let's move on. I think for

1 FRIED

2 those who I spoke with it was not within our
3 minds that a proceeding of this kind would
4 unfold. I am still somewhat amazed a proceeding
5 like this has unfolded.

6 Q. Okay. At the bottom of the pile of
7 documents that I gave to you and to your attorney
8 that are all labeled Exhibit A, one called
9 Exhibit A-5--

10 MR. LEVENTHAL: I am missing A-2.

11 MR. MEISELS: The reason-- no,
12 you are not. The reason you don't have
13 an A-2 is that when we duplicated the
14 documents it ended up that A-2 was a
15 duplicate of A-1.

16 MR. LEVENTHAL: So there is no
17 A-2.

18 MR. MEISELS: It exists in my
19 garbage pail.

20 Q. Referring to A-5, you mentioned that
21 you briefly responded to Robert Cox. Is A-5 the
22 communication?

23 A. Yes, it is.

24 Q. Of the council people that you did
25 speak to about this, you mentioned in addition to

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Sara Kaye, as I understand it you did not discuss it with Liz Fried, am I right?

A. I did.

Q. You did?

A. Yes.

Q. Tell us what your conversation was with her?

A. The conversations were all nearly identical.

Q. Okay, remind me. You did not discuss it with Martha Lopez because the city manager had already done so?

A. Correct.

Q. You did not discuss it with Al Tarantino?

A. Same reason.

Q. Same with Ivar?

A. Yes.

Q. And Yadira, did you discuss it?

A. I did.

Q. Tell us what the substance of that conversation was?

A. The same.

Q. Okay.

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A. I am curious, I am not challenging you, I am puzzled by the relevance of these conversations.

Q. Let me explain it to you. I have been a lawyer and I have been a witness.

MR. PHIPPS: I can't hear you.

MR. MEISELS: First of all, relevance is actually not in an investigation, okay, in an appropriate objection.

THE WITNESS: I am not objecting.

MR. MEISELS: I am not under oath so I can't answer any questions. I am just asking my questions.

THE WITNESS: All right.

MR. MEISELS: This is a pretty informal proceeding.

MR. LEVENTHAL: There is nothing informal about this.

MR. MEISELS: Please don't interrupt me.

MR. LEVENTHAL: You are giving sworn testimony on the record.

MR. MEISELS: I would appreciate

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the courtesy of not interrupting.

MR. LEVENTHAL: You mischaracterized to me what would take place say. You said you would ask a few introductory questions and leave it to the Board members.

MR. MEISELS: I made a mistake. I did not realize you were going to misrepresent our conversation.

MR. LEVENTHAL: I did not misrepresent the conversation.

MR. MEISELS: We need to move on.

MR. LEVENTHAL: You mischaracterized to me what would occur today.

THE WITNESS: I withdraw my question.

MR. BLUMENTHAL: It was the question about the other sixth councilperson, what was the nature of that conversation.

MR. MEISELS: Right, which was Yadira.

Q. The question is, as I understand your

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2 testimony, you did discuss this after you were
3 aware there was a complaint?

4 A. Yes.

5 Q. With Yadira?

6 A. Yes.

7 Q. What was the substance?

8 A. Same as the ones I already reported.

9 Q. I understand. I appreciate what you
10 said to her would be the same. How is it
11 possible that all gave you the same exact
12 response?

13 A. I am not alleging they gave me the
14 same response, of course. I am saying to you I
15 don't remember the exact words that were used. I
16 did not record or transcribe the conversations.

17 Q. Do you remember in substance what she
18 said?

19 A. Yes. In substance they all responded
20 in a similar way which is thank you for letting
21 us know. I think they wanted to take in
22 information that was new to them and that was the
23 end of the conversation.

24 Q. Okay. During your conversations with
25 any of the council people did any of them ever

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express to you concerns about this violating the council manager form of government?

A. No.

Q. Now, based upon your understanding what the limitations are, do you understand it is correct that no councilperson may request the appointment or removal of any person to or from employment by the city manager?

A. Yes.

Q. Now, am I correct that in the last year more than half of the commissioners in New Rochelle have been replaced, am I right?

A. I would have to count but that sounds right to me and I assume you have counted them so there is no reason for me to question that.

Q. Let me ask you a question. You mentioned earlier there was an appointment of Adam Salgado to be commissioner of economic development?

A. Yes.

Q. At the time of that appointment did you suggest to anyone that making such an appointment might limit the options of the next city manager?

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A. No.

Q. Do commissioners serve at the will of the city manager?

A. They do.

Q. So educate me. In the event a new city manager was not happy with Adam Salgado, he can make a change, correct?

A. Correct.

Q. Or she can make a change?

A. Certainly.

Q. In the last year was a new finance commissioner appointed?

A. Yes.

Q. Is that Edward Ritter?

A. Yes.

Q. At that time did you express to anyone a concern that might somehow limit the options of a new city manager?

A. I did not.

Q. And am I correct within the last year there was an appointment of a human rights commissioner?

A. Human resource commissioner. You are correct.

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Q. That is Robert Yamuder?

A. Yamuder.

Q. Yamuder. At the time that Mr. Yamuder was appointed, did you suggest to anyone that making an appointment at that stage might somehow limit the options of a new city manager?

A. No.

Q. Okay. And am I correct in the last year there has also been a new commissioner of parks and recreation?

A. Correct.

Q. That's Vincent Parisi?

A. Correct.

Q. When that appointment was made did you suggest to anyone making the appointment at this stage you might limit the options of the new city manager?

A. I did not.

Q. Okay. Did you ever express to anyone a concern that by appointing four new department heads might constrain a new city manager in forming a leadership structure of his or her choice?

A. No.

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Q. Okay. Now, in addition to the appointments that we have already discussed, did the city manager appoint Kathleen Gill to be deputy city manager?

A. He did.

Q. Does the deputy city manager serve at the pleasure of the city manager?

A. Yes.

Q. And is it correct that the city manager could fire the deputy city manager whenever?

A. It is.

Q. And is it correct that a new city manager could fire the deputy city manager?

A. It is correct.

Q. Did you ever discuss with any of the council people the city manager's appointment of Kathleen as deputy city manager and express some concerns about it?

A. I did.

Q. Can you explain?

A. Yes, I will. So I received as the entire city council received a memorandum from Chuck announcing that he was appointing Kathleen

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2 deputy city manager. My concerns about that
3 appointment were not related in any way to
4 Kathleen's qualifications or suitability for the
5 role. There is no question that she is more than
6 qualified for it. She has de facto been in that
7 role for a long period of time and has performed
8 very well. My concerns related to the timing and
9 context.

10 We were almost literally on the
11 eve of launching a search for a new city manager
12 and this struck me as a structural change in the
13 government itself, in other words, creating a
14 position which had not been formally filled that
15 is between the city manager and the commissioner
16 level and my concern was twofold. One, that this
17 might send a signal that there was an air
18 apparent for the role of city manager which could
19 deter potential applicants from applying and
20 second, as you implied in your series of
21 questions, that it might have the effect if
22 Kathleen was not selected to be city manager,
23 that it might impose a structure, a leadership
24 structure on the next city manager that that
25 manager may not want.

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2 You are correct that a new city
3 manager could choose to change the structure but
4 I think to do that would be immediately awkward
5 and problematic because it would set the city
6 manager up for a conflict with a key member of
7 the administration in the form of Kathleen who
8 serves as corporation counsel and would be deputy
9 city manager, so my concerns related entirely to
10 what this would mean for the search process for
11 which the city council and mayor are responsible
12 and what it would mean for the future success and
13 leadership of the city manager and our
14 professional team.

15 You can agree or disagree with
16 whether my concerns were valid. Reasonable
17 people can disagree about that.

18 Q. I have no opinion, I am just a lawyer.

19 A. I don't mean you, Peter Meisels. One
20 can disagree but I do think frankly it is my
21 responsibility to consider such issues because
22 they bear directly on the city manager's search
23 process and the selection of a new city manager
24 which is within the purview of the city council.

25 Q. Okay. Do you recall which council

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people you had that discussion with?

