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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : UNION COUNTY
DOCKET NO. UNN-L-3547-2011

RICHMOND LAPOLLA, :
Plaintiff, :
vs. : DEPOSITION OF
UNION COUNTY and GEORGE : ALFRED FAELLA
DEVANNEY, :
Defendants. :

TRANSCRIPT of testimony as taken by and
before BETH J. SPINNER, a Certified Shorthand
Reporter and Notary Public of the State of New
Jersey at the law offices of LaCORTE, BUNDY, VARADY
& KINSELLA, 989 Bonnel Court, Union, New Jersey on
Monday, September 15, 2014, commencing at 10:00
a.m.

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

2

2 BREUNINGER & FELLMAN
1829 Front Street
3 Scotch Plains, New Jersey 07076
4 BY: SUSAN B. FELLMAN, ESQ.,
Attorneys for the Plaintiff.

5 LaCORTE, BUNDY, VARADY & KINSELLA
6 989 Bonnel Court
Union New Jersey 07083
7 BY: ROBERT VARADY, ESQ.,
Attorney for the Defendant,
8 Union County.

9 PALUMBO & RENAUD
190 North Avenue East
10 Cranford, New Jersey 07016
BY: ROBERT F. RENAUD, ESQ.,
11 Attorney for the Defendant,
George W. Devanney.

12 ALSO PRESENT:

13 Richmond Lapolla

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1 I N D E X 3

2 WITNESS DIRECT CROSS REDIRECT RECROS

3 ALFRED FAELLA
4 By Ms. Fellman 4

5 EXHIBITS

6 IDENT.	DESCRIPTION	PAGE
7	Faella-1 Job history	4
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1 (Job history received and marked
2 Plaintiff's Exhibit Faella-1 for Identification.
3 Performance evaluation received and
4 marked Plaintiff's Exhibit Faella-2 for
5 Identification.
6 Plaintiff's Further Request for
7 Production of Documents received and marked
8 Plaintiff's Exhibit Faella-3 for Identification.)
9
10

11 A L F R E D F A E L L A, having a home
12 residence at 303 Old Tote Road, Mountainside, New
13 Jersey, having been duly sworn, testified as
14 follows:

15 DIRECT EXAMINATION BY MS. FELLMAN:

16 Q. Good morning.

17 A. Good morning.

18 Q. As you know, my name is Susan
19 Fellman. My firm represents Mr. Richmond Lapolla
20 in this lawsuit. Have you ever had your
21 deposition taken before?

22 A. Yes.

23 Q. On how many occasions?

24 A. Two.

25 Q. Can you tell me approximately when

5

1 they were?

2 **A. Approximately four years ago and 18 years**
3 **ago.**

4 **Q.** Were either or both of these in
5 connection with your employment?

6 **A. Yes.**

7 **Q.** The one four years ago, do you
8 recall what case that was regarding?

9 **A. Yes.**

10 **Q.** What was that case?

11 **A. Robert Travissano.**

12 **Q.** What was your position, your
13 employment position at the time that you gave the
14 deposition in the Travissano matter?

15 **A. Director of Parks and Community Renewal.**

16 **Q.** What was your employment
17 relationship to Mr. Travissano at that time?

18 **A. Supervisor.**

19 **Q.** So Mr. Travissano worked in the
20 Department of Parks and Community Renewal?

21 **A. Yes.**

22 **Q.** What was his job position?

23 **A. Don't recall.**

24 **Q.** Was he a head of a division?

25 **A. No.**

7

1 happen?

2 **A. No.**

3 **Q.** Let me just give you a few
4 instructions just to be sure you and I are on the
5 same wave length. This is a lawsuit, as you
6 understand. You are being deposed as a witness
7 in this case. When we get done here the court
8 reporter is going to transcribe you're under oath
9 testimony. The testimony you give here has the
10 same effect as any testimony you would give at
11 the trial of this case.

12 Do you understand that?

13 **A. Yes.**

14 **Q.** Because of the significance of your
15 testimony, it can be used for all sorts of
16 purposes at the trial of this case including its
17 use against the Defendant, the County of Union;
18 do you understand that?

19 **A. Yes.**

20 **Q.** Because of the significance we have
21 to be sure that when you give an answer you
22 understand the question; all right?

23 **A. Yes.**

24 **Q.** So if there is anything about my
25 question that is not clear, that you need for me

6

1 **Q.** We'll get more into that department
2 in a little while.

3 The deposition 18 years ago, what
4 was that regarding?

5 **A. The City of Elizabeth.**

6 **Q.** What was your position at the time?

7 **A. Director of Neighborhood Services.**

8 **Q.** Do you remember the name of that
9 case or the plaintiff in that case?

10 **A. Yes, Thomas Verdun.**

11 **Q.** Have you had an opportunity to meet
12 with counsel before appearing here today?

13 **A. Yes.**

14 **Q.** So I am sure he explained to you,
15 reminded you as to what the purpose of a
16 deposition is?

17 **MR. VARADY:** I'll object to whatever
18 I talked to him about.

19 **Q.** Okay. Other than anything
20 substantive, did you understand after your
21 conversation with counsel as to what is going to
22 occur here today with regard procedurally?

23 **A. Yes.**

24 **Q.** Do you have any questions before we
25 continue as to procedurally what is going to

8

1 to restate or rephrase or repeat or clarify,
2 please do so, otherwise we will assume that you
3 understood the question when you answered it; all
4 right?

5 **A. Yes.**

6 **Q.** This is not a memory test, so if
7 there is something you don't recall, just tell us
8 you don't recall. If you can approximate, please
9 do so, or estimate, do so and tell us that is
10 what you are doing; all right?

11 **A. Yes.**

12 **Q.** Now in preparation for this
13 deposition, other than meeting with counsel, did
14 you do anything else to prepare for this
15 deposition?

16 **A. No.**

17 **Q.** Have you reviewed any of the
18 transcripts of any of the witnesses who have been
19 deposed in this case?

20 **A. No.**

21 **Q.** Have you reviewed any documents that
22 have been produced in this case?

23 **A. No.**

24 **Q.** Do you know what this case is about,
25 that's been brought by Mr. Lapolla?

9

- 1 **A. No.**
 2 **Q.** You have no idea?
 3 **A. I don't know exactly what it is about.**
 4 **Q.** What do you understand is the
 5 allegation that Mr. Lapolla is making?
 6 **MR. VARADY:** Object to the form of
 7 the question. You can answer.
 8 **A. I know that Mr. Lapolla is suing the**
 9 **County of Union, but I don't know the specifics.**
 10 **Q.** Do you know whether he is suing
 11 based on his age?
 12 **A. No.**
 13 **Q.** Do you know the basis of anything
 14 about his claim?
 15 **A. No.**
 16 **Q.** Do you know any of the allegations
 17 that he has made in this case?
 18 **A. No.**
 19 **Q.** Did you ever review the complaint
 20 that was filed in this case?
 21 **A. No.**
 22 **Q.** Did you ever review the amended
 23 complaint or the second amended complaint that
 24 was filed in this case?
 25 **A. No.**

11

- 1 **for Union County.**
 2 **Q.** And when did you begin that
 3 position?
 4 **A. 2006.**
 5 **Q.** So from 2006 to 2008 you were the
 6 Director of Economic Development for the County
 7 of Union?
 8 **A. That's correct.**
 9 **Q.** What was your job, your position
 10 prior to 2006?
 11 **A. Division Head of Information Technologies.**
 12 **Q.** And what department was that in?
 13 **A. The Department of Economic Development.**
 14 **Q.** And when did you begin that position
 15 of Division Head?
 16 **A. 2004.**
 17 **Q.** So from approximately 2004 to 2006
 18 you were the Division Head that you just told us,
 19 correct?
 20 **A. Yes.**
 21 **Q.** What was your employment before
 22 that?
 23 **A. The Motor Vehicle Division, State of New**
 24 **Jersey.**
 25 **Q.** When did you commence that

10

- 1 **Q.** At the present time what is your
 2 position with the County of Union?
 3 **A. County Manager.**
 4 **Q.** When did you become the County
 5 Manager for the County of Union?
 6 **A. August 2011.**
 7 **Q.** August 1st?
 8 **A. August 1, 2011, that's correct.**
 9 **Q.** What was your immediate position
 10 prior to that?
 11 **A. Director of Parks and Community Renewal.**
 12 **Q.** How long had you held that position,
 13 approximately?
 14 **A. Three years.**
 15 **Q.** So would you say in 2008 you were
 16 the Director of Parks and Community Renewal for
 17 the County of Union?
 18 **A. Yes.**
 19 **Q.** Is that when you became the Director
 20 of Parks and Community Renewal in 2008?
 21 **A. I believe so.**
 22 **Q.** What was your employment prior to
 23 becoming the Director of Parks and Community
 24 Renewal?
 25 **A. I was the Director of Economic Development**

12

- 1 employment?
 2 **A. 2001.**
 3 **Q.** So your first job with the County of
 4 Union was in 2004?
 5 **A. No.**
 6 **Q.** When were you employed by the State
 7 of New Jersey in the Motor Vehicle Commission?
 8 **A. From 2001 to 2004.**
 9 **Q.** What was your position prior to
 10 2001?
 11 **A. Director of Community Development for the**
 12 **County of Union.**
 13 **Q.** By the way, sir, if you need to take
 14 a break at any time, you just let us know, all
 15 right?
 16 **A. Yes.**
 17 **Q.** What were the years you held that
 18 position?
 19 **A. From 1999 to 2001.**
 20 **Q.** And what was your position prior to
 21 1999?
 22 **A. Director of Neighborhood Services, City of**
 23 **Elizabeth.**
 24 **Q.** How long were you in that position?
 25 **A. From 1993 to 1999.**

13

- 1 Q. Before that what was your position?
 2 A. **Worked at Sea-Land Service.**
 3 Q. What is that?
 4 A. **That is a shipping company.**
 5 Q. So your first employment with the
 6 County of Union was as Director of Community
 7 Development from 1999 to 2001?
 8 A. **That is correct.**
 9 Q. What were your duties as Director of
 10 Community Development?
 11 A. **To oversee and administer the federal**
 12 **block grant funds that the County receives from**
 13 **the federal government.**
 14 Q. Did you have any employees that you
 15 supervised?
 16 A. **Yes.**
 17 Q. How many employees?
 18 A. **I don't recall.**
 19 Q. Approximately, are we talking two,
 20 three, five, ten, what is the neighborhood?
 21 A. **Probably between ten and 20.**
 22 Q. Who was the County Manager between
 23 1999 and 2001, that you reported to?
 24 MR. VARADY: Object to the form of
 25 the question. You can answer it.

15

- 1 **at all the motor vehicle inspection stations and**
 2 **agencies throughout the state to determine if**
 3 **they were viable, if there were too many in one**
 4 **location, not enough in others, and I was asked**
 5 **if that was something that I would be interested**
 6 **in overseeing. And it was.**
 7 Q. Do you recall who it was that asked
 8 you if you were interested?
 9 A. **Yes.**
 10 Q. Who was that?
 11 A. **Mr. James Fox.**
 12 Q. Who is that? What was his position?
 13 A. **He was the Director of Transportation for**
 14 **the State of New Jersey.**
 15 Q. So when you returned to the County
 16 of Union in 2004 you were Division Head of
 17 Information Technologies in the Department of
 18 Economic Development, correct?
 19 A. **Yes.**
 20 Q. And who was the Director of Economic
 21 Development at that point?
 22 A. **George Devanney.**
 23 Q. Why did you leave the position with
 24 the motor vehicle commission?
 25 A. **The siting study concluded.**

14

- 1 MS. FELLMAN: Let me restate the
 2 question.
 3 Q. Did you, in your position as
 4 Director of Community Development for the County
 5 of Union, did you report to the County Manager?
 6 A. **No.**
 7 Q. Who did you report to?
 8 A. **The Director of Economic Development.**
 9 Q. And who was that?
 10 A. **James Daly.**
 11 Q. Was Economic Development a
 12 department within the County of Union at the
 13 time?
 14 A. **Yes.**
 15 Q. And your Community Development was a
 16 division?
 17 A. **That's correct.**
 18 Q. Who was the manager, County Manager
 19 of the County of Union between 1999 and 2001?
 20 A. **Michael Lapolla.**
 21 Q. Why did you leave the employment of
 22 the County in 2001?
 23 A. **The Motor Vehicle Commission was being**
 24 **formulated on the state level and there was an**
 25 **opportunity to do a siting study which would look**

16

- 1 Q. Did you apply for the position with
 2 the County of Union in 2004, for the Division
 3 Head of Information Technologies?
 4 A. **No.**
 5 Q. How did you get the job?
 6 A. **I received a phone call.**
 7 Q. From whom?
 8 A. **From Mr. Devanney.**
 9 Q. Can you tell me about that phone
 10 call? What was the substance of the
 11 conversation?
 12 A. **He said that there was an opening for the**
 13 **Division Head of Information Technologies at the**
 14 **County and he asked me if I would be interested.**
 15 Q. Was that a new position or was that
 16 a position that was vacated by someone else?
 17 A. **It was a position that was vacated by**
 18 **someone else.**
 19 Q. Do you know who that was, who was in
 20 that position before you?
 21 A. **I don't recall.**
 22 Q. In connection with your obtaining
 23 the position of Division Head of Information
 24 Technologies, did you have any conversation with
 25 Charlotte DeFilippo?

17

- 1 **A. No.**
- 2 **Q.** After Mr. Devanney called you, what
- 3 did you do with regard to that position of
- 4 Division Head of Information Technologies?
- 5 **A. Gave it some thought and called him back**
- 6 **and said that I might be interested.**
- 7 **Q.** And then what happened?
- 8 **A. Came into his office and he interviewed**
- 9 **me.**
- 10 **Q.** Do you know if there were any other
- 11 candidates for the position?
- 12 **A. I do not know.**
- 13 **Q.** After he interviewed you, what was
- 14 next in the process that you are aware of?
- 15 **A. I don't recall exactly but I do know at**
- 16 **some point I was offered the position.**
- 17 **Q.** Who offered you the position?
- 18 **A. Mr. Devanney.**
- 19 **Q.** Did you have to make any sort of
- 20 presentation before the Board of Freeholders?
- 21 **A. No.**
- 22 **Q.** Was it your understanding that it
- 23 was Mr. Devanney's prerogative to hire you for
- 24 that position?
- 25 **A. Yes.**

19

- 1 **Q.** And whose political campaign was
- 2 that?
- 3 **A. Mayor J. Christian Bollwage of the City of**
- 4 **Elizabeth.**
- 5 **Q.** Now when you say you worked with Mr.
- 6 Devanney on that campaign, could you explain to
- 7 me what it was your understanding that you did --
- 8 can you explain what it was that you did and what
- 9 your understanding was that Mr. Devanney did?
- 10 **MR. VARADY:** Object to the form of
- 11 the question but you can answer both questions.
- 12 **A. I can speak to what my role was. I was**
- 13 **the coordinator for the GOTV, which was the**
- 14 **Get-Out-The-Vote campaign.**
- 15 **Q.** Did you work with Mr. Devanney in
- 16 connection with your position as coordinator for
- 17 the GOV?
- 18 **A. GOTV.**
- 19 **Q. GOTV.**
- 20 **A. Yes.**
- 21 **Q.** And what was he doing? In what way
- 22 would you interact with him?
- 23 **A. We would discuss which wards and districts**
- 24 **we would be focusing on to attempt to get the**
- 25 **vote out for the Mayor.**

18

- 1 **Q.** Did you know Mr. Devanney before he
- 2 contacted you in 2004 regarding the position of
- 3 Division Head of Information Technologies?
- 4 **A. Yes.**
- 5 **Q.** How did you know him?
- 6 **A. Mr. Devanney was also a department head in**
- 7 **the City of Elizabeth at the same time that I**
- 8 **was.**
- 9 **Q.** Do you know why it was that he left
- 10 the position, his department head position?
- 11 **A. I don't.**
- 12 **Q.** Did you have any interaction with
- 13 Mr. Devanney between 1999 and 2001, did you have
- 14 any professional interaction with Mr. Devanney?
- 15 **MR. VARADY:** Object to the form of
- 16 the question. You can answer.
- 17 **MS. FELLMAN:** You can answer it.
- 18 **A. No.**
- 19 **Q.** So during the time between 1999 and
- 20 2001 did you have any interaction, communication
- 21 with Mr. Devanney at all?
- 22 **A. Yes.**
- 23 **Q.** What was the circumstances that you
- 24 communicated with him during that time period?
- 25 **A. Worked together on a political campaign.**

20

- 1 **Q.** Did Mr. Devanney actually work on
- 2 your committee?
- 3 **MR. VARADY:** Object to the form.
- 4 **Q.** Was the GOTV a committee?
- 5 **A. No.**
- 6 **Q.** Were there people assigned to work
- 7 on that project, the Get-Out-The-Vote project?
- 8 **A. Yes.**
- 9 **Q.** Was Mr. Devanney assigned to work on
- 10 that project?
- 11 **A. Yes.**
- 12 **Q.** What year was this?
- 13 **A. 2000.**
- 14 **Q.** That was the year of the election?
- 15 **A. That's correct.**
- 16 **Q.** Was Mayor Bollwage running for
- 17 re-election or was this his first election?
- 18 **A. He was running for re-election.**
- 19 **Q.** When did Mayor Bollwage first become
- 20 Mayor of the City of Elizabeth, if you recall?
- 21 **A. January 1, 1993.**
- 22 **Q.** And is he still the Mayor for the
- 23 City of Elizabeth?
- 24 **A. Yes.**
- 25 **Q.** Any other way that you worked with

21

- 1 Mr. Devanney regarding the re-election of Mr.
2 Bollwage in 2000?
3 **A. No.**
4 **Q.** Who else did you work with at that
5 campaign in your role as coordinator for the
6 GOTV?
7 **A. A number of other individuals.**
8 **Q.** Anyone who is presently working for
9 the County?
10 **A. No.**
11 **Q.** Was there anyone from the --
12 **A. It was 14 years, so I am trying to**
13 **remember.**
14 **Q.** Who was the opponent running against
15 Mr. Bollwage in that 2000 campaign?
16 **A. 2000 would have been Raphael Fajardo.**
17 **Q.** Did you ever work on any other
18 campaign for Mayor Bollwage?
19 **A. Yes.**
20 **Q.** Do you know if Mr. Devanney ever
21 worked on any other campaign for Mr. Bollwage?
22 **A. Yes.**
23 **Q.** What campaign was that?
24 **A. Basically every campaign. Basically every**
25 **campaign that Mayor Bollwage has been involved**

23

- 1 election?
2 **A. No.**
3 **Q.** Do you know whether or not Mr.
4 Devanney ever worked on any state election?
5 **A. I do not know.**
6 **Q.** How did you determine which if any
7 of the Union County Freeholder candidates whose
8 campaign you would work on?
9 **MR. VARADY:** Object to the form of
10 the question. You can answer it.
11 **MS. FELLMAN:** Let me restate it.
12 **Q.** How often is there a Freeholder
13 election?
14 **A. Every year.**
15 **Q.** Have you worked on the Freeholder
16 candidates elections every year?
17 **A. Yes.**
18 **Q.** Since when?
19 **A. Since my employment with the County of**
20 **Union.**
21 **Q.** Your re-employment or your first
22 employment?
23 **A. My re-employment.**
24 **Q.** That would be as of 2004?
25 **A. That's correct.**

22

- 1 **in.**
2 **Q.** Since he started in 1993 to present?
3 **A. That's correct.**
4 **Q.** You have worked on every campaign
5 for Mayor Bollwage from 1993 to present?
6 **A. That's correct.**
7 **Q.** What about Mr. Devanney, what is
8 your knowledge about how often he has worked on
9 Mayor Bollwage's campaign?
10 **A. I am not --**
11 **Q.** Just what your knowledge is.
12 **A. I believe he has but I am not positive.**
13 **Q.** You believe he has what?
14 **A. That he has worked on every campaign that**
15 **Mayor Bollwage has been involved in but I am not**
16 **positive of that.**
17 **Q.** Other than Mayor Bollwage is there
18 any political figure whose campaign you have
19 worked on?
20 **A. Yes.**
21 **Q.** Who else?
22 **A. Union County Freeholder candidates.**
23 **Q.** Anyone else?
24 **A. No.**
25 **Q.** Did you ever work on any state

24

- 1 **Q.** So how did you determine which
2 candidates running for the Freeholder Board to
3 support?
4 **A. The ones that were running on the**
5 **democratic slate.**
6 **Q.** Do you know how the democratic slate
7 is picked?
8 **MR. VARADY:** For Freeholders?
9 **MS. FELLMAN:** For the Freeholders.
10 **A. Yes.**
11 **Q.** How does that happen?
12 **A. The County Chairman makes the selection.**
13 **Q.** And the County Chairman was
14 Charlotte DeFilippo, correct?
15 **MR. VARADY:** What year?
16 **Q.** Is Charlotte DeFilippo presently the
17 County Chairman?
18 **A. No.**
19 **Q.** Who is?
20 **A. Jerry Green.**
21 **Q.** When did Mr. Green become the County
22 Chairman?
23 **A. Last year, I believe.**
24 **Q.** Prior to last year who was the
25 County Chairman, for the democratic party?

25

1 MR. VARADY: For what period of
2 time?
3 MS. FELLMAN: Just prior,
4 immediately prior to Jerry Green.
5 MR. VARADY: Do you understand?
6 THE WITNESS: I understand.
7 **A. Charlotte DeFilippo.**
8 **Q.** How long, if you know, was Miss
9 DeFilippo the County Chairman for the democratic
10 party?
11 **A. I don't know.**
12 **Q.** Was she the County Chairman in 2004?
13 **A. Not sure. Not sure.**
14 **Q.** Do you remember anyone else being
15 the County Chairman?
16 **A. Yes.**
17 **Q.** Who else?
18 **A. John Malone.**
19 **Q.** When was Mr. Malone the County
20 Chairman if you recall?
21 **A. He became County Chairman, I believe, in**
22 **1993. But I don't know when he ceased becoming**
23 **the chair.**
24 **Q.** Based on your recollection Miss
25 DeFilippo became the County chair after Mr.

1 Malone?
2 **A. Yes.**
3 **Q.** She was the County Chair until she
4 resigned that position?
5 **A. Yes.**
6 **Q.** And then Jerry Green became the
7 County Chair, correct?
8 **A. Yes.**
9 **Q.** Why is it that you worked on the
10 campaigns for the County Freeholders running on
11 the democratic slate?
12 **A. Because I am a democrat and I espouse the**
13 **goals and philosophy of the democratic**
14 **candidates.**
15 **Q.** Why is it that you only -- other
16 than your supporting the campaign of Mayor
17 Bollwage, the campaigns, why is it that you only
18 determined to work on the campaigns of the Union
19 County Freeholders on the slate?
20 MR. VARADY: Object to the form of
21 the question.
22 MS. FELLMAN: As opposed to some
23 other democratic position.
24 MR. VARADY: I'll object to the form
25 of the question.

26

27

1 MS. FELLMAN: Okay. That is fine.
2 MR. VARADY: Can you define
3 democratic position?
4 MS. FELLMAN: Someone else running
5 on the democratic party line.
6 **Q.** There were other people running on
7 the democratic party line in every election,
8 correct?
9 **A. Correct.**
10 **Q.** They would be running for various
11 positions in government, correct?
12 **A. Correct.**
13 **Q.** Why is it that you supported only
14 the Freeholders running on the democratic slate?
15 MR. VARADY: Object to the form of
16 the question.
17 MR. RENAUD: Object to the form.
18 MS. FELLMAN: You can object. You
19 can answer, sir.
20 **A. I supported the entire slate, the entire**
21 **ticket, I think is actually the way it is**
22 **defined.**
23 **Q.** Did you work on the campaigns for
24 anyone else other than the Freeholders?
25 **A. No.**

28

1 **Q.** Why is it that you only worked on
2 the campaigns of the Freeholders as opposed to
3 the other members, people running for positions
4 on the slate?
5 MR. VARADY: Object to the form of
6 the question. You can answer it.
7 **A. I have a full time job, I have a family,**
8 **there is quite a lot of time involved in doing**
9 **that. I only have a certain amount of time. So**
10 **that was the choice that I made.**
11 **Q.** Were you ever directed by anyone to
12 work on the campaigns of the candidates running
13 for Freeholder on the democratic slate?
14 **A. No.**
15 **Q.** Have you ever been to Miss
16 DeFilippo's house?
17 **A. Yes.**
18 **Q.** On how many occasions?
19 **A. Numerous.**
20 **Q.** What would be the reason that you
21 would go to Miss DeFilippo's house?
22 **A. To discuss economic development projects**
23 **for the County of Union.**
24 **Q.** Anything else that you would discuss
25 when you would be at Miss DeFilippo's home?

29

- 1 **A. No.**
 2 **Q.** When did these discussions begin, as
 3 far as the time line? When was the first time,
 4 approximately, that you went to Miss DeFilippo's
 5 home?
 6 **A. I don't recall.**
 7 **Q.** When was the last time?
 8 **A. I would say about a year-and-a-half ago.**
 9 **Q.** Do you recall what you discussed
 10 with Miss DeFilippo the last time you were at her
 11 home?
 12 **A. Yes.**
 13 **Q.** What was that?
 14 **A. The Union County College renovations.**
 15 **Q.** And what was your position at the
 16 time?
 17 **A. County Manager.**
 18 **Q.** Was Miss DeFilippo still the County
 19 Chair at the last time that you went to her home?
 20 **A. Yes.**
 21 **Q.** Why did you go to Miss DeFilippo's
 22 home to discuss the Union County College
 23 renovation?
 24 **A. She also served as Executive Director of**
 25 **the Union County Improvement Authority and worked**

31

- 1 **MR. VARADY:** I'll object to the form
 2 of the question. You can answer.
 3 **A. Could you repeat the question please?**
 4 **Q.** Sure.
 5 You have told me that you went to
 6 Miss DeFilippo's home on occasions to discuss
 7 development projects for the County of Union,
 8 correct?
 9 **A. Yes.**
 10 **Q.** Were all of those discussions in
 11 connection with her position as the executive
 12 director of the Union County Improvement
 13 Authority?
 14 **A. Yes.**
 15 **Q.** Did you ever go to her home to
 16 discuss anything else other than the issues that
 17 were related to her position as executive
 18 director of the Union County Improvement
 19 Authority?
 20 **A. Yes.**
 21 **Q.** What were those other reasons you
 22 would go to her home?
 23 **A. County Freeholder elections.**
 24 **Q.** Tell me what those discussions
 25 consisted of.

30

- 1 **from home.**
 2 **Q.** What was her job in that position
 3 that you understood?
 4 **MR. VARADY:** In which position?
 5 **MS. FELLMAN:** Her Executive Director
 6 of the Union County Improvement Authority.
 7 **A. To oversee projects that the Improvement**
 8 **Authority was undertaking.**
 9 **Q.** Was the Union County Improvement
 10 Authority a department of the County of Union?
 11 **A. No.**
 12 **Q.** It was an independent entity?
 13 **A. Yes.**
 14 **Q.** Was this an appointed position, the
 15 position of executive director, if you know?
 16 **MR. VARADY:** If you know.
 17 **A. I don't know.**
 18 **Q.** Do you know when it was that Miss
 19 DeFilippo became the executive director of the
 20 Union County Improvement Authority?
 21 **A. I do not.**
 22 **Q.** Did you ever go to Miss DeFilippo's
 23 house to discuss anything else other than as it
 24 applied to her position as executive director of
 25 the Union County Improvement Authority?

32

- 1 **MR. VARADY:** Object to the form of
 2 the question. You can answer it.
 3 **A. Campaign strategy for the re-election of**
 4 **the various candidates.**
 5 **Q.** How many times did you go to her
 6 home to discuss County Freeholder elections?
 7 **A. A number of times.**
 8 **Q.** More than ten?
 9 **A. No, probably, 2004, probably somewhere**
 10 **eight, nine, something like that, each year that**
 11 **there was a campaign, so whatever that would be,**
 12 **eight times, whatever it was.**
 13 **Q.** When you would go to her home for
 14 these discussions would anyone else be present?
 15 **A. Yes.**
 16 **Q.** Who else would be there?
 17 **A. Various individuals.**
 18 **Q.** Can you recall any of them?
 19 **A. Typically one or more of the candidates.**
 20 **Q.** Anyone else?
 21 **A. Sometimes Mr. Devanney.**
 22 **Q.** Anyone else?
 23 **A. Sometimes other Freeholders.**
 24 **Q.** Anyone else?
 25 **A. Yeah, I think there were probably other**

33

1 individuals who were working on the campaign. I
2 can't remember specifically who those individuals
3 were.

4 Q. Other than discussing economic
5 development for the projects for the County of
6 Union and discussing issues related to the County
7 Freeholder elections, did you ever go to Miss
8 DeFilippo's home to discuss anything else with
9 her?

10 A. No.

11 Q. Other than going to her home, did
12 you ever have any meetings with her?

13 MR. VARADY: Outside her home, you
14 mean?

15 MS. FELLMAN: Outside her home.

16 MR. VARADY: Do you understand?

17 Q. We talked about all the meetings you
18 had with Miss DeFilippo in her home, correct?

19 A. Yes.

20 Q. Did you ever have any meetings with
21 Miss DeFilippo outside of her home?

22 A. Yes.

23 Q. Where would those take place?

24 A. In my office.

25 Q. What when was the first meeting you

35

1 office or did she initiate the meeting?

2 A. She initiated the meeting.

3 Q. What was the first meeting about?

4 A. Agenda items for the Improvement
5 Authority. On these two occasions the
6 Improvement Authority meetings were being held in
7 the County Administration Building where I work.

8 Q. Why did she come to you to discuss
9 the agenda items?

10 A. I am not sure. She, as I said, she
11 initiated the meetings.

12 Q. What was she trying to accomplish?

13 MR. VARADY: Object to the form.

14 Q. What was it that you understood she
15 was trying to accomplish in the meeting?

16 A. As I said, she communicated what the
17 agenda items were for that particular meeting.

18 Q. So she went over a list of all of
19 the items on the agenda for that meeting?

20 A. No.

21 Q. What did she do with regard to the
22 agenda items?

23 A. I believe she just gave me an overview of
24 what was going to be discussed at that particular
25 meeting. She didn't go over it item by item.

34

1 had with Miss DeFilippo in your office?

2 A. I don't recall but it was during the
3 period of time that I was County Manager.

4 Q. Did you ever have a meeting with
5 Miss DeFilippo, other than the ones you've told
6 us about that were in her home, prior to your
7 becoming County Manager?

8 A. No.

9 Q. Do you know why it was that Miss
10 DeFilippo stepped down from her position as
11 democratic party chair for the County of Union?

12 A. No.

13 Q. You have no idea?

14 A. No.

15 Q. Did you ever talk to her about it?

16 A. No.

17 Q. How many meetings did you have with
18 Miss DeFilippo during the time you have been
19 County Manager?

20 A. Two.

21 Q. When was the first one?

22 A. I don't recall, but as I mentioned it was
23 during the period of time when I was County
24 Manager.

25 Q. Did you ask her to come to your

36

1 Q. Was there anything on the agenda
2 that you did not want to have discussed at the
3 meeting?

4 A. No.

5 Q. Was there an Improvement Authority
6 issue on the agenda?

7 A. Yes.

8 Q. Do you recall what that issue was?

9 A. No. There was more than one, I do know
10 that, but I don't remember specifically what the
11 items were.

12 Q. The second meeting that you recall
13 Miss DeFilippo coming to your office while you
14 were County Manager, who initiated that meeting?

15 A. She did.

16 Q. And what was the purpose of that
17 meeting from what you understood?

18 A. Again, the same scenario which was to give
19 an overview of the agenda items for that
20 particular meeting.

21 Q. Who prepares the agenda for the
22 Freeholder meetings?

23 A. I don't understand the question.

24 Q. Somebody has to put together --
25 MS. FELLMAN: Hold on. You can't

37

1 ask him a question.

2 THE WITNESS: I am confused.

3 MS. FELLMAN: That's fine. We'll

4 repeat the question.

5 Would you repeat the question

6 please.

7 (Whereupon the pending question was

8 read back as follows:

9 Q. Who prepares the agenda for the

10 Freeholder meetings?)

11 (Record resumed.)

12 A. **For the Freeholder meetings?**

13 Q. Wasn't that what you said --

14 A. **No.**

15 Q. I must have misunderstood you.

16 This was the agenda for the

17 Improvement Authority meeting?

18 A. **That's correct.**

19 Q. Okay. I am sorry, I misunderstood

20 you.

21 A. **That is why I was confused.**

22 Q. Did you attend the Improvement

23 Authority meeting?

24 A. **No.**

25 Q. Why, if you understood, was she

38

1 wanting to discuss with you what was on the

2 agenda or give you an overview rather of what was

3 on the agenda for the Improvement Authority

4 meeting?

5 MR. VARADY: Object to the form.

6 You can answer.

7 **A. Improvement Authority projects have, even**

8 **though the Improvement Authority is a separate**

9 **entity from the County, do affect the County**

10 **overall.**

11 Q. So in what way do they affect the

12 County?

13 **A. For example, the Union County College**

14 **renovation project is something that will assist**

15 **students who attend that college so that is**

16 **something that is important to the residents of**

17 **Union County so therefore it would affect the**

18 **entire County.**

19 Q. The Improvement Authority had their

20 meetings in the administration building?

21 MR. VARADY: Object to the form of

22 the question. You can answer it.

23 **A. Those two meetings that I discussed**

24 **were -- those were the only two meetings during**

25 **my tenure as County Manager that were held in the**

39

1 **administration building.**

2 Q. Did Miss DeFilippo ever give you an

3 agenda or send you an agenda for the Improvement

4 Authority meetings other than the two that were

5 held in your building?

6 A. **No.**

7 Q. Who, going back to the Freeholder

8 Board, who prepares the agenda for the Freeholder

9 Board meetings?

10 A. **The clerk of the Freeholder Board.**

11 Q. How does the clerk know what is

12 going to go into the agenda?

13 A. **The department heads of each department**

14 **request resolutions to be placed on the agenda.**

15 Q. Who do they request them of?

16 A. **The Board of Chosen Freeholders.**

17 Q. You say the department heads request

18 resolutions to be put on the agenda?