A. I do. I spoke to councilmembers Lopez, Ramos-Herbert, Kaye and Fried. I did not speak to councilmembers Hyden or Tarantino because they responded almost immediately to the city manager's issuance of a memorandum in which they expressed their strong support for this appointment so their opinion was known to me.

To be very, very clear because I know it gets at the nature of the complaint, I reached out to other members of the council not to solicit votes, there was no vote to be held on any of this but rather in the mode of consultation with colleagues to share opinions.

I said I have a concern about this, here is why I have a concern, do you see it in the same way or do you see it differently, and if my concerns had been confirmed by other members of council then I would feel there was legitimacy in my bringing those concerns to the attention of the city manager who can do with it whatever he wants.

In the event members of the council told me no, I don't see it the same way,

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I think you are off base, I might have reached a different collusion. As it is, during the course of those conversations a couple of members counsel said to me that they may agree with how I am looking at it but they think there it no point in raising it with Chuck because this is a fait accompli, the decision is made.

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By the time we had these conversations the appointment had actually been publicized and their view was you know what, it is just not worth stirring the pot and I was persuaded of that view.

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It is not that I failed to bring them on board as this complaint would have you believe, it is I was persuaded that they were correct, so as far as I was concerned, the issue was over at that point and I had no intention of bringing it to the city manager.

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The conversation the city manager and I had about this occurred because he approached me and I can share more with you about that if you want or I can turn it back to you for questioning.

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Q. Well, let me first ask you this. You

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spoke to which council people again?

A. Lopez, Ramos-Herbert, Kaye and Fried.

Q. Okay. And on how many occasions did you discuss it with Lopez?

A. Once.

Q. And Ramos?

A. Once.

Q. Kaye?

A. Once.

Q. And Fried?

A. Once, although councilmember Fried and I had a separate conversation not about the deputy city manager appointment but about the future city manager appointment which is a separate matter.

Q. And at any time did you ever discuss with any of them changing the qualifications for the position of city manager?

A. Of city manager?

Q. Yes.

A. No.

Q. Did you discuss with them the possibility of changing the qualifications for the position of commissioner of environmental

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development?

MR. BLUMENTHAL: Economic
development.

Q. Economic development.

A. I think you already asked me that and
the answer is no.

Q. Did you ever, in any of your
conversations with any of those council people,
mention to them that there were other council
people that you had spoken to who shared your
concerns?

A. I may have. I don't remember. It is
possible.

Q. Okay.

A. It wouldn't be unusual for me to do
that.

Q. Okay. Did you ever make a suggestion
that if enough people had the same concerns, that
you might go to Chuck's office and discuss it
with him?

A. Only in the fashion that I already
described. You know, members of the council and
myself, we speak on a regular basis about lots of
things as we should. We jointly share authority.

1 FRIED

2 As mayor I am one of seven. I don't have
3 authority above and beyond them and so exchanging
4 ideas and receiving each other's opinions is a
5 normal and appropriate and necessary part of how
6 we work, and so when you phrase the question as
7 you did, to me it implies that the intent of
8 these calls was to count heads and see if I got
9 to four but that was really not the spirit of the
10 calls, it was more to get other people's opinions
11 and to determine whether my concerns were shared
12 or not.

13 Q. During the entire time that you have
14 been mayor, actually the entire time that you
15 have been a councilman and then the mayor, have
16 you ever had occasion in the company of other
17 council people to go to the city manager to
18 discuss a personnel issue?

19 A. In the company of other city
20 councilmembers? That's an important qualifier to
21 the question. I don't remember. I don't have a
22 specific memory of ever doing that but it doesn't
23 mean it never happened in the last 17 years.

24 Q. Now, just in terms of the way things
25 actually work, could four council people fire the

1 FRIED

2 city manager?

3 A. Of course. Let me_-- perhaps this is
4 unintentional but there was a pregnant pause
5 after your question which seemed to imply other
6 things. So I want to make clear the notion to
7 firing a city manager is not something that
8 crossed my mind or crossed my lips. It was not
9 in any way, shape or form a part of the
10 conversations I had with councilmembers. It is a
11 whole cloth invention of Mr. Cox or others who
12 wants to generate rumors without firsthand
13 knowledge of the conversations that occurred so
14 that was not in my mind in any way at all.

15 It is clear that the city manager
16 got the impression that that was in my mind
17 because this is where I was going when I paused
18 for your question and this is where we descend
19 into kind of schoolyard nonsense.

20 Someone called the city manager
21 the next morning. I don't know whether it was
22 one of the councilmembers with whom I spoke or
23 perhaps someone with who they spoke and then
24 recounted these discussions secondhand, gave the
25 city manager the impression that we had been

1 FRIED

2 conspiring to fire him in order to undue the
3 appointment of the deputy city manager.

4 The city manager quite
5 understandably was exercised about this
6 possibility. He confronted me in my office. I
7 assured him that there had been no such
8 discussion and it was in the context of
9 explaining to him what actually transpired, that
10 I let him know about the concerns that I had
11 about the deputy city manager appointment. That
12 is the only basis in which this conversation
13 occurred.

14 There would have been no
15 conversation between me and the deputy city
16 manager appointment had it not been for him
17 approaching me with the misimpression about our
18 intent to fire him.

19 Q. Aside from what I think you explained
20 thoroughly is what your state of mind was, do you
21 have any basis to understand why the city manager
22 thought that his getting fired was a possibility?

23 A. Well, I don't know what was said to
24 him in the conversation that morning. If it was
25 reported to him that we were planning to fire him

1 FRIED

2 then I can understand why he would believe we
3 were planning to fire him but I will say that by
4 the end of that morning the city manager
5 acknowledged to me that he had misunderstood the
6 conversation and he expressed to me satisfaction
7 that he was convinced that we were not in fact
8 seeking to dismiss him.

9 Q. I am going to show you what had been
10 premarked as Exhibit C and what I am going to ask
11 you to do, it is a chain of e-mails that you are
12 a party. I ask you to go to the last page and
13 take a look at the first e-mail.

14 A. From Al Tarantino.

15 Q. Okay. First of all, did there come a
16 time that you saw that e-mail before today?

17 A. Oh, yeah. Obviously I responded to
18 it.

19 Q. When you first saw it, what was your
20 reaction?

21 A. Astonishment, anger.

22 Q. Now, in his e-mail to you he says-- in
23 his e-mail to Chuck he says, "After speaking with
24 some councilmembers it has come to my attention
25 that the mayor has reached out to them to

1 FRIED

2 persuade them in going to you with four votes to
3 force you to rescind the appointment of Kathleen
4 Gill as deputy city manager. My question to you
5 would be is this a violation of the ethics code
6 and the city charter to pursue this by the mayor?
7 It seems to me that the mayor would be
8 threatening the city manager for this job by
9 letting him know if he does not do what he wants
10 he will be terminated. Can you get an opinion on
11 this and let us know? Al."

12 Did you ever have occasion to
13 speak personally with Councilman Tarantino about
14 this after you saw this e-mail?

15 A. I did not.

16 Q. Did you make an effort to?

17 A. No.

18 Q. Is there a reason you did not make an
19 effort to?

20 A. I didn't think that would be
21 constructive. I thought it would be more
22 appropriate for me to respond, as I did, with an
23 e-mail to the entire city council and the manager
24 laying out my account of what transpired which I
25 did and which is in front of you and which is

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consistent with what I just stated a moment ago.

Q. When he refers to having spoken with some councilmembers, do you know who he is referring to?

A. I don't.

Q. Did you ever make any inquiry who he was referring to?

A. No, because I didn't feel it was appropriate for me to investigate my colleagues and I am also aware that people have conversations all the time. Sometimes intent or meaning is misunderstood. Sometimes that happens accidentally. Sometimes that happens because people wish to mischaracterize things that transpired so we are all aware of that dynamic.

All I can tell you is, there was absolutely never any conversation among any members of the council between myself and members of counsel which contemplated Chuck's dismissal for any reason at all, point blank.

Q. Okay. Now, aside from the question of dismissal, he refers to making an effort to force the city manager to rescind the appointment of Kathleen Gill as deputy manager.