19 A. **Yes.**

20 Q. Do they make that request to you?

21 A. **Yes.**

22 Q. The department heads make requests

23 for resolutions to be put on the agenda for you

24 as County Manager to determine whether they

25 should be put on the agenda, is that correct?

40

1 A. **No.**

2 Q. How does it work?

3 **A. They make recommendations or requests to**

4 **me. I, in turn, if I approve the**

5 **recommendations, I submit them to the clerk of**

6 **the board. He in turn submits them to the entire**

7 **Freeholder Board. If the chairman chooses to**

8 **have all those resolutions for that particular**

9 **meeting, they go on. If he doesn't, then they**

10 **don't go on.**

11 Q. So the clerk of the board submits

12 the agenda to the chairman of the board?

13 A. **That's correct.**

14 Q. At the meeting or before the

15 meeting?

16 A. **Prior to the meeting.**

17 Q. The chairman of the board can

18 determine not to include something on the agenda?

19 A. **That's correct.**

20 Q. Does the chairman of the board have

21 to come to you as the County Manager to have a

22 discussion about that?

23 A. **No, that is the chairman's prerogative.**

24 Q. What kinds of things do the

25 department heads request be placed into a

1 resolution to be put on the agenda?
 2 **A. Request for funding; to purchase**
 3 **equipment; to concur with something that a**
 4 **municipality is doing or would like to do.**
 5 **Q.** Anything else?
 6 **A. I would say those are the probably three**
 7 **main reasons for resolutions.**
 8 **Q.** Does the agenda including anything
 9 other than resolutions?
 10 **A. Yes.**
 11 **Q.** What else is on the agenda besides
 12 resolutions?
 13 **A. Laudatory and congratulatory.**
 14 **Q.** Anything else, besides laudatory and
 15 congratulatory items?
 16 **A. Yes, ordinances.**
 17 **Q.** Anything else?
 18 **A. Yes, presentations.**
 19 **Q.** What is a presentation?
 20 **A. Yes.**
 21 **Q.** Can you define what that means?
 22 **A. An individual County resident may be**
 23 **brought to the County meeting to recognize them**
 24 **for something that they have done something,**
 25 **maybe it was volunteer work, maybe it was**

1 **something that they did that was very worthwhile**
 2 **and they would receive congratulations.**
 3 **Q.** Let's say that there is a purchase
 4 for equipment that a department head wishes to
 5 have a resolution and the Freeholder Chairman
 6 does not agree to put it on the agenda. Would it
 7 go on the agenda the next month?
 8 **A. Again, that is the chairman's prerogative.**
 9 **Q.** What if it was something that you
 10 wanted, you as the County Manager, wanted the
 11 board to consider, what would be your procedure?
 12 What would you do?
 13 **A. I would discuss it with the chairman.**
 14 **Q.** Has the chairman ever declined to
 15 follow your request?
 16 **A. Yes.**
 17 **Q.** On what occasion?
 18 **A. On an occasion where he or she might**
 19 **believe there isn't enough information provided.**
 20 **Q.** What were your job duties as the
 21 Director of Parks and Community Renewal?
 22 **A. To oversee the maintenance and operation**
 23 **of our parks programming and also economic**
 24 **development and community development activities**
 25 **for the County.**

1 MS. FELLMAN: Would you mind reading
 2 back the first part of that.
 3 (Whereupon the previous answer was
 4 read back as follows:
 5 **A. To oversee the maintenance and operation**
 6 **of our parks programming and also economic**
 7 **development and community development activities**
 8 **for the County.)**
 9 (Record resumed.)
 10 **Q.** There was a Department of Parks and
 11 Recreation, correct?
 12 **A. That's correct.**
 13 **Q.** Is that a separate department from
 14 the Department of Parks and Community Renewal,
 15 correct?
 16 **A. Correct.**
 17 **Q.** What is the difference between what
 18 the Parks and Recreation does with regard to the
 19 parks program and what Parks and Community
 20 Renewal did?
 21 **A. There were a number of iterations with**
 22 **regard to the Department of Parks. At one time**
 23 **there was a Department of Parks and Recreation**
 24 **and a Department of Economic Development, two**
 25 **separate departments.**

1 **Q.** Okay.
 2 **A. I'll try to go slowly. There is a number**
 3 **of parts to it.**
 4 **In 2008 those two departments were**
 5 **merged into one and then became the Department of**
 6 **Parks and Community Renewal. And then the final**
 7 **part, subsequently in, about two years ago,**
 8 **year-and-a-half, somewhere around, the two**
 9 **departments -- the one department was then**
 10 **switched back into two departments and now we**
 11 **have the Department of Parks and Recreation and**
 12 **the Department of Economic Development as we had**
 13 **had a number of years ago.**
 14 **Q.** So that separation occurred in
 15 around 2010?
 16 **A. No, around 2013, I believe. The final**
 17 **separation, that I am speaking of.**
 18 **Q.** So between 2008 and about 2013 when
 19 the separation occurred, parks and recreation and
 20 economic development were merged into one
 21 department?
 22 **A. That's correct.**
 23 **Q.** Now when you were, you said as of
 24 2008 you were the Director of Parks and Community
 25 Renewal, correct?

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1 **A. That's correct. That was the point at**
2 **which the two departments were merged.**

3 **Q. Okay.**

4 What were the divisions within the
5 Department of Parks and Community Renewal during
6 the time 2008 to 2013 before the two parts were
7 separated again?

8 **A. Going from memory here so I will do the**
9 **best I can. It was Division of Community**
10 **Development, Division of Planning.**

11 Your question, I am sorry, could you
12 repeat the question?

13 (Whereupon the pending question was
14 read back as follows:

15 **Q. What were the divisions within the**
16 **Department of Parks and Community Renewal during**
17 **the time 2008 to 2013 before the two parts were**
18 **separated again?)**

19 (Whereupon a brief recess was
20 taken.)

21 (Record resumed.)

22 **Q. Do you recall the question, sir? Do**
23 **you need it read back?**

24 **A. I do recall the question.**

25 **Q. We have the Division of Community**

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1 Development, the Division of Planning?

2 **A. Right. The Division of Golf Operations,**
3 **Division of Environmental -- I am not sure**
4 **exactly what the title was, something to do with**
5 **environmental something.**

6 **Q. What about Park Maintenance?**

7 **A. Division of Park Maintenance. Was there**
8 **Information Technology? Yes, Division of**
9 **Information Technology. I believe that was it,**
10 **but I am not positive.**

11 **Q. So is it correct, sir, that you**
12 **became the County Manager in August of 2011 so**
13 **between 2008 and 2011 you were the Director of**
14 **the Parks and Community Renewal?**

15 **A. That's correct.**

16 **Q. And one of those divisions was Park**
17 **Maintenance during that time, correct?**

18 **A. The reason I am hesitating is because I**
19 **think the Division of Park Maintenance was in the**
20 **Department of Public Works.**

21 **Q. So maybe the division --**

22 **A. You know what, it was. I apologize.**

23 **Q. So let's go back. During that**
24 **period of time that the Parks and Recreation and**
25 **Economic Development had merged -- let me back**

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1 up.

2 Parks and Recreation, before the
3 merger, so before 2008, Parks and Recreation
4 included the Division of Park Maintenance, is
5 that correct?

6 **A. Yes, that's correct. That is correct.**
7 **That is right.**

8 **Then in 2008 when we merged, the**
9 **Division of Park Maintenance went over to the**
10 **Department of Public Works. That is what it was.**
11 **I apologize, I stand corrected there.**

12 **Q. That is another instruction, if**
13 **along the way you think of something that you**
14 **think was not correct or you want to amplify or**
15 **explain, please do so.**

16 **A. Very good. Okay.**

17 **Q. Prior to 2008 was there a Department**
18 **of Public Works?**

19 **A. Yes.**

20 **Q. But the Department of Public Works**
21 **prior to 2008 did not contain the Division of**
22 **Park Maintenance, correct?**

23 **A. That is correct.**

24 **Q. But afterwards it did?**

25 **A. Yes.**

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1 **Q. Does the Department of Public Works**
2 **still contain the Division of Park Maintenance?**

3 **A. No.**

4 **Q. What happened to the Division of**
5 **Park Maintenance along the road?**

6 **A. In 2013 it was put back into the**
7 **Department of Parks and Recreation.**

8 **Q. Throughout the time that we are**
9 **speaking of, 2008 forward, there has always been**
10 **a Parks and Recreation Department, correct?**

11 **A. No.**

12 **Q. No. So for a while there was no**
13 **Department of Parks and Recreation?**

14 **A. Correct.**

15 **Q. When was that?**

16 **A. In 2008 the Department of Parks, as I**
17 **mentioned, Department of Parks and Recreation and**
18 **Department of Economic Development were merged**
19 **into one department, which was called --**

20 **Q. I'm sorry. I got it now.**

21 **A. It is a little bit. I'm trying to stay**
22 **with it myself. It changed so many times. I am**
23 **just trying to be as state forward as I can to**
24 **keep it to the best of my recollection.**

25 **Q. So before 2008 there was a**

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1 Department of Parks and Recreation that contained
2 the Division of Park Maintenance?

3 **A. That's correct.**

4 **Q.** In 2008 when Parks and Rec merged
5 with Economic Development the Division of Park
6 Maintenance went into the Department of Public
7 Works?

8 **A. That's correct.**

9 **Q.** Prior to 2008 though there had
10 always been a Department of Public Works as well,
11 correct?

12 **A. That's correct, yes.**

13 **Q.** Then in 2013 Parks and Recreation
14 became its own department again and the Division
15 of Park Maintenance went back into Parks and Rec?

16 **A. That is correct.**

17 **Q.** Now who was the department head of
18 the Department of Public Works in 2008 at the
19 time that the merger between Parks and Recreation
20 and Community Renewal occurred?

21 **A. Joseph Graziano.**

22 **Q.** And who was the head of the
23 Department of Parks and Recreation in 2008 just
24 prior to the merger?

25 **A. Charles Sigmund, S-I-G-M-U-N-D, I believe.**

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1 **A. Yes.**

2 **Q.** Did you discuss that with anyone?

3 **A. Yes.**

4 **Q.** Who did you discuss it with?

5 **A. The Board of Freeholders.**

6 **Q.** In what fashion did you discuss it
7 with them?

8 **A. I told them that I would -- Ron was
9 serving as Deputy Director at the time and it was
10 my recommendation to move him up to department
11 head.**

12 **Q.** Then what happened after that?

13 **A. I formally, believe I sent a memo
14 indicating that Mr. Zuber had been appointed as
15 department head.**

16 **Q.** This recommendation that you made,
17 you explained to us that you made a
18 recommendation for Mr. Zuber to be moved from the
19 position of Assistant Director of the Parks and
20 Community Renewal to the position of Director, is
21 that correct?

22 **A. That's correct.**

23 **Q.** You sent that by way of a letter?

24 **A. I believe it was a memo.**

25 **Q.** Who did you send that to?

50

1 **Q.** And who was the director of the
2 Department of Economic Development before the
3 merger in 2008?

4 **A. I was.**

5 **Q.** Then the merger in 2008 occurred and
6 you became the director of the merged department,
7 correct?

8 **A. That's correct.**

9 **Q.** And the Division of Park Maintenance
10 went into the Department of Public Works which
11 remained under Mr. Graziano?

12 **A. That's correct.**

13 **Q.** Now in 2011 when you became the
14 County Manager, we still had the merged
15 Department of Parks and Community Renewal,
16 correct?

17 **A. That's correct.**

18 **Q.** Who became the director of that
19 department when you became County Manager?

20 **A. Ronald Zuber.**

21 **Q.** Who assigned Mr. Zuber to that
22 position?

23 **A. I did.**

24 **Q.** Was it your decision to assign Mr.
25 Zuber to that position?

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1 **A. To the Board of Chosen Freeholders and all
2 department heads -- all other department heads.**

3 **Q.** And then after the memo you sent
4 them another memo saying that Mr. Zuber had
5 actually taken the position of Director of the
6 Parks and Community Renewal?

7 **A. That's correct.**

8 **Q.** Did you receive any feedback from
9 anyone, from anyone at the Board of Freeholders
10 or from any of the other department heads?

11 **A. Yes.**

12 **Q.** What kind of feedback did you
13 receive?

14 **A. I received a couple of phone calls saying
15 that they thought that Ron was a good choice.**

16 **Q.** Do you recall anyone in particular?

17 **A. Yes, Freeholder B.J. Kowalski.**

18 **Q.** And what did -- B.J. is a woman,
19 correct?

20 **A. That is correct, Betty Jane.**

21 **Q.** What did Miss Kowalski say, that she
22 thought it was a good idea?

23 **A. Yes.**

24 **Q.** In order to promote Mr. Zuber to the
25 position of Director from the position of

1 Assistant Director, did you have to fill out any
 2 paperwork?
 3 **A. Yes.**
 4 **Q.** What paperwork?
 5 **A. A position control form.**
 6 **Q.** Can you explain how that procedure
 7 works, the filling out of the position control
 8 form?
 9 **A. The Director of Administration prepares**
 10 **the form and submits it to me for my signature.**
 11 **Q.** You as the County Manager?
 12 **A. That's correct.**
 13 **Q.** Is anyone else's signature required
 14 in order to complete the transfer?
 15 **A. Yes.**
 16 **Q.** Who is that?
 17 **A. The Director of Finance.**
 18 **Q.** So after you submit it, after you
 19 sign off on it it goes to the Director of
 20 Finance?
 21 **A. Actually I am the last one to sign it.**
 22 **Q.** You are the last one?
 23 **A. Right.**
 24 **Q.** You contact administration and you
 25 tell the director or his assistants that you want

1 a position control form completed to promote Mr.
 2 Zuber from the position of assistant to Director
 3 of the Parks and Community Renewal, correct?
 4 **A. That's correct.**
 5 **Q.** That form is completed and it is
 6 sent first to the Director of Finance?
 7 **A. That's correct.**
 8 **Q.** Director of Finance determines
 9 whether it is financially --
 10 **A. Right, that there is sufficiency of funds.**
 11 **Q.** And then if the Director of Finance
 12 signs off on it, what happens next?
 13 **A. Then it is given to me.**
 14 **Q.** Then it is given to the County
 15 Manager?
 16 **A. The County Manager, correct.**
 17 **Q.** The County Manager then signs off on
 18 it, and then what?
 19 **A. And then it takes effect.**
 20 **Q.** As far as you know has this been the
 21 same process that's been in place in the County
 22 of Union throughout the time you have been there?
 23 **MR. VARADY:** Object to the form of
 24 the question. You mean since he first was
 25 employed there or as County Manager?

1 **Q.** Any time that you have been there.
 2 **A. Yes.**
 3 **Q.** So, what was Mr. Zuber's position --
 4 you already told us Mr. Zuber was the Assistant
 5 Director of Parks and Community Renewal, correct?
 6 **A. That's correct.**
 7 **Q.** Did Mr. Zuber become the assistant
 8 as of 2008?
 9 **A. I believe so.**
 10 **Q.** Do you know what Mr. Zuber's
 11 position was prior to that?
 12 **A. I don't recall.**
 13 **Q.** So going back to the Department of
 14 Public Works since 2008 has been under the
 15 directorship of Mr. Graziano, is that correct?
 16 **A. Yes.**
 17 **Q.** And since 2008 up until 2013 when
 18 the separation occurred, the Division of Park
 19 Maintenance was under Mr. Graziano?
 20 **A. Yes.**
 21 **Q.** The Division of Park Maintenance, do
 22 you know who the division head was during that
 23 period of time from 2008 until 2013 when the
 24 separation occurred?
 25 **A. Yes.**

1 **Q.** Who was that?
 2 **A. Michael Brennan.**
 3 **Q.** Then after the separation where
 4 Parks and Recreation became its own department
 5 again, and Community Renewal became its own
 6 department again, the Division of Park
 7 Maintenance went back into the Department of
 8 Parks and Recreation?
 9 **A. Yes.**
 10 **Q.** Who is the director of Parks and
 11 Recreation since 2013 when the separation
 12 occurred?
 13 **A. Ron Zuber.**
 14 **Q.** I may have just stated this, the
 15 Division of Park Maintenance went back into Parks
 16 and Recreation as of 2013, correct?
 17 **A. Yes.**
 18 **Q.** Did Mr. Brennan continue to be the
 19 director or the division head of the Division of
 20 Park Maintenance?
 21 **A. Yes.**
 22 **Q.** And he is to the present time,
 23 correct?
 24 **A. Yes.**
 25 **Q.** When the separation occurred between

1 Parks and Community Renewal, who became the
 2 director of the Department of Community Renewal?
 3 **A. There was no more Department of Community**
 4 **Renewal, it was renamed the Department of**
 5 **Economic Development.**
 6 **Q.** Was it doing the same function as
 7 was done when it was called Community Renewal?
 8 **A. No, it no longer had any Parks functions.**
 9 **Q.** Right, that was the merged. Before
 10 the merger we had Economic Development that you
 11 were --
 12 **A. Right.**
 13 **Q.** Then we have the merger in 2008.
 14 **A. Um hum.**
 15 **Q.** Then we have the separation. Is the
 16 Department of Economic Development in 2013 the
 17 same basic department as it was when you were the
 18 head of Economic Development?
 19 **A. No.**
 20 **Q.** No. How is it different?
 21 **A. The Department of Economic Development now**
 22 **includes the Division of Engineering.**
 23 **Q.** And who is the head of the
 24 Department of Economic Development since 2013?
 25 **A. William Reyes.**

1 **A. Yes.**
 2 **Q.** What department is that?
 3 **A. Department of Public Works and Facilities.**
 4 **Q.** I understand in 2008 Mr. Graziano
 5 was the Director of the Department of Public
 6 Works, correct?
 7 **A. That's correct.**
 8 **Q.** Did that department, Department of
 9 Public Works, become the Department of Public
 10 Works and Facilities?
 11 **A. I believe in 2008 it was called the**
 12 **Department of Public Works Facilities and**
 13 **Engineering. To the best of my -- I am not**
 14 **positive of that, but I think so.**
 15 **Q.** So let's talk about in 2008 Mr.
 16 Graziano was the Director of the Department of
 17 Public Works Facilities and Engineering, is that
 18 correct?
 19 **A. Yes.**
 20 **Q.** Is that department still in
 21 existence in the same format?
 22 **A. No.**
 23 **Q.** Let's get the format first. So when
 24 did it change?
 25 **A. 2013.**

1 **Q.** And within the Department of
 2 Economic Development there is a Division of
 3 Engineering?
 4 **A. Yes.**
 5 **Q.** And is there another division?
 6 **A. Yes.**
 7 **Q.** What is the other division?
 8 **A. There are two other divisions, Division of**
 9 **Community Development and division of -- I**
 10 **believe it is called Transportation Planning. I**
 11 **believe.**
 12 **And there is another division, I**
 13 **believe it is called Division of**
 14 **Intergovernmental Relations.**
 15 **Q.** I would like to talk about another
 16 department, the Department of Operations and
 17 Facilities. Do you have, at the present time,
 18 some sort of a Department of Operations and
 19 Facilities?
 20 **MR. VARADY:** Object to the form of
 21 the question. You can answer it.
 22 **A. No.**
 23 **Q.** Is there a department that handles
 24 the facilities that belong to the County of
 25 Union?