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A. So I will state what I said earlier.

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The tenor of my conversations with councilmembers

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did not involve forcing, compelling, requiring,

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voting. This was an exchange of opinions about a

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concern and seeking advice about whether it was

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appropriate and constructive to bring that

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concern to the attention of the city manager.

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It is the kind of conversation

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that members of council have on a regular basis,

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and also I have to say the kind of conversation

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that I and other members have on a regular basis

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where we do not feel restrained from expressing

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our opinions on a whole range of subjects. That

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is how a government functions well. At the same

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time we respect the division of responsibility

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and authority and we know that there are certain

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areas in which Chuck's decision is final and

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other areas which our decision is final, and I

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think to assume that every expression of opinion

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comes with it in implicit compulsion or threat,

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is really a gross distortion of how dialogue

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occurs within the government, and if one is to

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sort of embrace that as a view it would chill the

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kinds of discussions that public officials have

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2 to have to the point of paralysis.

3 I am not being argumentative. I
4 realize you have to ask these series of
5 questions. I just want to make clear this is a
6 fundamental mischaracterization, this complaint,
7 of the nature, the content, the tone of the
8 conversations that we had with ourselves and it
9 is based on a view how public officials
10 communicate with each other which is completely
11 at odds with any sort of realistic notion of how
12 a government would function.

13 MR. BLUMENTHAL: The conversations
14 you had, I forget what date it was,
15 March 17th, whatever date it was that
16 week with those four counselors or
17 three counselors--

18 THE WITNESS: Four.

19 MR. BLUMENTHAL: Had they been in
20 agreement with you, what would you have
21 said to Chuck that, you know, what do
22 you think?

23 THE WITNESS: I think I would have
24 said to him something similar to what I
25 said to you which is here is why I

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think this is problematic.

MR. BLUMENTHAL: Once it is published, you know, it is sort like you are pregnant or you are not?

THE WITNESS: David, that's exactly why I was ultimately convinced not to do it.

MR. BLUMENTHAL: Okay.

THE WITNESS: The conversations had their intended purpose. There was an exchange of views. A couple of councilmembers said to me no, it is probably not a good idea to talk to Chuck and I said you know what, you are right.

MR. BLUMENTHAL: Let's say those four would have been swayed by your perseverance on this and they say you know what, I think we are right, this will make our lives difficult in the selection of a new city manager which is our responsibility and Chuck, we think you should-- you know, we will go as a group, we will all go as a group,

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you go in for us, however the methodology would have been, you would have said that and you would have said no, I made this decision.

THE WITNESS: I mean, you know, that would be the end of it. I respect it. There was never any doubt that this was his appointment to make and he had the authority to make the appointment. There was no questioning or challenging of that.

MR. BLUMENTHAL: Okay. We see what the path would have been and the path that eventuated was they convince you not to do it. Okay.

THE WITNESS: The nature of the relationship that I have with Chuck, thank goodness, is one in which we feel free to express our opinions to each other. Sometimes we agree, sometimes we disagree but we value that type of candor and it makes the city better, I think.

Q. As a practical matter, is the city

1 FRIED

2 council Chuck's boss?

3 MR. LEVENTHAL: You know again, I
4 object to that kind of a question. It
5 is vague. It calls for something
6 approaching a legal conclusion. The
7 witness is here as a fact witness.
8 Either the city council is the boss or
9 is not and that is for lawyers to
10 determine.

11 This is not part of your
12 investigation. This is part of
13 building a case and I object to it. It
14 is completely contrary to what you said
15 the purpose of this meeting was.

16 The mayor has given you a full,
17 fair, complete account of the events
18 that occurred. If you have further
19 questions about what occurred I would
20 encourage the mayor to answer them but
21 if you don't, I would encourage the
22 mayor to thank you very much for your
23 time and call it a day.

24 MR. MEISELS: You are always free
25 to get up and walk out, okay, but I am

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going to have the question reread. We heard your objection and I would like to know what his understanding is. He has been a councilman, he has been the mayor and the question is, is the city council in effect the city manager's boss.

A. In a global sense yes in that we oversee the performance of the city manager. The city manager serves at our pleasure and the council is collectively ultimately accountable for the performance of the city government but not in the sense that we direct the city manager's day-to-day activities or that we give the city manager directives when it comes to specific actions.

Q. Is it correct the City Council ultimately hires the city manager?

A. Yes.

Q. By a vote of four the City Council can fire the city manager?

MR. LEVENTHAL: These questions have already been asked and answered.

A. I will say again, though, if the

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implication of your question is that every expression of opinion to the city manager comes with the implicit threat that you will be fired, then I think it is a complete mischaracterization of how we actually relate to each other in this building.

Q. The question was much simpler. Is it correct that the City Council, by a vote of four, can fire the city manager?

MR. LEVENTHAL: Just a moment. If you have further questions about the events that occurred that will advance the purposes of your investigation we'll be happy to answer them, but asking legal questions that can be answered by you reading the city charter or speaking to the City Council are not appropriate for a fact witness as what you characterized as an informal investigation.

MR. MEISELS: Can I have the question read back, please?

MR. LEVENTHAL: I wouldn't answer it. Enough is a enough.

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MR. MEISELS: You can do something very simple. You can direct your client not to answer the question and in which case I move on. Do it the way that it is normally done.

MR. LEVENTHAL: What do you mean "normally done?" What is normal about this?

Q. Mr. Mayor, would you like to answer that question or would you decline to answer that question?

MR. LEVENTHAL: Please do as you wish.

A. I think the question was already answered.

Q. I am sorry?

A. I think the question was already answered.

Q. And what was that answer?

MR. LEVENTHAL: The record will reflect what the answer was. If you have questions about the events that occurred, the mayor is here to answer them.

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MR. MEISELS: We'll eventually get it at some point. It is going to take longer than expected.

MR. LEVENTHAL: In that case why don't we move on.

MR. MEISELS: I want to get an answer to the question.

MR. LEVENTHAL: The mayor just told you he answered the question.

MR. MEISELS: I asked you to refresh my recollection. What was the answer to the question?

MR. LEVENTHAL: The transcript will reflect what the answer was.

MR. MEISELS: We have several choices. You can refuse to answer the question, you can take the Fifth Amendment if you want to. We got to do something with that question.

MR. LEVENTHAL: The last thing in the world that the mayor wanted to have have happened today was any kind of adversarial tone. He is here to cooperate.

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MR. MEISELS: Answer the question.

MR. LEVENTHAL: This is not a good faith investigation by you. You are not limiting yourself to factual questions to aid the Board of Ethics in determining what occurred.

Once the Board of Ethics determines what occurred it has the prerogative, the power and the authority to apply its interpretation of the law to the facts but we are not here to testify about what the law is, we are here to testify about the facts.

MR. MEISELS: Let me rephrase the question.

Q. Is it your understanding-- I am not asking for a legal opinion. Is it your understanding based on your experience, that by a vote of four, the City Council could fire the city manager?

MR. LEVENTHAL: That is the same question. He answered that the City Council can fire the city manager, you know that, you heard it. You saying it

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will not change it.

Q. Mayor, is that your answer yes?

MR. LEVENTHAL: We'll stipulate that the City Council can fire the city manager.

MR. MEISELS: Good.

Q. Now, given that the City Council hires a city manager and by majority vote can fire the city manager, would you not consider it to be reasonable if the city manager would be quite concerned about incurring the displeasure of the City Council?

A. I don't think any city manager would want to incur the displeasure of the governing body of the municipality. That is not the same thing as fearing that one will be fired.

Q. That really in fairness relates to the state of mind of the city manager.

MR. LEVENTHAL: I don't understand. What is that question? Are you engaging in an analytical discussion now or are you asking fact questions of a fact witness?

MR. MEISELS: Can we have the

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question read back, please?

MR. LEVENTHAL: I am getting ready to pull the plug on this.

MR. MEISELS: Do whatever you want to do. You are here by invitation. If you would like the record to reflect that you and the mayor have gotten up and walked out, do it, okay. I would like if you would stop wasting everybody's time, that's all.

MR. LEVENTHAL: It is not me who is wasting time, and excuse me, if you regard me representing my client as wasting time, I have a fundamental problem with that too.

MR. MEISELS: Why don't you write us a letter of all your problems, do whatever you would like to do but I would like to proceed with this hearing. I didn't expect you to obstruct it.

MR. LEVENTHAL: You just used the word hearing.

MR. MEISELS: We didn't schedule

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enough time actually to have you obstruct it.

MR. LEVENTHAL: I would like to know whether your clients feel that I am being an obstructionist.

MR. MEISELS: The last thing in the world you are here is to ask questions of this Board that is conducting an inquiry.

Could we have the question read back and I would like to move this. I would like to actually ultimately excuse the mayor shortly, shortens the transcript unfortunately but nevertheless can I have the question read back?

(Question read back by the court reporter.)

A. I think I already answered that. What is the question?

Q. I never finished the question, whether or not the city manager felt intimidated relates actually to the state of that person's mind rather than anyone else's.

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A. What is the question?

Q. Would you agree that whether or not a city manager felt that he was being pressured by his boss, the City Council, deals with that person's state of mind rather than the state of mind of the City Council.

A. In theory yes but I think whether such a fear is reasonable or not depends on the totality of circumstances.

MR. BLUMENTHAL: May I ask a question? When Chuck came into your office the next day, whatever it was, did you feel like his state of mind, what he was feeling was as a result of whomever_-- I guess the-mail he heard or the phone calls he got, that he felt something different than what you think actually occurred.

THE WITNESS: Oh, no question about it.

MR. BLUMENTHAL: There is a dichotomy from your perspective what you know happened on your phone calls and what happened on his phone call or

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e-mail or whatever the heck the mode of communication there was.

THE WITNESS: Exactly right.

MR. BLUMENTHAL: His feelings like every other employee can be impacted by different factors than what from your prospective, what happened involving your lines of communication.

THE WITNESS: Yes, that's right, but I would say that our different understandings were resolved within the space of that morning.

MR. BLUMENTHAL: Okay. Pete, does that answer where you were going?

MR. MEISELS: Yes.

Q. Mayor, other than your attorney, of course, and your wife, did you have occasion to discuss your testimony with anybody else?

A. Discussed my testimony? No.

MR. MEISELS: You gentlemen have any other questions?

MR. BLUMENTHAL: I will speak for myself but I apologize that you had to be dragged through this. However we

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decide, whatever the recommendations are, we owe you a debt of gratitude not only coming in today but in general what you have done now for the last 26 and a half years.

THE WITNESS: I appreciate that very much and Charles, unless I misread your body language, maybe you do have a question, is that right?

MR. PHIPPS: Yes. I am heartened by this also, as you have so eloquently spoken. I am sad to get to this point and I think we understand why and how it happened but it is so unfortunate from my perspective. I thought we were doing great until this happened. It is kind of sad and sorrowful and we have a whole bunch of people who mean well for the city and who was involved at the top echelon and that's why I think it is important for us to take the time to go through this to be certain what is happening and not just guess. We need to really know what is going on before

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we come to any kind of conclusion, so I appreciate your forthrightness coming in and telling us your prospective as you see it. That's important.

I know you feel you gave us your honest opinion, and speaking for myself I appreciate it. Of course the period that you have spent, that we have spent together also is very personal to me, so thank you for being open today also.

MR. BLUMENTHAL: You don't think we should recuse ourselves and start over?

THE WITNESS: You will have a Board of Ethics with zero members. May I say I appreciate both of your comments very much, and as I said at the beginning, I think we all regret that we find ourselves in these circumstances and I know you are applying yourself as well as you can and I agree it is important for you to do your due diligence and reach a conclusion that you can in good

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conscience present to whoever is interested in this and be able to look in the mirror and feel that you have done right by the community.

I will just say kind of in summary beyond what I have already indicated, that I am absolutely convinced that the intent and motivation of everyone involved in this process at every stage was to advance the interests of the community and the interests of the city and I know that was my motivation and intent every step of the way, and I feel if we are talking about ethics, that that's at the heart of it and I just hope that lens will be applied to your consideration of whether the specific issues raised here which, as I have said, I think have been significantly mischaracterized, in some cases fabricated, whether that really merits launching a formal charge or anything of that nature, and keep in mind also that I think by this

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2 particular complainant there has been
3 an effort to sort of abuse process and
4 to validate and legitimize complaints
5 by laundering it through the Board of
6 Ethics. The mere existence of an
7 inquiry lends it validity, and I ask
8 you to respectfully consider that
9 aspect of this as well because even--
10 again, even the existence of an inquiry
11 as you see a piece in the Journal News,
12 News 12, it is harmful to me and
13 harmful to others who are dragged into
14 this process. It is harmful to poor
15 Alisa Kesten who is the product of the
16 complaint which was made out of thin
17 air.

18 MR. BLUMENTHAL: We didn't ask
19 that question.

20 THE WITNESS: I know you didn't
21 but it is in there.

22 MR. BLUMENTHAL: Was she at all,
23 with a misspelled name or not--

24 THE WITNESS: No, no. I mean it
25 was completely made up of whole cloth.

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It is an illustration of the recklessness of this particular complainant with callous disregard for what can be sourced, what actually can be substantiated, that something like that would be brought on the record to drag a third party in. Again, it is peripheral to all this and I'm glad you didn't focus on this because it is nonsense. Again, it is an illustration of what you are dealing with here and I hope that you will consider the source of all this.

MR. PHIPPS: We are. We are hard pressed. We understand where the complaint is coming from. We know where the complaint is coming from and we are taking that into consideration, but as you stated, we have to do our due diligence. We have to do our due diligence to make sure we are asking the right questions and to get the right answers.

MR. LEVENTHAL: The mayor wouldn't

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want to be vindicated in a process that didn't have you going through your due diligence. Then he couldn't point to your determination.

MR. BLUMENTHAL: And be on the record too.

MR. LEVENTHAL: Right.

MR. BLUMENTHAL: We should let them go home, okay.

MR. PHIPPS: We recognize that.

THE WITNESS: Maybe that's a nice way of saying I can go home too.

MR. LEVENTHAL: I want to speak to you for one second before we actually leave.

THE WITNESS: You want us to go out and come back in?

MR. LEVENTHAL: I can come back in if necessary.

THE WITNESS: You guys okay if we do a quick sidebar? I will come back to say goodbye.

MR. MEISELS: I am saying to you as mayor make yourself at home.

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THE WITNESS: Thank you, Peter.

(Recess.)

MR. LEVENTHAL: Thank you very much. Have a good night.

MR. MEISELS: Mayor, thank you for your time.

(Witness excused.)

A L B E R T T A R A N T I N O, a witness called on behalf of the City of New Rochelle, having been first duly sworn, was examined and testified as follows:

THE COURT REPORTER: Can I have your name and business address for the record.

THE WITNESS: Albert Tarantino, 565 Main Street, New Rochelle, New York, 10801.

MR. BLUMENTHAL: For the record, he fixed my watch last Friday.

EXAMINATION BY

MR. MEISELS:

Q. Councilman, we are here to talk to you about a complaint that was lodged by Robert Cox and I presume you already read the complaints and

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you are familiar with them, correct?

A. Yes.

Q. But if you would like copies of anything I have it and I am more than happy to give it to you to refresh your recollection about anything.

A. If I need it I will let you know.

Q. All right. How long have you served on the City Council?

A. Fourteen years and three months.

Q. And New Rochelle has a counsel manager form of government?

A. A city manager form of government.

Q. If you had to explain it to an uninformed citizen who moved to town how that works, how would you explain it?

A. I had to do this numerous times so it is not that hard. It is a government where the city manager runs day-to-day operations. The City Council and the mayor are strictly part post-legislative body, make laws, but we do not have anything to do with the everyday running of the city.

Q. Okay.

1 FRIED

2 A. They don't understand it but, you
3 know, it is the kind of government we have.

4 Q. Now, what is your understanding of the
5 role of the City Council under the charter in the
6 appointment or removal of the city manager?

7 A. Well, as far as appointment or removal
8 of the city manager, I understand that it would
9 take four votes for the City Council to remove a
10 city manager from office.