1 **Q.** And what happened in 2013?
 2 **A. As I mentioned previously the Division of**
 3 **Engineering was transferred to the Department of**
 4 **Economic Development.**
 5 **Q.** Any other change between 2008 and
 6 the present time as to the Department of Public
 7 Works Facilities and Engineering?
 8 **A. No.**
 9 **Q.** What was Mr. Graziano's position
 10 prior to 2008?
 11 **A. He didn't have a previous position with**
 12 **the County.**
 13 **Q.** So Mr. Graziano started with the
 14 County in 2008?
 15 **A. I am not positive.**
 16 **Q.** But that is your best recollection?
 17 **A. Best recollection.**
 18 **Q.** Now in 2008 I understand Mr.
 19 Graziano was the Director of the Department of
 20 Public Works Facilities and Engineering and we
 21 know that the Division of Park Maintenance under
 22 Mr. Brennan was one of the divisions within that
 23 department, correct?
 24 **A. Yes.**
 25 **Q.** What other divisions were in that

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1 department, Mr. Graziano's Department of Public
2 Works Facilities and Engineering?

3 **A. I believe it was the Division of Public**
4 **Works; Division of Facilities; Mosquito, I don't**
5 **know if that was a division or bureau. I am not**
6 **sure. Actually I think it was a bureau.**

7 **Q.** The Division of Public Works within
8 the Department of Public Works Facilities and
9 Engineering, who was the division head for that
10 in 2008?

11 **A. I don't recall. I don't recall.**

12 **Q.** What about facilities, who was the
13 division head for facilities?

14 **A. I believe that Michael Brennan was both**
15 **the -- no. I don't recall.**

16 **Q.** What was Mr. Niel Palmieri's
17 position?

18 MR. VARADY: In 2008?

19 MS. FELLMAN: Yes.

20 **A. He may have been the director -- yes, he**
21 **was the director of facilities.**

22 **Q.** He was the division head?

23 **A. Excuse me, the division head of**
24 **facilities.**

25 **Q.** You have indicated that in 2013

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1 **Q.** And from the best of your
2 recollection Mr. Palmieri was the division head
3 of the Division of Facilities and that position
4 was subsequently held by Mr. Chirafesi, correct?

5 **A. Yes.**

6 **Q.** Who made the division to put Mr.
7 Chirafesi in that position?

8 **A. I did.**

9 **Q.** Did you have to get anyone's
10 approval in order to put Mr. Chirafesi in that
11 position?

12 **A. Yes.**

13 **Q.** Whose approval did you get?

14 **A. The Fiscal Committee of the Freeholder**
15 **Board.**

16 **Q.** What do you mean by that?

17 **A. There are various sub committees within**
18 **the framework of the Freeholder Board such as**
19 **Fiscal, Homeland Security, Open Space Policy and**
20 **Fiscal is one of them. Each sub committee is**
21 **made up of four Freeholders.**

22 **Q.** What is the method for your taking
23 this to the, taking Mr. Chirafesi's appointment
24 to the Fiscal Committee?

25 **A. I would request a meeting of the Fiscal**

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1 Engineering was taken out of Mr. Graziano's
2 department and put into the Department of
3 Economic Development, correct?

4 **A. Yes.**

5 **Q.** Was there any other format change
6 between 2008 and the present time in the
7 Department of Public Works Facilities and
8 Engineering?

9 **A. No.**

10 **Q.** Did Mr. Brennan remain the division
11 head of the Division of Park Maintenance from
12 2008 to present?

13 **A. Yes.**

14 **Q.** Who is presently the division head
15 of Public Works within the Department of Public
16 Works and Facilities?

17 **A. Joseph Policay.**

18 **Q.** And who is presently the division
19 head for the Division of Facilities?

20 **A. Charles Chirafesi, I am not sure how to**
21 **spell his last name.**

22 **Q.** To the best of your recollection was
23 Mr. Policay the division head of Public Works
24 from 2008 to present?

25 **A. I believe he was.**

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1 **Committee.**

2 **Q.** What would be the discussion at that
3 meeting?

4 **A. That I was making the recommendation to**
5 **appoint Mr. Chirafesi to the position and discuss**
6 **what the salary parameters are, which is why it**
7 **would fall under the fiscal sub committee.**

8 **Q.** So their jurisdiction, the fiscal
9 committee's jurisdiction is to make sure the
10 salary parameters are acceptable?

11 **A. Yes.**

12 **Q.** Was this meeting with Mr. Chirafesi,
13 was this a public meeting?

14 MR. VARADY: Object to the form of
15 the question. There was a meeting with a
16 committee. It is about Mr. Chirafesi.

17 MS. FELLMAN: Yes.

18 **Q.** The meeting about Mr. Chirafesi with
19 the committee, was that an open meeting?

20 **A. No. That is the reason why there are only**
21 **four Freeholders on every sub committee so there**
22 **is no violation of the Open Public Meetings Act.**

23 **Q.** Is this recorded meeting in any way?

24 **A. No.**

25 **Q.** Is there any transcription in any

1 way?

2 **A. I believe there is a copy of the agenda.**

3 **Q.** Do you recall this meeting that you
4 had with the Fiscal Committee regarding Mr.

5 Chirafesi?

6 **A. Yes.**

7 **Q.** Who were the Freeholders that
8 attended?

9 **A. Fiscal Freeholder, I believe, Freeholder
10 Jalloh is the chairman, Freeholder Linda Carter,
11 Freeholder Angel Estrada; and who was the fourth?**

12 **Who was the fourth? They change every year. I
13 don't recall if it was Kowalski or Granados, I
14 don't recall who the fourth was.**

15 **Q.** It was either Kowalski or?

16 **A. Granados. I am not sure which one it was.**

17 **Q.** And did you prepare any
18 documentation to present to the committee?

19 **A. No.**

20 **Q.** Who attended the meeting other than
21 the four Freeholders?

22 **A. William Reyes who was the -- who besides
23 being Director of Economic Development is also
24 the Deputy County Manager. And our County
25 Counsel, Robert Barry. And our finance director**

1 comes after the finance meeting?

2 **A. Yes.**

3 **Q.** When do you have to ask, as County
4 Manager, when do you have to ask for a meeting of
5 the finance committee?

6 **A. Normally a week before the meeting, just a
7 week's notice, if possible.**

8 **Q.** I didn't ask the question right.
9 Under what circumstances do you ask

10 for a meeting of the Fiscal Committee of the
11 Board of Freeholders?

12 **A. When there are subjects of a fiscal or
13 budgetary nature.**

14 **Q.** If someone is going to get a raise,
15 do you have to have a meeting of the Fiscal
16 Committee?

17 **A. Not always.**

18 **Q.** That is what I am trying to
19 understand. When is it that you ask to be put on
20 the agenda of the Fiscal Committee?

21 **A. Again, as you said, items of fiscal or a
22 budgetary nature.**

23 **Q.** Well, Mr. Palmieri was the division
24 head for Facilities, correct?

25 **A. Right.**

1 **Bibi Taylor. I believe that is it. And the
2 clerk. The clerk of the board also, James
3 Pellettiere.**

4 **Q.** Did anyone prepare any documentation
5 to give to this Fiscal Committee, the four
6 Freeholders?

7 **A. No.**

8 **Q.** Was there any documentation that was
9 prepared after this meeting?

10 **A. No.**

11 **Q.** Did you have a meeting such as this
12 when Mr. Zuber was appointed the Director of
13 Parks and Community Renewal?

14 **A. Yes.**

15 **Q.** You told me about the position
16 control form, correct?

17 **A. Yes.**

18 **Q.** Let's go back to Mr. Chirafesi. Was
19 there a position control form prepared for Mr.
20 Chirafesi with regard to his given the position
21 of facilities?

22 **A. Prior to the fiscal meeting?**

23 **Q.** At any time.

24 **A. After the fiscal meeting.**

25 **Q.** I see. The position control form

1 **Q.** Mr. Palmieri was paid a salary,
2 correct?

3 **A. Yes.**

4 **Q.** Do you know what his salary was?

5 **A. Yes.**

6 **Q.** What was it?

7 **A. I believe it was about \$110,000 a year,
8 approximately.**

9 **Q.** So \$110,000 per year had already
10 been budgeted for that position of division head
11 of Facilities, correct?

12 **A. Yes.**

13 **Q.** When Mr. Palmieri left, someone had
14 to fill that position, correct?

15 **A. Yes.**

16 **Q.** So I am not understanding why it was
17 that you asked to be on the agenda of the Finance
18 Committee when \$110,000 had already been budgeted
19 for that position?

20 **MR. VARADY:** Object to the form of
21 the question. Is your question why did Mr.
22 Faella ask to be on the agenda of the Fiscal
23 Committee with regard to Mr. Chirafesi?

24 **MS. FELLMAN:** Yes.

25 **MR. VARADY:** Do you understand the

1 question?

2 THE WITNESS: I think so.

3 MS. FELLMAN: Okay.

4 Q. Why?

5 A. **Because Mr. Chirafesi was being**
6 **recommended for the position and his salary was**
7 **going to be different than the amount that was**
8 **budgeted.**

9 Q. Was it more?

10 A. **No, it was less.**

11 Q. So why, again, did you ask to have
12 the finance committee weigh in on Mr. Chirafesi's
13 appointment to the position?

14 MR. VARADY: Objection. Asked and
15 answered.

16 Q. Of Chirafesi?

17 A. **Because I wanted to communicate to them, I**
18 **wanted to make a point that that was a savings to**
19 **the budget and a savings for the County. Because**
20 **there are, in these meetings, that is not the**
21 **only position that was discussed. Some cases you**
22 **are asking for more than what was budgeted. So**
23 **it was a matter of communication and information.**

24 Q. So your purpose in asking for the
25 Fiscal Committee for Mr. Chirafesi's appointment

1 MS. FELLMAN: I didn't get my
2 sentence out.

3 MR. VARADY: Sounded like you
4 stopped. Sorry to interrupt you.

5 Q. Did you just discuss the fiscal
6 issue with regard to Mr. Chirafesi or did you
7 inform them of other things regarding Mr.
8 Chirafesi when you had the meeting with the
9 Fiscal Committee?

10 A. **It is my recollection that I said that I**
11 **am recommending the appointment of Mr. Chirafesi**
12 **to this position and I am recommending it at a**
13 **salary which I believe is about \$20,000 less than**
14 **the previous individual was making, therefore**
15 **achieving a savings of about \$20,000 for the**
16 **County.**

17 Q. My understanding, if I have this
18 wrong please explain, your purpose in putting the
19 discussion about Mr. Chirafesi's appointment to
20 this position of Facilities' division head was
21 informational to the Fiscal Committee?

22 A. **Yes.**

23 Q. But because of the fact that it was
24 saving the County money, it was less than what
25 was budgeted for that position, that it was not

1 to the position of Facilities, that your purpose
2 in asking to be on the agenda of the Fiscal
3 Committee regarding this promotion for Mr.
4 Chirafesi was to communicate to the Fiscal
5 Committee that you were saving the County money?

6 A. **That's correct.**

7 Q. Was there any other purpose?

8 A. **No.**

9 Q. If you wanted to put someone in a
10 position that would be more than the budgeted
11 amount, would you have to be on the agenda of the
12 Fiscal Committee?

13 A. **Yes.**

14 Q. Would you have to get the Fiscal
15 Committee to approve that raise?

16 A. **Yes.**

17 Q. But the fact that, with regard to
18 Mr. Chirafesi, since it was saving the County
19 money, you did not have to get the approval of
20 the Fiscal Committee, is that correct?

21 A. **That's correct. Basically it was**
22 **informational.**

23 Q. Tell me what it was that you told
24 the Fiscal Committee?

25 MR. VARADY: About Mr. Chirafesi?

1 required for you to have this meeting or to
2 present this to the Fiscal Committee, is that
3 correct?

4 A. **That's correct, yes.**

5 Q. You advised what you said to the
6 Fiscal Committee. Was there any discussion about
7 this, about Mr. Chirafesi?

8 A. **No.**

9 Q. So was the extent of what was said
10 with regard to Mr. Chirafesi that this was who
11 you wanted to appoint and who you were intending
12 to appoint and that it was going to save the
13 County \$20,000, it was \$20,000 less than what Mr.
14 Palmieri had been paid, is that correct?

15 A. **Yes.**

16 Q. Was there anything else said about
17 Mr. Chirafesi or this appointment at the meeting
18 with the Fiscal Committee?

19 A. **Yes.**

20 Q. What else?

21 A. **I said that I believe that he would do a**
22 **good job for us.**

23 Q. Anything else?

24 A. **No.**

25 Q. Any questions that were asked of

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- 1 you?
- 2 **A. No.**
- 3 **Q.** Did you elaborate in any way?
- 4 **A. No.**
- 5 **Q.** Did you discuss any other potential
- 6 candidates for the position?
- 7 **A. No.**
- 8 **MR. VARADY:** To the Fiscal
- 9 Committee?
- 10 **MS. FELLMAN:** To the Fiscal
- 11 Committee.
- 12 **A. No.**
- 13 **Q.** So after the Fiscal Committee
- 14 meeting, then the position control form
- 15 documentation started circulating, correct?
- 16 **A. Yes.**
- 17 **Q.** With regard to Mr. Chirafesi?
- 18 **A. That's correct.**
- 19 **Q.** Other than this instance when you
- 20 informed the Fiscal Committee about this savings
- 21 with regard to Mr. Chirafesi, did you have a
- 22 discussion with anyone else from the Board of
- 23 Freeholders regarding selection of Mr. Chirafesi
- 24 to the position of Facilities' division head?
- 25 **A. No.**

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- 1 **Graziano. Those were members of the committee.**
- 2 **Q.** How did this committee get formed?
- 3 **A. I formed it.**
- 4 **Q.** Tell me about that. Why did you
- 5 form a committee?
- 6 **A. Because I wanted individuals to look at**
- 7 **and evaluate and interview various candidates for**
- 8 **this position.**
- 9 **Q.** Formed a committee --
- 10 (Whereupon the previous answer was
- 11 read back as follows:
- 12 **A. Because I wanted individuals to look at**
- 13 **and evaluate and interview various candidates for**
- 14 **this position.)**
- 15 (Record resumed.)
- 16 **Q.** Have you filled any other positions
- 17 since you have been County Manager?
- 18 **A. Yes.**
- 19 **Q.** What other positions have you
- 20 filled?
- 21 **A. A number of them. Workforce Investment**
- 22 **Board; position in our Planning. I am in the**
- 23 **process of filling one for our -- actually, we**
- 24 **made the decision, for our Juvenile Detention**
- 25 **Superintendent. Can I think of any other ones?**