11 Q. And does the City Council hire the
12 city manager?

13 A. He is hired by the City Council, yes.

14 Q. Now, based upon your understanding of
15 how the council manager form of government works
16 as it is provided for under the New Rochelle City
17 Charter, do you find any problem with having an
18 elected official suggest to the city manager that
19 he be appointed to a commissioner position?

20 A. Yes, I would.

21 Q. What is that problem?

22 A. Well, the problem is as a City Council
23 member, you know, now for 14 years, when I ran
24 for election I understood what my role was in
25 government and that my involvement in the day to

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day operations, whether it was as a commissioner

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or any employee in the department, I would not

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have any role, number one, but number two, that

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it wasn't something that I can do.

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If I wanted to be a commissioner

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or if I wanted to work for the city I would have

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run for elective office, simple as that, or if I

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decided I wanted to be part of the city

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government in that capacity, I would resign or

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run out my term, and then at a point after that

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attempt in the open market to try to get a

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position, if that is what I wanted to do. I mean

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that is the normal process you would follow and

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it is very clear on the charter, you know, when I

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first got on the council, the first thing you did

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is look at the charter to make sure you

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understood everything so that you wouldn't have

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any problems.

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Q. Now, was the concept with having

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Charles Strome, the present city manager, appoint

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the present mayor to be the commissioner of

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economic development ever discussed with you at

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any time?

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A. By who?

1 FRIED

2 Q. By anybody.

3 A. Chuck. Charles Strome had in a
4 conversation said to me that he had a
5 conversation that the mayor had an interest in
6 becoming commissioner of development and, you
7 know, I sort of shrugged it off, thought it was
8 kind of a crazy idea but, you know, left it at
9 that at that point. If you want me to continue?

10 Q. Yes, please, absolutely.

11 A. I can give you the whole scenario.

12 Q. That is exactly what we would like to
13 hear.

14 A. What happened after that, there was a,
15 I guess he had a concern which I believe was in
16 May of 2021. It is easy for me to call him
17 Chuck, is that all right?

18 Q. Absolutely.

19 A. Chuck called me and said I would like
20 to go out to lunch with you, so we set a date and
21 I met him for lunch, I believe it was in May and
22 we went to Sergio's in Pelham, a good lunch, and
23 he explained to me what was going on that, you
24 know, the mayor was pursuing the issue of
25 commissioner of development and he was going to

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2 talk to me and a few other people to get their
3 input into what he was looking at just to get a
4 better understanding. I believe he already had
5 his own feeling towards it but he wanted to see
6 what I thought and I, of course, said it is silly
7 to even consider it.

8 I said what he has got to do is
9 just say no and be done with it, and we ate lunch
10 and he said, you know, I have to go think this
11 over, how to handle this because it was a concern
12 of how to handle it.

13 So then at a later date we had
14 another conversation and he told me that, you
15 know, part of what happened is, that he in a
16 flippant way said when they actually had sent out
17 RFP for the job and the quality of the people
18 that applied was not great so he mentioned it to
19 the mayor. The mayor was concerned about who--
20 what resumes they were looking at. He said why
21 don't you take the job and I think that helped
22 the ball rolling in the concern about, you know,
23 I guess the mayor's thoughts that maybe this is
24 something, but according to what Chuck told me he
25 was very clear after that to him that no, I

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wouldn't consider, you know, you as a

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commissioner of development.

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So in further conversations, since

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I have had probably more than a dozen

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conversations with Chuck Strome over the last

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year, maybe double that, I can't be sure because

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I never wrote anything down so a lot of it is

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just from memory and I have a pretty good memory

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on this stuff, but he came to me and said, you

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know, he keeps on asking about it and I said

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well, just say no and put an end to it and he

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said well, you know, he is the mayor and, you

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know, I have to deal with him, and I says it

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doesn't matter, you are the city manager, this is

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not his responsibility to decide who is going to

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take the job like that, it is yours so just say

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no.

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This went on for a little longer

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and the mayor kept on approaching him and, you

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know, at some point he said to the mayor well,

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why don't you submit a resume if you are really

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interested and the mayor told him I don't wish to

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submit a resume. I believe that was because_--

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it is obvious you submit a resume, everyone knows

1 FRIED

2 you have an interest in the job at the time so
3 the mayor continued to press him. He kept on
4 saying no but did say to me that it is very hard
5 to say no to the mayor.

6 So finally this was going on month
7 after month after month and, you know,
8 conversation, he said I have to figure out a way
9 to get the point across. You know, it is not
10 easy sitting in a room telling somebody no that I
11 have worked with for so many years, so he
12 decided, he told me he was going to reach out and
13 get a legal opinion and he was also going to
14 reach out to his city managers, I believe the
15 city managers association and see what they say
16 and he was going to lay it all out to them.

17 So then what happened is, three
18 weeks went by or so and he got the report from
19 them. He then said to me well, I have it, the
20 report, he told me, he called me that he had the
21 report and I said what are you going to do now?
22 Well, I am not going to talk about it, I am just
23 going to hand it to him for him to review and
24 hopefully that will put this to an end, and he
25 gave it to the mayor and after that, you know, he

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2 did mention to me, you know, the mayor told him
3 that_-- I think he gave it to him on a Friday and
4 he thought that that would be the end of it and
5 he said-- the mayor said to him and he was a
6 little surprised by it well, I am going to review
7 this over the weekend and we'll have a discussion
8 about it on Monday, so he was still a little
9 upset about the fact that it was still going on.

10 So again I don't remember the
11 exact time frame, but after that happened, if I
12 remember correctly, after that happened we had a
13 council meeting and in our council meeting Chuck
14 announced-- before the council meeting Chuck
15 announced that he was going to retire this year,
16 so at the council meeting Chuck, well, had just
17 announced there was a move immediately go into
18 executive session to discuss a new city manager
19 which I thought was a little odd because he just
20 told us he was retiring but he is not retiring
21 until December 31st so, you know, am I allowed to
22 say anything that was discussed?

23 Q. Exactly what we want to know.

24 A. You know, executive session, we
25 usually aren't allowed to discuss executive

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session information outside of the executive session.

MR. BLUMENTHAL: If that's a matter of privilege we probably shouldn't discuss it.

MR. MEISELS: That's the question. This is not a public proceeding and we have been asked to give an opinion as to whether or not there is a charter violation, and I think that the way to deal with this is that we mark the transcript of what you are saying as confidential and subsequently make it non-foi-able.

A. All it was, the conversation was about

[Redacted]

[Redacted]

Q. Right.

A. [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[REDACTED]
[REDACTED] the meeting was

finished and we moved on.

I just want to go back a step because I left this out and I wanted to bring this up because I thought it was interesting.

At one of the conversations that I had with Chuck, Chuck told me that the mayor was still, you know, asking him for the job as commissioner of development, and during the conversation he also said to Chuck that, you know, if he was given the job he would want a five year contract and I sort of laughed at it because I thought it was_-- we don't give contracts to commissioners. I believe the only contracts we have given are to city managers and

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2 they have a clause in there which they are in a
3 six month period. In a six month period they can
4 be finished so I thought it was kind of
5 interesting and I had written that down because I
6 had remembered we had a laugh out of that because
7 it was just wow, not only he wants the job, now
8 he wants five years guaranteed, so I just wanted
9 to step back and tell you that because I had
10 forgotten that.

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MR. BLUMENTHAL: May I ask a
question? You said Chuck went to lunch
with you a few times?

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THE WITNESS: One time.

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MR. BLUMENTHAL: You said there
were a dozen phone calls?

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THE WITNESS: They could be phone
calls, could be meetings in person. I
had a council meeting, so we have two
council meetings a month so there would
be times where before the council
meeting or after the council meeting I
would see him in the hallway. We would
eat dinner at the first council meeting
and it would be sometimes a little

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sidebar with a conversation about what was going on.

MR. BLUMENTHAL: Do you know if he confided in other counselors?

THE WITNESS: Excuse me?

MR. BLUMENTHAL: Did he confide in other counselor members?