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- 1 **Q.** Tell me why it is that you decided
- 2 to appoint Mr. -- what was Mr. Chirafesi's
- 3 position before you appointed him to the position
- 4 of division head of Facilities?
- 5 **A. I don't recall. I am not sure.**
- 6 **Q.** You have already advised us that you
- 7 as the County Manager made the decision to
- 8 appoint Mr. Chirafesi to the position of
- 9 Facilities' division head, is that correct?
- 10 **A. Yes.**
- 11 **Q.** Before making that decision what did
- 12 you do to come to that decision?
- 13 **A. I spoke with members of the committee that**
- 14 **were conducting interviews.**
- 15 **Q.** Anything else?
- 16 **A. No.**
- 17 **Q.** Did you review any documents?
- 18 **A. No.**
- 19 **Q.** Did you interview anyone yourself?
- 20 **A. No.**
- 21 **Q.** Who did you speak to when you say
- 22 you spoke with the members of the committee
- 23 conducting interviews, tell me who that was?
- 24 **A. William Reyes; Norman Albert, he is our**
- 25 **department head administration personnel; Joseph**

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- 1 **Deputy Director of Economic Development. Those**
- 2 **are the ones that come to mind.**
- 3 **Q.** And you also filled a position of
- 4 Director of the Parks and Community Renewal, Mr.
- 5 Zuber?
- 6 **A. Yes.**
- 7 **Q.** Because after you became County
- 8 Manager you had to promote Mr. Zuber from
- 9 assistant director to director, correct?
- 10 **A. Correct.**
- 11 **Q.** That was a position that had to be
- 12 filled, correct?
- 13 **A. That's correct. That's correct.**
- 14 **Q.** Did you also fill the position of
- 15 Assistant County Manager?
- 16 **A. Yes.**
- 17 **Q.** With Mr. Reyes, correct?
- 18 **A. That's correct.**
- 19 **Q.** Were any of these positions posted
- 20 positions?
- 21 **A. Yes.**
- 22 **Q.** You also filled the position of
- 23 Director of Administrative Services, that was Mr.
- 24 Albert, correct?
- 25 **A. That's correct.**

1 Q. And was Administrative Services, was
 2 that job posted?
 3 A. **I am not sure. I think it was but I am**
 4 **not sure.**
 5 Q. Was the job of Assistant County
 6 Manager posted?
 7 A. **No.**
 8 Q. Was the position of Deputy Director
 9 of Economic Development posted?
 10 A. **Yes.**
 11 Q. Was the position of Director of
 12 Parks and Community Renewal posted?
 13 A. **No.**
 14 Q. I am sorry, Parks and Recreation.
 15 A. **No.**
 16 Q. What about the JDC Superintendent,
 17 was that a posted position?
 18 A. **Yes.**
 19 Q. What about the Workforce Investment
 20 Board position, was that posted?
 21 A. **No.**
 22 Q. Who makes the decision as to whether
 23 a position is posted or not?
 24 A. **I do.**
 25 Q. And what is the criteria that you

1 use to determine whether a position should be
 2 posted?
 3 A. **If individuals are directly reporting to**
 4 **me I do not post the positions which were in the**
 5 **case of the Deputy County Manager and the**
 6 **department head of Parks and Recreation. All the**
 7 **other positions are being posted.**
 8 Q. What is the reason that you make
 9 that distinction, whether the position reports
 10 directly to you?
 11 A. **Because I may have a particular individual**
 12 **in mind that I would like to have in that**
 13 **position.**
 14 Q. So it is within your discretion as
 15 County Manager to appoint those individuals who
 16 report directly to you, is that correct?
 17 A. **Yes.**
 18 Q. But as to the positions who report
 19 to someone other than you, those positions by
 20 County policy have to be posted, is that correct?
 21 A. **Yes, that's correct.**
 22 Q. So it is correct that a division
 23 head position has to be posted, is that correct?
 24 A. **Yes, that's correct.**
 25 Q. But a department head position does

1 not have to be posted, correct?
 2 A. **Correct.**
 3 Q. Now as to all of these other
 4 positions that have been filled since you are
 5 County Manager, all of those positions were
 6 filled based on your decision, correct?
 7 A. **Yes.**
 8 Q. Did you form a committee with regard
 9 to any of these other positions other than
 10 filling the position of Facilities in the
 11 Department of Public Works?
 12 A. **I am sorry, could you repeat the question?**
 13 **I kind of lost it there myself.**
 14 Q. The Facilities is now in the
 15 Department of Public Works under Mr. Graziano?
 16 A. **That is correct.**
 17 Q. It was so when you filled the
 18 position with Mr. Chirafesi, right?
 19 A. **Yes.**
 20 Q. Other than filling this position,
 21 the position of Facilities in the Department of
 22 Public Works, for which you formed a committee,
 23 correct?
 24 A. **Yes.**
 25 Q. Did you form a committee to fill any

1 of the other positions that you filled since you
 2 became County Manager?
 3 A. **Yes, except for the two that I mentioned**
 4 **that were not posted, Deputy County Manager and**
 5 **department head of Parks and Recreation, there**
 6 **was no committee for those two.**
 7 Q. Because those are the ones that you
 8 had discretion?
 9 A. **That's correct.**
 10 Q. Who was on the committees for the
 11 posted positions?
 12 A. **It would typically be the department head**
 13 **of administration and normally the department**
 14 **head and perhaps a division head or a bureau**
 15 **chief of the department where that position would**
 16 **fall.**
 17 Q. Did the Assistant County Manager
 18 participate in any of these other committees?
 19 A. **Yes.**
 20 Q. Which ones?
 21 A. **All of them.**
 22 **Let me clarify that. All of the**
 23 **ones that were being interviewed subsequent to**
 24 **his being hired.**
 25 Q. Right. And before he was hired was

1 there an Assistant County Manager?
 2 **A. There was not. When I became County**
 3 **Manager in 2011 there was no Deputy County**
 4 **Manager for approximately two years.**

5 **Q.** Miss Genovich was County Manager,
 6 Deputy County Manager in 2012, correct? Let me
 7 get you a date. Let me see if this sounds right
 8 to you.

9 Miss Genovich retired in February of
 10 2012, is that correct?

11 **A. That is correct, yes.**

12 **Q.** You became County Manager in August
 13 of 2011, correct?

14 **A. That's correct.**

15 **Q.** After Miss Genovich retired, until
 16 Mr. Reyes was hired, there was no Deputy County
 17 Manager?

18 **A. That's correct.**

19 **Q.** So you told me that you, with regard
 20 to your decision to appoint Mr. Chirafesi to the
 21 position of Facilities within the Department of
 22 Public Works, Facilities and Engineering, the
 23 only thing you did in connection with making that
 24 decision was speak to the three people who were
 25 on the interviewing committee?

1 **A. Yes. They stated on one of the**
 2 **individuals, I am not sure which one, that they**
 3 **had interviewed Mr. Lapolla and they were not**
 4 **impressed with him during that interview.**

5 **Q.** Do you remember which of the three
 6 committee members said that to you?

7 **A. I really don't.**

8 **Q.** Anything else?

9 **A. Yes, basically they stated that Mr.**
 10 **Lapolla stated that were things were F'd up**
 11 **before he was there, he fixed things and now**
 12 **things are F'd up again.**

13 **Q.** Anything else?

14 **A. No. That is all I can think of.**

15 **Q.** Now, when you said you spoke to the
 16 committee members, did you speak to them
 17 altogether?

18 **A. Yes.**

19 **Q.** So you had one meeting with the
 20 committee members in order to make this decision?

21 **A. Yes.**

22 **Q.** How long did that meeting take?

23 **A. About 30 minutes.**

24 **Q.** Where did that meeting take place?

25 **A. My office.**

1 **A. Yes.**

2 **Q.** Tell me what you were told by the
 3 three people or any of the three people on the
 4 interviewing committee that led you to your
 5 decision?

6 **A. I was told that two candidates stood out**
 7 **and were well thought of by the committee.**

8 **Q.** Tell me everything that the
 9 committee said, the members of the committee said
 10 to you.

11 **MR. VARADY:** That you can recall.

12 **A. That there were two individuals who stood**
 13 **out, Mr. Chirafesi and another individual whose**
 14 **name I don't recall, who had formally worked at**
 15 **NJIT.**

16 **Q.** Anything else?

17 **A. Yes, they said that both of those**
 18 **candidates were very strong and they were very**
 19 **comfortable recommending either one of them to**
 20 **me.**

21 **Q.** Anything else?

22 **A. Yes. I asked if it was clear, there was**
 23 **no doubt in my mind that those were the two**
 24 **candidates that stood out and they said yes.**

25 **Q.** Anything else?

1 **Q.** When did that meeting take place?

2 **A. I don't recall, shortly before the**
 3 **decision was made to recommend Mr. Chirafesi. I**
 4 **don't remember the exact date.**

5 **Q.** What did you understand was the
 6 reason that Mr. Chirafesi and the other
 7 individual who worked at NJIT stood out?

8 **A. What the committee communicated to me was**
 9 **that they felt that they had knowledge and**
 10 **background necessary to fill the position.**

11 **Q.** Did they give you any information
 12 regarding whether Mr. Lapolla had the knowledge
 13 and background necessary to fill the position?

14 **A. No, the only comment they made was the one**
 15 **that I had previously stated.**

16 **Q.** Did you ask whether or not Mr.
 17 Lapolla had the knowledge and background
 18 necessary to fill the position?

19 **A. No, I did not.**

20 **Q.** Do you know if Mr. Lapolla did in
 21 fact have the knowledge and background necessary
 22 to fill the position?

23 **A. I do not.**

24 **Q.** When you made this decision did they
 25 discuss with you, did they relate to you the

1 committee members in this one meeting, what Mr.
2 Chirafesi's background was and what the source of
3 his knowledge was that caused them to come to the
4 conclusion that he had the knowledge and
5 background necessary to fulfill the position?

6 **A. Yes.**

7 **Q.** What did they say?

8 **A. They stated that he had worked in the
9 Facilities area and they were impressed, as I
10 mentioned before, by his knowledge and his
11 background.**

12 **Q.** That is what I am trying to
13 understand. Besides them giving you their
14 conclusion that they were impressed with his
15 knowledge and background, did you ask them, "tell
16 me about their knowledge and background"?

17 **A. No, I did not.**

18 **Q.** You did not ask them for any
19 details?

20 **A. No, I did not.**

21 **Q.** So as you sit here today do you know
22 what Mr. Chirafesi's background was?

23 **A. No.**

24 **Q.** Or is?

25 **A. No.**

1 read back as follows:

2 **Q.** Did you ever make an assessment as
3 to, an independent assessment, as to whether Mr.
4 Chirafesi met any or all of the job duties in the
5 job description?

6 (Record resumed.)

7 **A. No, I relied on my committee to make those
8 assessments and draw those conclusions.**

9 **Q.** Do you know whether or not anyone on
10 the committee actually made that assessment?

11 **MR. RENAUD:** I object to the form of
12 the question.

13 **MS. FELLMAN:** You can answer.

14 **MR. VARADY:** You can answer.

15 **A. Yes.**

16 **Q.** Yes, what, you know?

17 **A. Yes.**

18 **Q.** What do you know?

19 **A. I know that they looked at resumes and
20 applications and assessed whether in their view
21 individuals had the requisite knowledge and
22 qualifications.**

23 **Q.** How do you know that? How do you
24 know that that is what they did?

25 **A. Because that is what they have been**

1 **Q.** And you have never known, is that
2 correct?

3 **A. That's correct.**

4 **Q.** And did you ever discuss with the
5 committee members what the duties of the position
6 required?

7 **A. No, I left that to the -- the duties of
8 the position are the duties of the position.
9 That is in the job description.**

10 **Q.** The duties of the position for
11 Facilities?

12 **A. For any position, whatever are defined,
13 for the most part, what is defined in the job
14 description.**

15 **Q.** The job description was included in
16 the posting, is that correct?

17 **A. Yes, to my knowledge, yes.**

18 **Q.** Did you ever make an assessment as
19 to, an independent assessment, as to whether Mr.
20 Chirafesi met any or all of the job duties in the
21 job description?

22 **A. Can you repeat the question?**

23 **MR. RENAUD:** I object to the form of
24 the question. You can't meet -- go ahead.

25 (Whereupon the pending question was

1 **charged to do for any position that they are
2 interviewing for.**

3 **Q.** Do you know or did you know at the
4 time you made the decision to put Mr. Chirafesi
5 in the position of division head for Facilities,
6 did you know that in fact the members of the
7 committee had looked at the job description, the
8 requirements of the job, and made an assessment
9 whether Mr. Chirafesi actually met those
10 requirements?

11 **A. Yes.**

12 **Q.** You knew that?

13 **A. Yes.**

14 **Q.** How did you know that?

15 **A. Because they told me.**

16 **Q.** What did they say?

17 **A. That they had reviewed, as I had mentioned
18 before, they had reviewed all of the applications
19 and resumes.**

20 **Q.** Okay. But the fact that they
21 reviewed the applications and the resumes doesn't
22 quite answer the question that I am asking you.

23 Do you know whether or not any
24 members or the members of the committee actually
25 evaluated the resumes and the applications in

1 light of the job description requirements?
 2 **A. Yes.**
 3 **Q.** And how do you know that?
 4 **A. Because that would be part of the process**
 5 **by which they would make a determination and**
 6 **recommendation.**
 7 **Did I actually observe them doing**
 8 **it? No, I did not. But I believe they did that.**
 9 **Q.** Do you know for a fact that they did
 10 that?
 11 **A. No.**
 12 **Q.** Did you ask them, "well, did you
 13 check the items in the job description to be sure
 14 that this Mr. Chirafesi or the gentleman from
 15 NJIT meet the qualifications"?
 16 **A. I did not ask that specific question, no.**
 17 **Q.** You didn't do it yourself, you never
 18 made that assessment yourself?
 19 **A. No, I did not.**
 20 **Q.** You didn't even review any of the
 21 resumes, isn't that correct?
 22 **A. That is correct. As I stated, I leave**
 23 **that process to my committee.**
 24 **Q.** Did you have knowledge of what Mr.
 25 Lapolla had done prior to his being moved to the

1 **A. I did not.**
 2 **Q.** Were you aware of the fact that Mr.
 3 Lapolla was a department head of Operations and
 4 Facilities?
 5 **A. Yes. Yes, I was.**
 6 **Q.** Did you have any knowledge at the
 7 time you made this decision to appoint Mr.
 8 Chirafesi to the position, did you have any
 9 knowledge as to Mr. Lapolla's performance in his
 10 position of Director of Operations and
 11 Facilities?
 12 **A. No.**
 13 **Q.** Did you have any knowledge of his
 14 performance when he was a division head of --
 15 prior to becoming the Director of Operations and
 16 Facilities?
 17 **A. No.**
 18 **Q.** Did you ask anyone about Mr.
 19 Lapolla's performance in his positions prior to
 20 the time that he was transferred to the Vo-Tech?
 21 **A. No.**
 22 **Q.** Did that come up in any of the
 23 discussions with the committee?
 24 **MR. VARADY:** Object to the form.
 25 Did what come up?

1 Vo-Tech?
 2 **A. I don't understand the question.**
 3 **Q.** You know that Mr. Lapolla was
 4 transferred to the Vocational Technical School in
 5 around 2005, are you aware of that?
 6 **A. Yes.**
 7 **Q.** Did you know what his position was
 8 prior to that?
 9 **A. Yes.**
 10 **Q.** What was his position?
 11 **A. He was the division head of Facilities and**
 12 **I am not sure what the exact title was, Public**
 13 **Works. I am not sure what the exact title was.**
 14 **Q.** You knew that at the time that you
 15 were making a decision as to who to appoint to
 16 the Facilities' position, is that correct?
 17 **A. That is correct.**
 18 **Q.** Did you have any knowledge whether
 19 or not the duties Mr. Lapolla performed in his
 20 position as division head of Facilities would be
 21 the same job duties that would be required in the
 22 position of Facilities that you filled in 2014,
 23 that you just filled?
 24 **A. I don't know that.**
 25 **Q.** Did you look to find that out?

1 **MS. FELLMAN:** Mr. Lapolla's
 2 performance at any time prior to being
 3 transferred to the Vo-Tech.
 4 **A. No.**
 5 **Q.** Did you have any knowledge of Mr.
 6 Lapolla, what Mr. Lapolla did while he was at the
 7 Vo-Tech?
 8 **A. Yes.**
 9 **Q.** What did you understand he did?
 10 **A. Oversaw two major projects.**
 11 **Q.** We'll get into that in a little bit.
 12 Did you have any knowledge as to the
 13 level of his performance while he was at the
 14 Vo-Tech?
 15 **A. Yes.**
 16 **Q.** What was your understanding?
 17 **A. That he performed the duties that were**
 18 **required of him.**
 19 **Q.** Did you have any knowledge as to
 20 whether or not he performed them satisfactory?
 21 **A. Yes.**
 22 **Q.** So what was your knowledge?
 23 **A. That he performed them satisfactorily.**
 24 **Q.** Did you have any knowledge of Mr.
 25 Lapolla's job after he was transferred out of the

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1 Vo-Tech?

2 **A. No.**

3 **Q.** Do you know where he was transferred
4 to when he went after the Vo-Tech?

5 **A. I believe Juvenile Detention.**

6 **Q.** Did you have any knowledge as to
7 what his duties were at the Juvenile Detention
8 Center?

9 **A. No.**

10 **Q.** How did you have knowledge as to
11 what Mr. Lapolla did while he was at the Vo-Tech?

12 **A. Mr. Peter Capodice who was the, I believe
13 the assistant superintendent of the Vo-Tech,
14 communicated that to me.**

15 **Q.** When did he communicate that to you?

16 **A. I am not exactly sure what the date was,
17 but for a period of time when Mr. Lapolla was
18 assigned to the Vo-Tech for some reason that
19 was -- he was in the Department of Parks and
20 Community Renewal for a short period of time. I
21 guess he was assigned there. So I had to fill
22 out his yearly job performance.**

23 **Q.** We'll get to that.

24 **Q.** Now, back to Mr. Chirafesi. I
25 understand that the time you made the decision to

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1 appoint him to the position of Facilities, in the
2 Department of the Public Works Facilities and
3 Engineering, that is the correct department, that
4 is the name of the department now?

5 **A. No. It is Public Works Facilities.**

6 **Q.** That's right, Engineering is gone.

7 **A. Right.**

8 **Q.** So I think I used that before, but
9 the appointment to Mr. Chirafesi was through the
10 Department of Public Works and Facilities,
11 correct?

12 **A. Yes, that's right.**

13 **Q.** You did not know what Mr. Chirafesi
14 had done, what his job duties were, what his
15 titles were prior to your making the decision to
16 appoint Mr. Chirafesi to the division head
17 position, is that correct?

18 **A. Um hum, that's correct.**

19 **Q.** Did you ask to see any of his
20 evaluations?

21 **A. No.**

22 **Q.** Do you know whether the members of
23 the committee made any assessment of Mr.
24 Chirafesi's job performance prior to their
25 recommending him and the gentleman from NJIT?

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1 **A. I don't know that for sure. I can't say
2 that I absolutely know that.**

3 **Q.** Was that a discussion?

4 **A. It was something. Again, it was something
5 that when I put this committee together and told
6 the committee to evaluate all the candidates, it
7 was something that I would assume would have been
8 done. Do I know for sure it was done, I do not.**

9 **Q.** So there was no discussion when you
10 met with the committee members about what Mr.
11 Chirafesi had done prior, previously and how he
12 had performed, is that correct?

13 **A. That's correct. When I formed the
14 committee I didn't know who the candidates would
15 be. I didn't even know he would be a candidate.**

16 **Q.** But my question is, at the time you
17 had the one meeting with the committee members
18 where they made the recommendation or they said
19 to you that there were two candidates that stood
20 out, Mr. Chirafesi and the gentleman from NJIT,
21 correct?

22 **A. That's correct.**

23 **Q.** That is the only information and
24 input you got with regard to your making the
25 decision to appoint Mr. Chirafesi's to the

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1 Facilities' position, correct?

2 **A. That's correct.**

3 **Q.** During that meeting did you discuss
4 with or was there any discussion regarding what
5 Mr. Chirafesi had done previously in his past or
6 with the County or how he had performed?

7 **A. Not how he had performed. I know that
8 wasn't discussed. Whether or not what he had
9 done previously was discussed, I don't recall
10 that.**

11 **Q.** You don't recall it being discussed?

12 **A. I don't recall what he had done previously
13 being discussed. I do know that his performance,
14 his specific job performance was not discussed.**

15 **Q.** And as you sit here today you don't
16 recall discussing "well, what did he do for the
17 County before? What his job roles were?" You
18 didn't discuss that?

19 **A. I didn't, no. No.**

20 **Q.** Now, there were these two candidates
21 that you said that the committee said stood out,
22 correct?

23 **A. Yes.**

24 **Q.** As between these two candidates how
25 did you decide on Mr. Chirafesi?

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- 1 **A. I felt that Mr. Chirafesi was an employee**
 2 **of the County and considering the fact that Mr.**
 3 **Palmieri was resigned or not sure exactly what --**
 4 **he resigned, yes, and there were a number of**
 5 **problems in that area, that it would be**
 6 **preferable to hire someone who had been an**
 7 **employee of the County and at least had some**
 8 **knowledge of the workings of that area.**
 9 **Q. Well did you know that Mr. Chirafesi**
 10 **had any worked in any of the departments that**
 11 **would -- worked in Facilities before?**
 12 **A. Yes.**
 13 **Q. You knew Mr. Chirafesi had worked in**
 14 **Facilities?**
 15 **A. Yes.**
 16 **Q. What did you understand that he had**
 17 **done in Facilities?**
 18 **A. I am not sure exactly what his job duties**
 19 **were but I did know that he worked there.**
 20 **Q. Did he report to Mr. Palmieri?**
 21 **A. I am not sure. I am not sure.**
 22 **Q. If he worked in Facilities, who else**
 23 **could he have reported to?**
 24 **A. To a bureau chief rather than a division**
 25 **head. He may or may not, I don't know.**

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- 1 to a bureau chief in Facilities, who else -- what
 2 other supervisory position is there? You could
 3 be a supervisor of maintenance workers or you
 4 could be a supervisor of clerical staff?
 5 **A. Yes.**
 6 **Q. Any other supervisory position that**
 7 **would report to the bureau chief in Facilities?**
 8 **A. I don't think so.**
 9 **Q. Do you know whether or not or did**
 10 **you know whether or not Mr. Chirafesi actually**
 11 **was in a supervisory position within Facilities?**
 12 **A. No.**
 13 **Q. Did you know whether or not he was a**
 14 **maintenance worker in Facilities?**
 15 **A. I knew he was not a maintenance worker but**
 16 **I did not know the specific title.**
 17 **Q. In the Division of Facilities --**
 18 **what does the Division of Facilities do at the**
 19 **present time that Mr. Chirafesi is the division**
 20 **head of?**
 21 **A. We have a number of buildings throughout**
 22 **the County and they need to be cleaned,**
 23 **maintained, repairs, things of that nature.**
 24 **Q. Who do the trades people report to,**
 25 **do they report to the Division of Facilities?**

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- 1 **Q. So you are saying that a bureau**
 2 **chief would be someone who reports to a division**
 3 **head?**
 4 **A. Right.**
 5 **Q. And a division head reports to the**
 6 **department head?**
 7 **A. Right.**
 8 **Q. So Mr. Palmieri was a division head?**
 9 **A. Right.**
 10 **Q. So you are saying that you knew that**
 11 **Mr. Chirafesi worked in Facilities; you did not**
 12 **know if he reported to Mr. Palmieri, correct?**
 13 **A. That's correct.**
 14 **Q. You are saying he may have reported**
 15 **to a bureau chief who reported to Mr. Palmieri,**
 16 **is that correct?**
 17 **A. It is possible, I am not sure.**
 18 **Q. But you didn't know?**
 19 **A. I didn't know, no.**
 20 **Q. So what kind of job would he have in**
 21 **Facilities if he reported to a bureau chief?**
 22 **A. A supervisory position.**
 23 **Q. Supervising who?**
 24 **A. Maintenance workers, clerical staff.**
 25 **Q. Who else might a person who reports**

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- 1 **A. Some do.**
 2 **Q. And which ones do and which ones**
 3 **don't?**
 4 **A. I don't know exactly. Some report to the**
 5 **Division of Park Maintenance. And some would**
 6 **report to the Division of Public Works. I don't**
 7 **know the specific breakdown of which trades**
 8 **report to which divisions.**
 9 **Q. So it is your understanding right**
 10 **now that Mr. Chirafesi in his job as the head of**
 11 **Facilities, you know that he supervises the**
 12 **cleanup, maintenance and repairs of certain**
 13 **facilities in the County, correct?**
 14 **A. Yes.**
 15 **Q. You don't know what trades people**
 16 **actually he supervises?**
 17 **A. No, I don't.**
 18 **Q. Do you know how many people he**
 19 **supervises?**
 20 **A. No.**
 21 **Q. Do you have any estimate?**
 22 **A. 100. I don't know how accurate that is.**
 23 **Q. Have you performed any sort of an**
 24 **evaluation of Mr. Chirafesi since he started his**
 25 **position?**

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- 1 **A. No. We perform evaluations at the end of**
 2 **each year.**
 3 **Q.** What have you done, if anything, to
 4 determine how Mr. Chirafesi is doing in the job?
 5 **A. I have spoken with the department head and**
 6 **asked how he was doing.**
 7 **Q.** And the department head is Mister?
 8 **A. Mr. Graziano.**
 9 **Q.** And what did Mr. Graziano have to
 10 say?
 11 **A. He told me that he is doing well and he is**
 12 **performing satisfactorily.**
 13 **Q.** When did you have this discussion
 14 with Mr. Graziano?
 15 **A. About a month ago.**
 16 **Q.** What caused you to have that
 17 discussion?
 18 **A. I wanted to know how he was doing.**
 19 **Q.** Have you had any discussion with Mr.
 20 Graziano or anybody else about Mr. Chirafesi
 21 since you appointed him to the position?
 22 **A. As I mentioned, about a month ago I asked**
 23 **Mr. Graziano.**
 24 **Q.** Other than that?
 25 **A. No.**

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- 1 **A. I considered the fact that the committee**
 2 **recommended these two candidates. So I based my**
 3 **recommendation on that.**
 4 **Q.** So did you discount Mr. Lapolla as a
 5 candidate?
 6 **MR. VARADY:** Object to the form of
 7 the question. You can answer.
 8 **Q.** Based on the fact that the committee
 9 said that the other two gentlemen stood out?
 10 **A. Based on their recommendation that the**
 11 **other two gentlemen stood out I discounted all**
 12 **the other candidates.**
 13 **Q.** Even though you thought it would be
 14 preferable to have someone who was familiar with
 15 the workings of the division and the department,
 16 correct?
 17 **A. Correct.**
 18 **Q.** Did Mr. Lapolla's lawsuit come up at
 19 any point in time when you were discussing who to
 20 appoint to the position of Facilities?
 21 **A. No.**
 22 **Q.** You knew Mr. Lapolla had a lawsuit
 23 pending, correct?
 24 **MR. VARADY:** Objection. Asked and
 25 answered about two hours ago. You can answer it

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- 1 **Q.** So going back to what the discussion
 2 was about Mr. Lapolla with the committee members
 3 that you told us about, the meeting that you said
 4 you had the one meeting about 30 minutes in your
 5 office, shortly before you determined to hire or
 6 to appoint Mr. Chirafesi to this position of
 7 Facilities division head, correct?
 8 **A. Yes.**
 9 **Q.** First of all, was the position ever
 10 offered to the gentleman from NJIT?
 11 **A. No.**
 12 **Q.** Since you thought that having worked
 13 in some capacity in the Division of Facilities
 14 would be a benefit given the fact that there were
 15 problems left by Mr. Palmieri; you testified to
 16 that, correct?
 17 **A. Yes.**
 18 **Q.** You thought it would be preferable
 19 to have someone who had worked in the division
 20 before, is that correct?
 21 **A. Yes.**
 22 **Q.** Did you consider the fact that Mr.
 23 Lapolla had been actually the Director of
 24 Operations and Facilities, that that would be a
 25 benefit?

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- 1 one more time.
 2 **A. Yes.**
 3 **Q.** So going back to what you were told
 4 about the interview with Mr. Lapolla, you said
 5 that Mr. Lapolla, that you were told that Mr.
 6 Lapolla said that things were F'd up before he
 7 was there and things are F'd up again?
 8 **A. Yes.**
 9 **Q.** And that is what you were told?
 10 **A. Yes.**
 11 **Q.** You also said that the committee,
 12 somebody said that they were not impressed with
 13 Mr. Lapolla at the interview?
 14 **A. Yes.**
 15 **Q.** Was there any discussion about in
 16 what way were they not impressed?
 17 **A. The comment was made. And again, I don't**
 18 **recall which of the three individuals made it,**
 19 **that they were not impressed. They went on to**
 20 **make the comment that I just communicated. And**
 21 **they did not elaborate on that.**
 22 **Q.** So you didn't know what it was that
 23 caused the committee members to, or this one
 24 particular committee member, to not be impressed
 25 with Mr. Lapolla, is that correct?

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1 **A. That's correct.**
 2 **Q.** You don't know why they were not
 3 impressed with him?
 4 **MR. RENAUD:** You just asked that, I
 5 think.
 6 **A. No.**
 7 **Q.** So I just want to be sure I have
 8 this straight. The only thing that was discussed
 9 about Mr. Lapolla is one of the three committee
 10 members said that they were not impressed with
 11 Mr. Lapolla during the interview, is that
 12 correct?
 13 **A. Yes.**
 14 **Q.** You don't remember which one of the
 15 three it was?
 16 **A. I do not.**
 17 **Q.** Then somebody else said, and you
 18 don't recall who --
 19 **A. It was the same individual.**
 20 **Q.** The same individual who said he was
 21 not impressed?
 22 **A. Yes.**
 23 **Q.** Said that Mr. Lapolla said things
 24 were F'd up before he was there and things are
 25 F'd up again?

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1 **A. No.**
 2 **Q.** You have already testified that you
 3 knew that Mr. Lapolla had been the Director of
 4 Operations Facilities, that he had been a
 5 division head, so you certainly knew of his
 6 qualifications, correct?
 7 **MR. VARADY:** Object to the form of
 8 the question. You can answer.
 9 **A. No.**
 10 **Q.** You didn't know?
 11 **A. The answer to your question is no.**
 12 **Q.** Did you ask Mr. Graziano or any of
 13 the other members how Mr. Lapolla performed when
 14 he was the Director of Facilities and Operations?
 15 **A. No.**
 16 **Q.** Now, you said that Mr. Palmieri,
 17 there were problems, so you would agree that when
 18 Mr. Palmieri left the division, things were F'd
 19 up, correct?
 20 **MR. VARADY:** Object to the form of
 21 the question. You can answer.
 22 **A. Yes.**
 23 **Q.** You would agree?
 24 **A. Yes.**
 25 **MS. FELLMAN:** Off the record.

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1 **A. Yes.**
 2 **Q.** And that was the extent of the
 3 discussion about Mr. Lapolla?
 4 **A. Yes. Yes.**
 5 **Q.** So when you were making this
 6 decision, you didn't want to know why they
 7 weren't impressed or why this one individual
 8 wasn't impressed with Mr. Lapolla?
 9 **A. Again, I have formed this committee to**
 10 **interview a number of individuals. I have got a**
 11 **lot of daily responsibilities and I rely on this**
 12 **committee to vet these individuals and**
 13 **candidates. If they told me they were impressed**
 14 **or were not impressed with a particular**
 15 **individual, I will take their word for it. I**
 16 **will respect their judgment and I will respect**
 17 **that recommendation whether it was positive or**
 18 **negative.**
 19 **Q.** So it was one individual who voiced
 20 this comment about Mr. Lapolla. Did the other
 21 two individuals on the committee say anything
 22 about Mr. Lapolla?
 23 **A. No.**
 24 **Q.** You didn't ask them, "well, what did
 25 you think of Mr. Lapolla?"

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1 (Whereupon there was an off the
 2 record discussion.)
 3 (Record resumed.)
 4 (Whereupon a luncheon recess was
 5 taken.)
 6 **BY MS. FELLMAN:**
 7 **Q.** Sir, we have had a short break. Are
 8 you ready to continue?
 9 **A. Yes.**
 10 **Q.** When is the first time you became
 11 aware that Mr. Lapolla had filed a lawsuit?
 12 **A. I have no idea.**
 13 **Q.** How did it come to be that you were
 14 appointed County Manager?
 15 **A. I was selected by the Board of Chosen**
 16 **Freeholders.**
 17 **Q.** How did it come to be that you were
 18 a candidate for the position?
 19 **A. I was in my office and George Devanney who**
 20 **was the County Manager at the time came down to**
 21 **my office and spoke with me.**
 22 **Q.** What did he say?
 23 **A. He said that he was considering resigning**
 24 **and if he did, he asked me if I would be**
 25 **interested in the position.**

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- 1 Q. Do you know how it came to be that
2 he asked you if you were interested?
3 A. **I don't understand the question.**
4 Q. Why you, and I don't mean that in
5 any demeaning way at all, just if you had any
6 understanding as to why he asked you?
7 A. **I would assume because he thought that I
8 had the necessary qualifications.**
9 Q. Do you know if he asked if anybody
10 else was interested in the position?
11 A. **I do not know that.**
12 Q. After he asked you about that, what
13 did you do next in connection with your becoming
14 the County Manager?
15 A. **I didn't do anything else.**
16 Q. Did you have to go talk to anybody?
17 A. **Yes.**
18 Q. Who did you talk to?
19 A. **I guess I didn't initiate any conversation
20 is what I am saying.**
21 Q. You didn't initiate any
22 conversation. Who did you talk to and how did
23 that come about?
24 A. **About two weeks later Mr. Devanney
25 approached me again and again asked me if I was**

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- 1 **interested in the position and again I said I was**
2 **and I am not sure what he did or how he went**
3 **about it but sometime after that I spoke to some**
4 **members of the Freeholder Board and also to**
5 **Charlotte DeFilippo.**
6 Q. Tell me about the conversations you
7 had with the members of the Freeholder Board?
8 A. **Um, stated that -- Freeholder stated to**
9 **me, the ones I spoke with, that they thought I**
10 **would be a good candidate and would be pleased if**
11 **I would accept the position.**
12 Q. Did you have to submit a resume?
13 A. **I did.**
14 Q. Who did you submit that to?
15 A. **I believe to the clerk of the Board, I**
16 **think.**
17 Q. When did you speak to Miss
18 DeFilippo?
19 A. **Sometime during that same period.**
20 Q. How did it come to be that you spoke
21 to her about your becoming County Manager?
22 A. **Mr. Devanney said that she wanted to speak**
23 **to me.**
24 Q. And what were the circumstances of
25 your speaking with her?