THE WITNESS: From what I understand he confided in myself, Ivar Hyden who was a councilmember, and a couple of other people that he respected in the political world. I think one was Tim Idoni and I don't remember the other one but I think there were like four people that he confided in and that was it.

MR. BLUMENTHAL: Okay. Thank you.

THE WITNESS: Again, just to give you a little background. I know Chuck for a long long time and, you know, I go back with his wife's family forever so I know them so there was always-- we always had a good friendship or a good relationship. We never socialized

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with anything outside of the council but we had a respect for each other and I always, you know, been very fair with him and he has been fair with me so, you know, I think there was a comfort level that some people develop with other people that allow them to feel that they can talk to them about things like this.

MR. BLUMENTHAL: Thank you.

THE WITNESS: So let me just see. That is for the other issue. Just give me a second.

Q. Sure, take your time.

A. That brings us through the meeting, and then the following-- I believe it was that Friday or the following Friday was when he then appointed-- I think it might have been that Friday he made the appointment of Adam Salgado as the commissioner of development and Kathleen Gill as the deputy city manager and the entire council got an e-mail announcing it.

I responded with an e-mail to the entire council and that I thought it was

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2 congratulations to the people that were
3 appointed, I think they will do a great job, they
4 well served the community and the city and I
5 think it was very nice so that was the thrust of
6 my e-mail was about them, and on Friday after
7 this happened I then get a call from Chuck again
8 that he was quite upset because he had heard that
9 the mayor had reached out to other councilmembers
10 to take their temperature about going to Chuck
11 about the appointment of Deputy City Manager Gill
12 and he was quite upset on the phone about it and,
13 you know, I said well, you know, you do the
14 appointing, nobody else has the appointment and
15 he said well, he had three votes but you need
16 four, and of course the inference of that is that
17 by saying that you are telling the city manager
18 who four votes can remove from office that, you
19 know, if we have four votes, and in fact I sent
20 an e-mail to Chuck Strome the following day
21 because I was pretty upset with what was going
22 on. In fact, I got not only one call but three
23 different calls from Chuck that day about what
24 was going on with that appointment. You know, we
25 went from the concern about the commissioner of

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2 development and all of a sudden now we were
3 involved with the deputy city manager which
4 wasn't something that was part of the entire
5 process of the commissioner of development. This
6 was something new that popped up after the
7 appointments were made.

8 He did bring up to me that, you
9 know, who do you think, you know, are going to
10 agree with him and I said well, you need four
11 votes and I knew some of the councilmembers and I
12 knew some of them were not on board because the
13 councilmembers started, you know, talking to each
14 other after this and it was clear I wasn't going
15 to be called or Ivar Hyden wasn't going to be
16 called because neither one of us would even
17 consider something like that. It is not our
18 position to do that.

19 So then on the third call I got
20 from Chuck was later in the day. It was probably
21 around 6:00 and he was still quite upset that he
22 had heard from the mayor and the mayor was
23 talking about meeting with some of the
24 councilmembers, you know, just two at a time, him
25 and two because you can't have more than three

1 FRIED

2 together; meeting two of them and discussing this
3 appointment and, you know, that's when I really
4 was upset, had trouble sleeping Friday night, I
5 have to be honest because this is something that
6 I never experienced. In 14 years I never, you
7 know, seen anything like this and we have had
8 some interesting people on council over the years
9 that I would have probably anticipated this from
10 but not from the people that were involved now,
11 and I sent an e-mail to Chuck that stated that I
12 would like an opinion and I then laid out what my
13 concern was, was about if in fact what was
14 happening with the councilmembers and the mayor
15 talking about getting four votes and to me that
16 meant they were looking to eliminate the city
17 manager if he didn't rescind the particular
18 appointment, and also the issue about the
19 commissioner of development position, were they
20 ethic violations, were they charter violations or
21 were they criminal violations? And I asked for
22 an opinion and, you know, I asked for the opinion
23 from the city manager who then in turn went out
24 and got an opinion from an attorney. I don't
25 have it with me. I don't know if you have it or

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2 not, okay. You do have it with the opinion?

3 Q. Right.

4 A. So the opinion, you know, laid out if
5 these things were true, but that was the job of
6 this Board to determine those kinds of things.

7 So, you know, that's where
8 everything ended with me as far as the process.
9 I got that opinion and I decided to just hold
10 onto it and wait and just see, you know, how the
11 process played out but it gave me a little bit of
12 comfort in knowing I wasn't, you know, totally
13 off base in what I was seeing in front of me. I
14 was very concerned but, you know, you give people
15 the benefit of the doubt until you can prove
16 otherwise and I wanted to make sure I wasn't
17 going down a path that was the wrong path and
18 that to me was very important.

19 You have to remember, I am a life
20 long resident of New Rochelle. My nieces went to
21 school with Noam. I know Noam. His mother is a
22 wonderful lady, I love her, I know her a long
23 long time. Chuck I know a long time. I know his
24 family. It creates this problem because you are
25 dealing with what is right and wrong and then you

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are dealing on the other side with relationships and it makes it very difficult to sort things out and make decisions based upon what is right and wrong and putting the other things aside so that's about all I have to say at this point.

MR. BLUMENTHAL: You said that you did not hear from any other city counselors throughout this process?

THE WITNESS: No, I heard from-- in conversations I heard from Martha Lopez. I heard from Liz Fried, Ivar Hyden are the three that at one point or another just, you know, talking about what is going on and what they know. I can give you this. Ivar was never approached by anybody. Martha just wanted to know what was going on and we had a discussion about, you know_--

MR. BLUMENTHAL: The mayor called her?

THE WITNESS: The mayor had called her. She told me the mayor called her and I don't know exactly what is going

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on but, you know, lets see what happens.

MR. BLUMENTHAL: Liz Fried, you mentioned also, did she call you or did you call her?

THE WITNESS: I called her. I am kind of the eldest statesman on the council and we have developed very close relationships with everybody and you have to understand, I am the only Republican on the City Council and there are six Democrats and I never let party politics get involved in my discussion making and my friendships. I have just as many Democratic friends as I do Republicans, maybe more, and we developed a relationship that we can discuss things and talk to each other, so when this thing broke, you know, the concern was that we were worried about the press starting to call and having a plan about, you know, if the press calls, what do we do? We tell them nothing. We keep quiet and let this

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play out.

MR. BLUMENTHAL: When you spoke to Liz Fried, that's a name you mentioned, what was her view on this?

THE WITNESS: She was quite upset because she had already gotten a call from the mayor and she was upset and, you know, she did mention she had a 30 year plus relationship with the mayor and she was very, you know, disheartened about what happened. She couldn't believe what was going on and she basically said that she told him no, that, you know, she had no interest in asking for that particular appointment to be rescinded.

She did say that to me so she was very clear on that. When I spoke to Martha, Martha also said she said no but wasn't as candid and open as Liz was and I think that was because Liz felt again, similar to what I said earlier, she had a personal relationship with a person and, you

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know, in her words, you know, she had put him on a pedestal and he sort of fell off and she was upset about that.

MR. BLUMENTHAL: So what was the mayor's ask, it wasn't to you, it wasn't to Ivar, it was the other four members of the council.

THE WITNESS: I can only attach what he said to Martha and Liz. The other two I didn't have a conversation.

MR. BLUMENTHAL: Did he press them to do what?

THE WITNESS: What he did, he asked them if they would agree with him that there should be a recision of the appointment of Kathleen Gill as deputy city manager.

MR. BLUMENTHAL: What was the reason?

THE WITNESS: We knew the reason would be he didn't want her there. It was obvious he didn't want her there because of what was going on. I mean look, if you follow_-- we are in this

1 FRIED

2 political arena every day so I know all
3 the ins and outs so a lot of it is
4 almost like second nature. You feel
5 what is going to happen next and what
6 happened here was while there is a push
7 to become commissioner of development,
8 there was also the ability if you can
9 get the right people in the right
10 places, especially after hearing about
11 looking for somebody for city manager
12 with a not-for-profit background, well,
13 most people with a not-for-profit
14 background are very different than what
15 your normal city managers are so Noam
16 knows a lot of people in the
17 not-for-profit world, and as it turned
18 out there was a name that cropped up
19 and, you know, the name didn't come
20 from me, it didn't come from a lot of
21 other people I know, it came from
22 Democratic committee members that knew
23 about the name.