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- 1 A. **I went to her home.**
2 Q. Where was her home located?
3 A. **Hillside.**
4 Q. Did he tell you why she wanted to
5 speak to you?
6 A. **No.**
7 Q. Did you have any understanding as to
8 why you would have to speak to her?
9 A. **Yes.**
10 Q. What was the reason?
11 A. **Because she was the County Chairman. I
12 imagine that she would have to say that she was
13 okay with me getting the job.**
14 Q. Why was that your understanding?
15 A. **Because it is a position of importance
16 within the County, reports directly to the
17 Freeholder Board. And that would be something
18 that would, she would, I would assume, would be
19 interested in who was going to take that
20 position.**
21 Q. Did Miss DeFilippo have any elected
22 position with regard to her position in the
23 County, other than the Economic Board we have
24 talked about earlier?
25 A. **She was also the chairman, County Chairman**

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- 1 **of Union County Democratic Party.**
2 Q. In her position as Chairman of the
3 Union County Democratic Party, was that an
4 elected position?
5 A. **No.**
6 Q. Did she have any authority that you
7 are aware of to select the County Manager?
8 A. **No. Actually, can I go back to, as far as**
9 **Miss DeFilippo?**
10 Q. Sure.
11 A. **I believe that the County Chair is
12 selected by both of the county committee members
13 actually. I believe that is how it occurs. I
14 believe that is the way it works.**
15 Q. She was the one though who would
16 decide which Freeholders would be on the
17 democratic ticket, is that correct, when the
18 Freeholders would be up for election?
19 A. **Again, it is my understanding, to be
20 certainly part of the process, but it is my
21 understanding that the county committee members
22 would also select the candidates. Again, I am
23 not a committee person so I am not familiar with
24 that process but that is my understanding.**
25 Q. But you understood that Miss

1 DeFilippo would have the final word as to who
2 would be on the slate of candidates for
3 Freeholder?

4 MR. RENAUD: I object to the form of
5 the question.

6 MR. VARADY: I object to the form of
7 the question but you can answer it.

8 **A. I would say yes.**

9 **Q.** And you would be, to be County
10 Manager, you would have to be elected or selected
11 by the Board of Freeholders, correct?

12 **A. That's correct.**

13 **Q.** So tell me about the discussion you
14 had with Miss DeFilippo.

15 **A. She said that "I understand that you are
16 being considered. Are you interested?"**

17 I said "yes."

18 And she said that "I know that you
19 are very close to Mayor Bollwage in Elizabeth."

20 I said "yes, I am."

21 And she said, "well I just want to
22 make sure that you understand that your loyalty
23 is to the Union County Democrat Party."

24 **Q.** What did you understand that to
25 mean?

1 DeFilippo and Mr. Bollwage?

2 **A. Yes.**

3 **Q.** What did you understand was the
4 difference?

5 **A. My understanding is that, quite frankly,
6 the two of them did not get along with each
7 other.**

8 **Q.** Were they political rivals?

9 **A. No.**

10 **Q.** When you say that they didn't get
11 along with each other, what do you mean?

12 **A. Well they didn't like each other
13 personally, I know that. Again, as to
14 specifically why, I don't know, but I do know
15 that the two of them were, you know, did not have
16 a good relationship. That is what I know.**

17 **Q.** Did you understand from what she
18 said to you that she expected you to make
19 decisions based on the Union County Democratic
20 Party that she was the chairman of?

21 MR. RENAUD: I object to the form of
22 the question.

23 MR. VARADY: Object to the form.

24 You can answer it.

25 **A. No.**

1 **A. I'm not quite sure why she asked the
2 question. But I answered it honestly.**

3 **Q.** What did you say?

4 **A. As I said, as I mentioned, "yes, Mayor
5 Bollwage is a good friend of mine, yes, he is."**

6 **Q.** What did you answer to her?

7 **A. That is what I answered to her, "yes,
8 Mayor Bollwage is a good friend of mine, yes."**

9 **Q.** But she said to you "I want to make
10 sure your loyalty is with the Union County
11 Democratic Party," what did you answer to that?

12 **A. Again, that is how I answered the
13 question. That is all I said. I said, "yes,
14 Mayor Bollwage is a good friend of mine." That
15 is how I answered the question.**

16 **Q.** What did she say after you answered
17 her?

18 **A. She said "okay, since George recommends
19 you, I am okay with it. And I will talk to the
20 Freeholders."**

21 **Q.** She said she would talk to the
22 Freeholders? Yes?

23 **A. Yes, yes.**

24 **Q.** Did you perceive that there was a
25 difference in the Democratic Party from Miss

1 **Q.** What did you understand she meant
2 when she said "I want to make sure your loyalty
3 is with the Union County Democratic Party?"

4 MR. RENAUD: I object to the form of
5 the question.

6 MS. FELLMAN: You can object. That
7 is what she said.

8 MR. RENAUD: I know I can object.
9 That is what I am doing.

10 MR. VARADY: It is just an
11 objection. No one is telling him not to answer.
12 It is just an objection. You can answer.

13 **A. My assumption or my thought as to why the
14 question was asked was if there was something
15 that the Mayor would want me to do that perhaps
16 she didn't want me to do, would I do what he
17 wanted me to do rather than what she wanted me to
18 do. That is my assumption as to why the question
19 was asked.**

20 **Q.** So you understood by her giving her
21 okay that she assumed that you would do what she
22 wanted you to do, is that correct?

23 MR. VARADY: Object to the form of
24 the question.

25 MR. RENAUD: Object to the form.

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1 MR. VARADY: That is not what he
2 said.
3 **A. No, that is not what I said.**
4 **Q.** She would expect you to do what she
5 wanted you to do as opposed to Mayor Bollwage, is
6 that correct?
7 MR. VARADY: Object to the form of
8 the question.
9 **Q.** Is that correct?
10 **A. No.**
11 **Q.** No?
12 **A. Again, as I answered previously, I did not**
13 **respond to that part of the question. I only**
14 **responded to what I communicated earlier, what my**
15 **response was.**
16 **Q.** Were you concerned about that
17 statement that she made?
18 **A. No.**
19 **Q.** You weren't concerned?
20 **A. No.**
21 **Q.** After you became the County Manager,
22 did she ever contact you?
23 **A. Yes.**
24 **Q.** In connection with your position as
25 the County Manager?

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1 before were related to her other position.
2 MR. VARADY: No, you don't. The
3 questions before was when he was County Manager,
4 not before he was County Manager. If you want to
5 ask the question, ask the question. We are not
6 going to rehash three hours of this morning's
7 deposition.
8 **Q.** What was the nature of the
9 discussions you had with Miss DeFilippo after you
10 became County Manager?
11 **A. As I mentioned, we had two meetings which**
12 **took place in my office which is relative to her**
13 **position in the Improvement Authority.**
14 **Q.** None others?
15 **A. No.**
16 **Q.** Did she ever communicate with you
17 through someone about something she wanted done?
18 **A. No.**
19 **Q.** Did anything ever come up prior to
20 Miss DeFilippo leaving her position as Democratic
21 Chair where there was something that Mayor
22 Bollwage wanted that she may not have been happy
23 about?
24 **A. No.**
25 **Q.** Did Mayor Bollwage ever ask you to

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1 **A. Yes.**
2 **Q.** And what were the reasons that she
3 contacted you?
4 MR. VARADY: Objection. Asked and
5 answered.
6 MS. FELLMAN: I want to know if this
7 was in connection with her position as the
8 Democratic Chair or her other position.
9 MR. VARADY: Why don't you ask it
10 that way.
11 **Q.** Go ahead, sir.
12 MR. VARADY: Why don't you ask the
13 question that way. He answered those questions
14 this morning. If that is the question you want,
15 why don't you ask it.
16 MS. FELLMAN: Actually now he had
17 told me, I asked him all the communications he
18 had with her. Now he has now told me he had
19 another communication.
20 MR. VARADY: Just ask the question.
21 MS. FELLMAN: Which apparently he
22 had not remembered to tell me about earlier which
23 is this communication just before he became
24 appointed County Manager. So I have a right to
25 assume that perhaps the answers he had given me

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1 do anything after you became County Manager?
2 MR. VARADY: Object to the form of
3 the question. You can answer.
4 **Q.** In your official capacity, did Mr.
5 Bollwage ever ask you to do anything, make an
6 appointment, hire somebody, anything of that
7 sort.
8 **A. No.**
9 **Q.** Did you know who Joe Suliga was?
10 **A. Yes.**
11 **Q.** Were you friends with Mr. Suliga?
12 **A. No.**
13 **Q.** Did you know him?
14 **A. Yes.**
15 **Q.** How did you know him?
16 **A. I knew that he was an Assemblyman of the**
17 **State of New Jersey, Union County. Didn't know**
18 **him personally. Wasn't a friend of his.**
19 **Q.** What about Michael Lapolla,
20 obviously you knew Michael Lapolla when he was
21 the County Manager, correct?
22 **A. Yes.**
23 **Q.** Did you ever work on Michael
24 Lapolla's campaigns?
25 **A. Yes.**

1 Q. When did you do that?

2 **A. I believe Congressional campaign.**

3 Q. After you went to Miss DeFilippo's

4 home, then what was the next step in your

5 becoming County Manager?

6 **A. I was contacted by a couple of the**

7 **Freeholders and they spoke with me.**

8 Q. Do you recall who that was?

9 **A. I believe it was Dan Sullivan and I**

10 **believe Freeholder Scanlon, Deborah Scanlon.**

11 **Those two.**

12 Q. Did you meet with them or speak with

13 them over the phone?

14 **A. I met with them.**

15 Q. Do you recall where that was?

16 **A. In their respective offices.**

17 Q. Do you remember the substance of any

18 of the conversations?

19 **A. Yes.**

20 Q. Can you tell me about that.

21 **A. Asked me what some of my goals would be.**

22 **That it was a big responsibility. I think those**

23 **are things that I can recall.**

24 Q. After you spoke with those two

25 Freeholders, what happened next?

1 **A. Okay.**

2 Q. Do you remember getting a copy of

3 this letter?

4 **A. No.**

5 Q. You have no reason to think you

6 didn't get a copy though, correct?

7 MR. RENAUD: I object to the form of

8 the question.

9 **A. Correct.**

10 Q. You are copied on it. Do you have

11 any reason to think that in fact you did not

12 receive a copy of this letter?

13 MR. RENAUD: I object to the form of

14 the question.

15 MS. FELLMAN: Can you tell me what

16 is wrong with it so I can clean it up?

17 MR. RENAUD: Yes. How would he

18 possibly know. He says he doesn't remember

19 getting the letter. What sense does it make to

20 ask him that question?

21 MS. FELLMAN: It could be that there

22 is a history in his office of not getting

23 letters, something of that sort.

24 MR. RENAUD: I mean, he doesn't

25 remember getting the letter. So you can't -- it

1 **A. I don't remember exactly how I was**

2 **actually notified that I was selected. I don't**

3 **remember exactly how that, to be honest with you.**

4 **I don't remember how that happened.**

5 Q. It was your understanding that Miss

6 DeFilippo gave her okay for you to be appointed

7 County Manager?

8 MR. VARADY: Object to the form of

9 the question. You can answer.

10 **A. Yes.**

11 Q. I am going to give you some

12 documents that have been previously marked. You

13 can go through a couple of these. Let me just

14 hand you this stack.

15 Let's look at the first one, this

16 was marked Brennan-1.

17 Take a look at that. I think it is

18 just the first page, that is all it is.

19 MR. VARADY: No, it is three pages.

20 MS. FELLMAN: It is three pages.

21 Q. If you could just read this letter,

22 it is from Mr. Brennan to Richmond Lapolla and

23 you are copied on it as County Manager. Take a

24 look at it. When you have had a chance to look

25 it over, let me know.

1 doesn't seem to me there is anything you can ask

2 him further about the letter.

3 MS. FELLMAN: All right. We tend to

4 disagree on that.

5 MR. RENAUD: Okay. I just objected.

6 MS. FELLMAN: That is fine. There

7 is nothing else I can do to clear it up.

8 MR. VARADY: Can you reask the

9 question so he can answer it?

10 MS. FELLMAN: Sure.

11 Q. Is there any reason for you to think

12 that you didn't get a copy of this letter

13 indicating that you were copied on this letter

14 that Michael Brennan wrote?

15 **A. No.**

16 Q. Now, if you see in the first

17 paragraph it says "Director Graziano and I met

18 with County Manager Faella to discuss your job

19 description and the work you are performing at

20 the Juvenile Detention Center."

21 Do you recall that meeting?

22 **A. Yes.**

23 MR. RENAUD: Objection.

24 MS. FELLMAN: What is your

25 objection?

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1 MR. RENAUD: Does it say he was at
 2 the meeting?
 3 MR. VARADY: Yes.
 4 MS. FELLMAN: Yes.
 5 MR. RENAUD: Oh it does, I'm sorry.
 6 **A. I am answering the questions honestly to**
 7 **the best of my recollection.**
 8 **Q.** Tell me about that discussion you
 9 had with Mr. Graziano and Mr. Brennan following
 10 Mr. Brennan's conversation with Mr. Lapolla in or
 11 around October 24, 2011?
 12 **A. I would say that the letter is accurate.**
 13 **Michael Brennan stated that he had spoken with**
 14 **Mr. Lapolla and he said that he wasn't happy**
 15 **being at JDC and now that he did indicate this,**
 16 **let's talk about possibly where else there was a**
 17 **need for someone to be assigned. Yes, it is**
 18 **accurate.**
 19 **Q.** That is what you recall was the
 20 substance of the meeting you had with Mr.
 21 Graziano and Mr. Brennan?
 22 **A. Right.**
 23 **Q.** Let me show you what was previously
 24 marked as Defendant's DD-1 which is a copy of
 25 plaintiff's complaint.

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1 **Q.** How did it come to be that Mr.
 2 Lapolla's lawsuit was discussed --
 3 MR. VARADY: Objection, privilege.
 4 MS. FELLMAN: Let me get the
 5 question out.
 6 **Q.** How did it come to be that Mr.
 7 Lapolla's lawsuit was discussed in an executive
 8 session a few months ago?
 9 MR. VARADY: Objection. Privilege,
 10 do not answer it.
 11 **Q.** The executive session, is there any
 12 recording of the executive session, any written
 13 record of what transpires?
 14 MR. VARADY: You can answer that yes
 15 or no.
 16 **A. Yes.**
 17 **Q.** Who calls for an executive session?
 18 **A. County Counsel.**
 19 **Q.** Is executive session always called
 20 for by County Counsel?
 21 **A. Yes.**
 22 **Q.** Was this meeting in the executive
 23 session, was this, where Mr. Lapolla's lawsuit
 24 was discussed, was this held before or after you
 25 made the decision to put Mr. Chirafesi in the

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1 When you have had a chance to look
 2 it over, let me know.
 3 **A. Okay.**
 4 **Q.** Is it your testimony that you have
 5 never seen plaintiff's complaint in this case
 6 before?
 7 **A. That's correct, I have not seen it.**
 8 **Q.** You are aware that plaintiff had
 9 filed a complaint though, correct?
 10 MR. VARADY: Objection. Asked and
 11 answered.
 12 **A. Yes.**
 13 **Q.** Did you ever attend a meeting before
 14 the Freeholder Board where Mr. Lapolla's
 15 complaint, his lawsuit was discussed?
 16 **A. No.**
 17 **Q.** Did you ever attend a meeting with
 18 the executive session of the Board of Freeholders
 19 where Mr. Lapolla's lawsuit was discussed?
 20 **A. Yes.**
 21 **Q.** When was that?
 22 **A. Some months ago, I don't remember exactly**
 23 **when.**
 24 **Q.** Recently?
 25 **A. A few months ago, I think.**

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1 position of division head for facilities?
 2 MR. VARADY: That is a yes or a no.
 3 MS. FELLMAN: Or a before or an
 4 after.
 5 MR. VARADY: You have to ask the
 6 question the correct way.
 7 MS. FELLMAN: The question is before
 8 or after. He can answer before or after.
 9 MR. VARADY: If you can answer it.
 10 **A. Before.**
 11 **Q.** Who attended this executive session?
 12 **A. The members of the Freeholder Board.**
 13 **Q.** All of them?
 14 **A. All who were in attendance. I am not sure**
 15 **if they were all in attendance or not that**
 16 **evening. County Counsel.**
 17 **Q.** Mr. Barry?
 18 **A. That is correct. Myself. James**
 19 **Pellettiere the clerk of the Board. I am not**
 20 **sure if Mr. Reyes was there or not.**
 21 **Q.** Was anything else discussed at this
 22 executive session?
 23 MR. VARADY: That is a yes or a no.
 24 MS. FELLMAN: That is a yes or a no.
 25 **A. I don't recall.**

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- 1 Q. So who takes notes during an
2 executive session?
3 A. **The clerk of the Board.**
4 Q. And what happens to these notes?
5 A. **They are redacted as necessary and then
6 available for the public within a certain amount
7 of time. I don't know what the time period is.**
8 Q. Who makes the determination as to
9 what should be redacted?
10 A. **County Counsel.**
11 Q. Is what transpires during the
12 executive session, is that recorded audio-wise or
13 video-wise?
14 A. **No.**
15 Q. There is no video or audio
16 recording, is that correct?
17 A. **That is correct.**
18 Q. Is there a transcriber sitting like
19 Miss Spinner is doing?
20 A. **No.**
21 Q. So it is Mr. Pelletiere taking
22 notes?
23 A. **That is correct.**
24 Q. How long did this executive session
25 last?