24 MR. BLUMENTHAL: I am going to ask
25 you if you knew of those names, any of

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those names of the Democratic committee members who proffered that suggestion, Alisa Kesten?

THE WITNESS: You know why, I didn't get it directly from them, I got it from their friends and, you know, it would have been a question-- I guess you would ask Liz.

MR. BLUMENTHAL: Okay.

THE WITNESS: Or Martha because they were at those meetings.

MR. BLUMENTHAL: Okay.

THE WITNESS: They don't invite me to those meetings.

MR. BLUMENTHAL: The Republican meetings of the City Council are small, I get that.

THE WITNESS: We look out for each other. We are concerned and everybody was just trying to get their heads wrapped around what was going on, you know, the first part. The commissioner part, you know, was going on for a long time and, you know, there was a

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confidence at some point Chuck would have been able to control it.

Look, at the end of the day, you know, I will give you my opinion. I felt that, you know, he let it go on too long because I think the longer you let it go the harder it is to stop it but that's just my opinion and I think that he needed a comfort level which he got with the memo that he got from the attorney and from the organization, but nobody ever anticipated the second part of this happening the way it happened and how fast after the first part so, you know, it all ties together in what the plan was.

It is obvious from a political strategy there was a plan and that's what you saw.

Q. When you referred to the first part and the second part, the first part being the question of the mayor's appointment to the commissioner's position and the second part being rescinding Kathleen Gill's appointment to be

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deputy city manager.

A. Yes.

MR. BLUMENTHAL: Which is more troubling to you?

THE WITNESS: I think both. I think both. One is not less troubling than the other. I think that any politician that believes that they are entitled to a commissioner position which is a \$200,000 plus job when you don't even want to go through the process of a resume or resigning the position, I mean I have been on council for 14 years and three months and, you know, over my years, you know, aside from being in the jewelry business I am very involved in the real estate business and I own a number of pieces of property and I also developed a number of pieces of property, and what I learned when I became a City Council member is that you can't do both because as soon as you get onto the City Council you are held to a

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different standard, you have to be careful what you do. You don't want it to look like you are doing something that is not proper, so what I did is, I gave up my real estate license and I too stopped developing property and, you know, when people say when you get in politics you can lose a lot of money, I can attest to that.

Over 14 years I haven't developed one single piece of property and have not bought or sold anything during that time because I felt that everything I do is in New Rochelle and would not look right. People would look at it, so that bothered me because I am using my standards and applying it to everybody else.

Now, I am not God, I am not perfect but I am looking at this and saying this just isn't right. This is, you know, the first thing you say to yourself what are they thinking about when they did this? But that offended

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me.

The other part of it almost came across in a way that is a little bit vindictive that, you know, I didn't get this so this other person, who works very closely with the city manager, you remember, she was acting-- yes, she was acting city manager a number of times so she works very closely with Chuck and I work with both of them. A lot of times things are referred to Ms. Gill, so whatever Chuck is doing he knows she has some input or had some involvement in it in that she is his right-hand person.

So it appeared to me that this was, you know, sort of I am going to get her out of the way also and that's what I got offended by. It just wasn't-- you know, it was overstepping. Again, not your position, not my decision to make, not his decision to make, it was the city manager's decision to make and we have been told

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2 this from the day I got on council. If
3 you don't like what the city manager is
4 doing, if you don't like the way he is
5 running you get into an executive
6 session, four votes and you replace
7 that person but we have never had that
8 before because we were very happy with
9 the work he was doing.

10 Q. Does the name Alisa Kesten sound
11 familiar to you?

12 A. Yes.

13 Q. How do you know that name?

14 A. I know Alisa Kesten. I know I have
15 been around a long time. Alisa Kesten was
16 involved with the United Way. I was on the Board
17 of Directors of the United Way back in the early
18 2000's, 2007, 2008 and she was involved at the
19 time. She is a local. I know her for a long
20 time, and then, of course, she sort of
21 disappeared from the landscape. She went into a
22 job in a not-for-profit. She worked for a number
23 of them and I never heard her name again until I
24 heard through individuals that she was the person
25 that was the one that was going to be, you know,

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put into the position of city manager so that's the next time I heard about Alisa. I didn't even know she still lived around here because I hadn't seen or heard from her.

Q. Do you recall there ever having been any discussion about changing the requirements that are required in the charter for city manager to include experience with not-for-profits?

A. No.

Q. Let me show you something. I am going to show you what has been marked as Exhibit C. It is in identification already and I will show you the last page.

The question I have for you, is that the e-mail that you discussed earlier?

A. This part here?

Q. I am asking you about the first e-mail at the bottom of that page.

A. That's the one that I mentioned to you that I sent on Saturday after everything blew up.

Q. Right. Okay. Now, I want to ask you a question. In the e-mail you say, "Chuck, after speaking with some councilmembers." Which councilmembers had you spoken with at that point?

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A. That was Martha and Liz.

Q. You say, "It has come to my attention that the mayor has reached out to them to persuade them in going to you with four votes to force, to rescind the appointment of Kathleen Gill." Okay.

A. Yes.

Q. To the best of your recollection, what did Martha say specifically about going to Chuck to rescind that appointment?

A. Well, what she said was, again I have to remember this. That day there were a million conversations.

Q. Sure.

A. What she basically said was that she had spoken to the mayor and that she did not support rescinding the position as deputy city manager and that's what I got out of it, you know, the exact wordage but that's what it was about, and when I spoke to Liz, Liz was more specific in that she made it very clear to the mayor that she wants nothing to do with any changes in what Chuck had done, you know, so with that my assumption is, and I knew and I heard

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2 later that he had gone to two other
3 councilmembers, and in my conversation with Chuck
4 he did mention, Chuck did mention that he told
5 him that he had three votes, and what I found
6 very odd is that why would you tell Chuck that
7 you had three votes if the intention wasn't to
8 intimidate him? And that's where this all comes
9 into, is that, you know, as a councilmember for
10 all these years, one of the things that you
11 always heard is that well, all we need is four
12 votes and, you know, you can change things so,
13 you know, that's always been what everybody knows
14 so, you know, I, during my years, I had never
15 seen this happen where everybody went and said we
16 got four votes to do this or we have five votes
17 to do this, this was the first time so this
18 concerned me because I would say to myself this
19 had to be a violation of some sort because it is
20 intimidating, you are intimidating the city
21 manager, and I got to tell you, in conversations
22 that I had with Chuck on the phone he was
23 concerned.

24 You have to remember, Chuck has a
25 contract that runs through December 31st. We

1 FRIED

2 extended it last year. If he left tomorrow he
3 gets paid, but I think the most important thing
4 for Chuck in my conversations with him, he wants
5 to go out on his own terms. He wants to leave--
6 you know, like the baseball player that does 15
7 years or a football player, this was his Tom
8 Brady year. He wants to be able to, you know, he
9 is going to be honored by different organizations
10 that usually do that and he will go out on his
11 own terms. He did not want to be pushed out the
12 door and that's what I believe was a concern in
13 just the conversations I had with him, so that's
14 the main reason why I brought this up because I
15 wanted to get a clarification and I wanted to
16 know if I was seeing something that, you know, if
17 they came back and said to me you are way off
18 base, this has nothing to do with it, I am
19 comfortable with that, but it came back
20 differently up to a point.

21 You know, I didn't get a clear
22 picture because it was referred back to this
23 committee here so, you know, the part about
24 making a determination but I felt comfortable in
25 that I at least had an answer to something I had

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asked.

Q. Specifically what I am interested in and the Board is interested in is this. The actual words referring to having a certain number of votes, I have three votes, I have four votes, who did you hear or who were you told uttered those words?

A. Chuck. Chuck told me.

Q. Chuck told you that?

A. Chuck told me that he had three votes.

Q. That the mayor told him he had three votes?

A. That he was short.

Q. Did any of the other council people tell you that the mayor said he had any X number of votes?

A. No, no, I never discussed that with any of them.

Q. Did you ever hear from anyone that the mayor had said to any of the other council people I either have X number of votes or I have the following people who agree with me, I already have so and so who agrees with me?

A. Well, yeah, just from Chuck again.

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Chuck knew that, you know, that the votes that he obviously-- the one vote I know he said clearly that he had was Sara Kaye, that she was in support of the mayor and he also mentioned Yadira as the other.

Q. Chuck told you that's what the mayor told him, that he had Sara Kaye and Yadira?

A. That would give him the three votes that he was talking about.

Q. Including his own vote?

A. Yes, absolutely.

Q. That would be three votes to go to Chuck and ask him to rescind Kathleen's appointment?

A. Right, whatever way they were going to do it. Obviously when you go to the city manager with four votes, if you go with three it doesn't mean anything, but usually when you can go to the city manager with four votes, you know, you have leverage to get what you want because what you are doing then is obviously telling him I got four votes. The only thing those four votes can do is get rid of him. They can't get rid of Kathleen Gill or Salgado, they can only get rid

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2 of him and that's the message that was conveyed
3 and he saw it, that's why I got those multiple
4 phone calls that day because he was concerned
5 about it, you know, and later on, like I said to
6 you that evening, when he said on the last call I
7 got about 5:30, 6:00, he said to me the mayor
8 said he was going to meet with some of the
9 councilmembers to discuss this and made him more
10 concerned because he was concerned he was going
11 to try to get other members to agree with him so,
12 you know, then it sort of_-- after Saturday and I
13 sent out that e-mail, things of course over that
14 weekend quieted down.

15 Q. I would expect so.

16 A. Because I believe_-- I am trying to
17 remember if I sent it to everybody. I think I
18 sent it to Chuck and either he sent it to the
19 whole council. I wanted to make sure everybody
20 saw it and somebody mentioned it to me why would
21 you send it? I felt at that point with what was
22 going on, you know, as a councilmember, all
23 councilmembers had an obligation to ask these
24 questions to find out, you know, what is going
25 on, where are we, where do we stand, how do we do

1 FRIED

2 this because there was so many things that are
3 new territory for most councilmembers, and you
4 have to remember, we have a council right now
5 that aside from myself, Ivar is on I think 10
6 years, the rest of the council is two years on
7 the council except for Liz. Liz is, I think, six
8 years or something but the other three
9 councilmembers are two years and three months and
10 almost two years of that time we were in a Covid
11 state so there wasn't really much interaction and
12 much going on in the city during that time so,
13 you know, there wasn't a lot of experience, so I
14 wanted to make sure we all well understand it.

15 You know, my biggest fear is I
16 didn't want anybody to go out and make comments
17 or statements that would make, number one, the
18 city look bad and number two, make the council
19 look bad, and those are the things to me that are
20 very important.

21 Aside what is going on here,
22 anybody you talk to, I have been on the council
23 all these years. One of things that I have
24 always done is put the city first and you put
25 yourself second, and what we do is make sure that

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2 when we talk about things we know what we are
3 talking about before we talk so with the press.
4 I am always very careful not to say anything
5 until I got all my ducks in a row, so to speak,
6 and that's why I wanted this because I knew at
7 some point the press is going to start coming
8 forward and they have. I have gotten calls from
9 three different news companies and I haven't
10 spoken to any of them because I don't think it is
11 the proper thing to do right now and I want to
12 let it play out, and what I tell them all is that
13 when this is over, I will have a statement to
14 make one way or another but it will be based on
15 what the outcome is, not what is going on now.
16 It is nobody's business but ours.

17 Q. Correct. Let me ask you a question.
18 Were you aware of any continuing efforts being
19 made after this complaint was filed to try to get
20 four council people to pressure the city manager
21 to rescind Kathleen's appointment?

22 A. After this, no.

23 Q. After?

24 A. No.

25 Q. Based upon everything that you

1 FRIED

2 learned, what was your thinking as to why the
3 mayor would want to rescind Kathleen's
4 appointment as city manager?

5 A. I will just want to read this to see
6 if I put it in. Well, because, number one, there
7 was the issue with a new city manager. You start
8 to put it together that there was this push to
9 get a new city manager right away.

10 There was a need, you know, which
11 I didn't see, a need to start the RFP by April of
12 this month and maybe have somebody in place by
13 June or so and, you know, that was a little
14 suspicious to me because one of the things I
15 looked at is what are we going to do with two
16 city managers, number one. Number two, if I am
17 somebody and I live in Texas or I live in
18 wherever, Florida, some other place, Chicago and
19 I apply for this job and they were going to hire
20 me, you know, am I going to sit around until
21 January to start the job? There might be other
22 jobs out there between now and then so, you know,
23 why would we start so soon to this process?

24 Then when I heard the thing about
25 Alisa Kesten you start to put two and two

1 FRIED

2 together in that it was obvious that there was a
3 belief by many in the city that when Chuck left,
4 Kathleen Gill may very well be the choice to be
5 the city manager simply because of her level of
6 experience, and being that we are in the middle
7 of a major build-out in New Rochelle, we are in
8 the sixth or seventh year of the 10 year plan,
9 her experience is invaluable.

10 So I think that this was this
11 consensus, that she was the front runner, and
12 when it came out about, you know, looking into
13 the not-for-profit sector, bells went off because
14 you didn't even try in the city manager sector.
15 You know, I understood if you did an RFP and it
16 cap back and there was nobody qualified that came
17 forward from that sector you would expand it into
18 maybe something else, but it was like it was
19 specifically targeted toward the not-for-profit
20 before we even knew whether or not there were
21 qualified people in the city manager sector and
22 that was a red flag to me.

23 Q. Who suggested looking into the
24 not-for-profit sector?

25 A. The mayor.

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Q. Did he suggest any names?

A. No, no names were brought up at that time. Then later on the name came out.

Q. Now, in terms of what has happened since the complaint was filed, are you aware of any efforts to influence Chuck not to recommend her to be the city manager when he retires?

A. Excuse me, repeat that again. I am sorry.

Q. In terms of what has happened since the complaint was filed, are you aware of any efforts being made by anybody on the City Council to preclude Chuck from appointing her to be the acting city manager when he retires?

A. No, no, except, you know, again -- repeat the question.

Q. Sure. I am not trying to make it difficult.

A. I am trying to understand how you said it.

Q. Okay. I am talking about a period of time after this complaint was filed, after Cox filed the complaint.

A. I thought you meant this complaint. I

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am sorry. Okay. Let's start from the beginning.

Q. You know what, that would have been a better question so let me ask you this question this way.

After you wrote this e-mail--

A. Right.

Q. -- did you become aware of any efforts on behalf of any of the people on the council to influence Chuck not to appoint Kathleen as acting city manager when he retires?

A. Well, he appointed her as deputy city manager.

Q. So she will automatically become acting?

A. She will automatically become acting if she was still in that position and we did not have a new city manager.

Q. Right.

A. I did not have that discussion with anybody.

Q. Okay. So I guess to ask the question another way, after you wrote this e-mail, did you become aware of any continuing efforts to try to have her appointment as deputy city manager

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rescinded?

A. Only that I wrote it because the day before Chuck told me that the mayor was talking about bringing in councilmembers to have further discussion on this.

Q. Right.

A. So it would have been before I sent this and that's why I sent this.

Q. Got you. Do you know if he actually ever then brought those council people in to do that?

A. I have no idea. No, I have no idea. They wouldn't tell me. I don't think so. Honestly, I don't know.

MR. BLUMENTHAL: Peter, I think we should bring this to closure.

MR. MEISELS: I wanted to ask you to gentlemen if you have any questions.

MR. PHIPPS: No.

MR. BLUMENTHAL: Thank you for your 14 years.

(Time noted: 6:50 p.m.)

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CERTIFICATION

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I, HOWARD BRESHIN, a Court Reporter
and Notary Public within and for the State of New
York, do hereby certify:

That I reported the proceedings that
are hereinbefore set forth, and that such
transcript is a true and accurate record of said
proceedings.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand.



HOWARD BRESHIN,
COURT REPORTER

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