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- 1 other executive session meetings that you recall?
2 A. **Yes.**
3 Q. Do you remember which one or ones?
4 A. **No.**
5 Q. Were any of those in connection with
6 this lawsuit?
7 A. **No.**
8 Q. Mr. Lapolla's lawsuit?
9 A. **No.**
10 Q. Was it connection with someone
11 else's lawsuit?
12 A. **Yes.**
13 Q. Mr. Travissano?
14 A. **Don't recall.**
15 Q. Mr. Kolbeck?
16 A. **No.**
17 Q. Could have been Mr. Travissano or
18 somebody else?
19 MR. VARADY: He already said he
20 doesn't recall. There were some of your other
21 clients too.
22 Q. Was Mr. Varady present at any other
23 executive meetings other than the two that you've
24 mentioned?
25 MR. VARADY: Objection. That is not

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- 1 A. **I don't recall.**
2 Q. Are we speaking about half an hour,
3 an hour, two hours, what was the time?
4 A. **I would say probably about a half hour.
5 Again, I'm not sure, but somewhere in that time
6 period, I would think.**
7 Q. So the meeting was before you made
8 the decision as to who to hire, who to put in the
9 position of Facilities' manager.
10 My question is, an additional
11 question, when in relation to the interviews was
12 this executive session held?
13 A. **I don't recall the time frame.**
14 Q. So you don't recall if it was before
15 or after Mr. Lapolla was interviewed?
16 A. **I really don't. I don't.**
17 Q. So back to Brennan-1, the exhibit
18 Brennan-1. Did Mr. Brennan -- let me back up.
19 Was there any other attorney present
20 at the executive session other than County
21 Counsel, Mr. Barry?
22 A. **Yes.**
23 Q. Who else was present?
24 A. **Mr. Varady.**
25 Q. Had Mr. Varady ever been at any

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- 1 what he said. He said I was at one and I was at
2 others. He didn't say I was at two.
3 MS. FELLMAN: That is what I thought
4 you said.
5 Q. You recall Mr. Varady being present
6 also at another executive session involving
7 another lawsuit with the County?
8 MR. VARADY: Object to the question.
9 That wasn't his testimony.
10 Q. Is that correct?
11 A. **What I said is I remember Mr. Varady being
12 present at other executive meetings.**
13 Q. And those other executive meetings,
14 were they in relation to a lawsuit?
15 A. **Yes.**
16 Q. Do you recall whether or not any of
17 those meetings, any other meetings were in
18 connection with Mr. Lapolla's lawsuit?
19 A. **No, they were not.**
20 Q. Was Mr. Varady, as far as you know,
21 ever at an executive session meeting other than
22 when a lawsuit was being discussed, a lawsuit
23 against the County was being discussed?
24 A. **No.**
25 Q. Now I asked you if any other

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1 attorneys were present, you said Mr. Varady. Was
2 Mr. Renaud also present at this executive session
3 that you told us about where Mr. Lapolla's
4 lawsuit was discussed?

5 **A. I don't recall. I know I testified no,
6 but I don't recall for sure.**

7 **Q.** Had Mr. Renaud ever been present at
8 any executive session that you attended?

9 **A. Yes.**

10 **Q.** And is it correct that the times
11 when he attended the executive sessions it was in
12 connection with a lawsuit that had been brought
13 against the County?

14 **A. Yes.**

15 **Q.** As far as you know had he ever
16 attended an executive session with regard to
17 anything other than a lawsuit against the County?

18 **A. No.**

19 **Q.** Have you seen the redacted version
20 of the executive session where Mr. Lapolla's
21 lawsuit was discussed that you have told us
22 about?

23 **A. No.**

24 **Q.** Where are they available?

25 **A. The county clerk -- excuse me, the clerk**

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1 I know the answer to that but I can't answer
2 legally. So I will object to the form of the
3 question.

4 **MR. VARADY:** I will join in the
5 objection. You can answer that yes or no. The
6 question is do they vote.

7 **MS. FELLMAN:** During executive
8 session.

9 **A. I am not sure.**

10 **THE WITNESS:** Bob, can I speak with
11 you for a moment?

12 **MR. VARADY:** No, you can't. So your
13 answer is you are not sure.

14 **THE WITNESS:** Okay, then, I am not
15 sure.

16 **Q.** After this executive session where
17 Mr. Lapolla's lawsuit was discussed, did the
18 Board go into open session?

19 **A. Yes.**

20 **Q.** And was Mr. Lapolla's lawsuit raised
21 as an issue of any sort in open session?

22 **A. No.**

23 **Q.** Was the executive session held
24 before any open session on that day?

25 **A. No.**

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1 **of the Board's office.**

2 **Q.** Mr. Pellettiere?

3 **A. That's correct.**

4 **Q.** Was any vote taken or any decision
5 made at the --

6 **MR. VARADY:** Objection. Privileged.

7 **MS. FELLMAN:** I don't think if a
8 vote was taken that is privileged.

9 **MR. VARADY:** Don't answer the
10 question Mr. Faella.

11 **MS. FELLMAN:** Let me get the
12 question out so it is clear what I'm asking.

13 **Q.** Do the Freeholders in an executive
14 session vote?

15 **MR. RENAUD:** I object to the form of
16 that question.

17 **MS. FELLMAN:** Sometimes.

18 **Q.** Do they vote sometimes in executive
19 session?

20 **MR. RENAUD:** I think you have to
21 define what vote means.

22 **MS. FELLMAN:** Where they make, they
23 cast a vote. Not just where they discuss
24 something, but where they actually vote.

25 **MR. RENAUD:** I can't answer for him.

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1 **Q.** So was there an open session and
2 then a closed executive session and then another
3 open session?

4 **A. Yes.**

5 **Q.** Was Mr. Lapolla's lawsuit or
6 anything connected with it raised in open session
7 before the executive session?

8 **A. Yes.**

9 **Q.** What was raised?

10 **A. A statement was read by County Counsel for
11 the need to go into executive session.**

12 **Q.** Was that something that County
13 Counsel offered up or did it come as a result of
14 something else coming up at the session?

15 **A. That is a -- my understanding is a
16 statement that County Counsel is required to make
17 that now the Board is entering into executive
18 session. He is bound to make that statement.
19 For whatever reason he feels that there should be
20 an executive session. So he does that every
21 time.**

22 **Q.** So, as you recall, nothing came up
23 in open session that caused him to say that, as
24 far as you know?

25 **A. No.**

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1 Q. So I am correct, nothing came up?

2 A. **You are correct.**

3 Q. So going back to Brennan-1, did Mr.
4 Brennan tell you -- you see there is a reference
5 to a conversation that Mr. Brennan had with Mr.
6 Lapolla? Do you see that, in the very first
7 sentence?

8 A. **Yes, I do.**

9 Q. Did Mr. Brennan tell you what the
10 conversation was that he had with Mr. Lapolla?

11 A. **Yeah, I think so.**

12 Q. Do you remember what he said?

13 A. **Yeah, I believe, as I stated, he said that
14 Mr. Lapolla was not happy with where he was
15 currently being assigned.**

16 Q. Now, this is shortly after -- you
17 had only been County Manager since August of
18 2011, correct?

19 A. **That's correct.**

20 Q. Did you have any knowledge yourself
21 before this letter or before speaking to Mr.
22 Brennan in connection with this letter, did you
23 have any knowledge yourself as to where Mr.
24 Lapolla was assigned?

25 A. **Yes.**

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1 Lapolla's supervisor was Mr. Brennan who was in a
2 different department?

3 A. **I don't know.**

4 Q. Did you ever discuss that with Mr.
5 Graziano?

6 A. **No.**

7 Q. Did you ever discuss that with Mr.
8 Brennan?

9 A. **No.**

10 Q. Tell me about the conversation you
11 had with Mr. Guzzo about Mr. Lapolla being
12 assigned to the Juvenile Detention Center which
13 you said you knew about prior to the date of this
14 letter, October 24, 2011.

15 A. **I don't recall the specifics but I just
16 remembered he had mentioned it to me at one
17 point.**

18 Q. What was the context that he
19 mentioned it to you?

20 A. **I don't recall but I do recall him telling
21 me that.**

22 Q. Did you have any knowledge as to
23 what Mr. Lapolla was doing over at the Juvenile
24 Detention Center?

25 A. **No.**

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1 Q. You knew he was assigned to the
2 Juvenile Detention Center?

3 A. **Yes.**

4 Q. How did you know that?

5 A. **I believe Director Frank Guzzo who is the
6 Director of Human Services informed me of that.
7 Juvenile Detention is under the responsibility of
8 the Department of Human Services.**

9 Q. Mr. Lyons, the Director of the
10 Juvenile Detention Center reports to Mr. Guzzo,
11 correct?

12 A. **That's correct.**

13 Q. But Mr. Lapolla's supervisor at this
14 time was Mr. Brennan, correct?

15 A. **Yes.**

16 Q. And Mr. Brennan was in Mr.
17 Graziano's Department of Public Works and
18 Facilities, correct?

19 A. **Actually at the time it would have been
20 Public Works Facilities and Engineering, yes.**

21 Q. At the time?

22 A. **Right.**

23 Q. So why was it that if Mr. Lapolla
24 was assigned to the Juvenile Detention Center
25 under Mr. Guzzo's department, why was it that Mr.

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1 Q. Did you have any knowledge as to
2 what Mr. Lapolla's assigned duties were at the
3 Juvenile Detention Center?

4 A. **No.**

5 Q. Did you make any investigation
6 yourself in connection with this letter or the
7 meeting that you had with Mr. Graziano and Mr.
8 Brennan?

9 MR. VARADY: Can you clean that
10 question up please? I object to the form.

11 Q. In connection with the meeting that
12 you had with Mr. Graziano and Mr. Brennan, as
13 referenced in the letter that's been marked
14 Brennan-1, did you make any investigation as to
15 what Mr. Lapolla's duties were and what he had
16 actually been doing at the Juvenile Detention
17 Center?

18 A. **No.**

19 Q. Did you inquire of anyone as to what
20 his duties were?

21 A. **Yes.**

22 Q. Who did you inquire of?

23 A. **Mr. Brennan.**

24 Q. What did Mr. Brennan tell you?

25 A. **He said, "to be honest with you, he is not**

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1 **doing much."**

2 **Q.** How did you feel about that when you
3 heard that?

4 **A. I was not happy about that.**

5 **Q.** When he said he was not doing much,
6 did you know what that meant?

7 **A. No.**

8 **Q.** Did you ask him, "why is he there
9 not doing much?"

10 **A. No.**

11 **Q.** Did you ask Mr. Guzzo why is Mr.
12 Lapolla at the Juvenile Detention Center not
13 doing much?

14 **A. No.**

15 **Q.** Did you ask Mr. Graziano, why is Mr.
16 Lapolla at the Juvenile Detention Center not
17 doing much?

18 **A. No.**

19 **Q.** Did you ever contact Mr. Lyons to
20 find out if Mr. Lapolla was doing anything?

21 **A. No.**

22 **Q.** Do you have any knowledge today
23 whether or not Mr. Lapolla had any duties or
24 responsibilities when he was at the Juvenile
25 Detention Center?

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1 about his role as County Manager.

2 **Q.** In your role as County Manager did
3 you make any attempt to investigate whether or
4 not the allegation that Mr. Lapolla made that he
5 had nothing to do in his job at the JDC was true?

6 **MR. VARADY:** I am going to object.

7 You started this line of questioning with this
8 meeting and that is not the allegation in this
9 meeting. Are you talking about the lawsuit that
10 he didn't see? That is where I am mixed up. You
11 were asking a line of questions about a meeting.
12 In this memorandum it doesn't say that Mr.
13 Lapolla was doing nothing. And Mr. Faella didn't
14 say was he doing nothing. He was told he was
15 doing very little.

16 **MS. FELLMAN:** All right. Let me go
17 back.

18 **Q.** Did you make any attempt to
19 investigate the extent to which Mr. Lapolla was
20 performing any duties?

21 **MR. VARADY:** At what time?

22 **MS. FELLMAN:** At the Juvenile
23 Detention Center.

24 **Q.** After you had the conversation with
25 Mr. Graziano and Mr. Brennan following receipt of

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1 **A. I am not aware of what his
2 responsibilities were or were not.**

3 **Q.** You made no attempt to investigate
4 to find out whether his allegation that he had
5 nothing to do at the Juvenile Detention Center
6 was true?

7 **MR. VARADY:** Object to the form of
8 the question.

9 **MS. FELLMAN:** Let me restate it.

10 **Q.** Did you make any attempt to
11 determine whether or not what Mr. Lapolla said
12 was true, specifically that he had no duties,
13 nothing to do --

14 **MR. VARADY:** Object to the form of
15 the question.

16 **Q.** -- at the Juvenile Detention Center?

17 **MR. RENAUD:** You know what, I am
18 going to object to the question. I can't direct
19 him not to answer.

20 **MR. VARADY:** Let's hear the
21 objection.

22 **MR. RENAUD:** The objection is that
23 the question may implicate discussions regarding
24 the defense of this case.

25 **MS. FELLMAN:** Well, I am asking him

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1 this letter --

2 **MR. VARADY:** You want to try again?

3 **Q.** Did you make any attempt after you
4 had the conversation that is referenced in this
5 letter marked Brennan-1, did you make any attempt
6 to find out what the extent was of the duties
7 that Mr. Lapolla was actually performing at the
8 Juvenile Detention Center, in your role as County
9 Manager?

10 **A. No. What I said was, to Mr. Brennan, then
11 we need to make sure all our employees are doing
12 what they are supposed to be doing and doing a
13 job.**

14 **Q.** Did you ask Mr. Brennan how did it
15 come to be that Mr. Lapolla was at this job where
16 he was, according to Mr. Brennan, not doing much?

17 **A. No.**

18 **Q.** You didn't ask that?

19 **A. No.**

20 **Q.** Did that concern you as to how that
21 came to be?

22 **A. What concerned me was how we are going to
23 deal with it and how we are going to correct it.**

24 **Q.** What was your determination as to
25 how to correct this problem?

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1 **A. As stated in here we discussed the**
 2 **County's maintenance needs in a number of**
 3 **facilities. And Mr. Brennan indicated that there**
 4 **was a need to have an individual to oversee the**
 5 **stables, trailside and deserted village where**
 6 **there were plans to do a number of extensive**
 7 **renovations to those facilities.**

8 MS. FELLMAN: Can you read that
 9 back.

10 (Whereupon the previous answer was
 11 read back as follows:

12 **A. As stated in here we discussed the**
 13 **County's maintenance needs in a number of**
 14 **facilities. And Mr. Brennan indicated that there**
 15 **was a need to have an individual to oversee the**
 16 **stables, trailside and deserted village where**
 17 **there were plans to do a number of extensive**
 18 **renovations to those facilities.)**

19 (Record resumed.)

20 BY MS. FELLMAN:

21 **Q.** I apologize, sir, if I asked you
 22 this. The lawsuit that was marked DD-1 is dated
 23 September 12, 2011. Do you see that?

24 **A. I do.**

25 **Q.** And I will represent to you that

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1 this was filed in court by way of a verified
 2 complaint on September 13, 2011.

3 **MR. VARADY:** You want to tell us
 4 when it was served?

5 **MS. FELLMAN:** I can't tell you, I
 6 don't have the service date.

7 **Q.** My question to you is --

8 **MR. VARADY:** It is important.

9 **MS. FELLMAN:** It may be that it is
 10 important.

11 **Q.** This is a month later after this was
 12 actually filed in court, the complaint was filed
 13 in court. This letter of October 24, 2011 was a
 14 month later after the date that this lawsuit was
 15 filed in court which is dated September 13, 2011.
 16 It is over a month later.

17 My question to you is, with that in
 18 mind, is it your testimony that you had no
 19 knowledge of this lawsuit?

20 **MR. VARADY:** I am going to object to
 21 it for the very reason I stated. The fact that a
 22 lawsuit is filed doesn't mean that it is served
 23 on anybody. Mr. Faella isn't a named defendant
 24 so it wouldn't be served on him.

25 You can be as incredulous as you

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1 want that it was a mother later.

2 **MS. FELLMAN:** I am just pointing
 3 this out to him to be sure.

4 **Q.** That you are sure you had no
 5 knowledge of this lawsuit?

6 **MR. RENAUD:** Did he say that he had
 7 no knowledge or he doesn't recall.

8 **Q.** Did you have knowledge of this
 9 lawsuit in or about October 24, 2011, yes or no?

10 **A. Yes.**

11 **Q.** You did have knowledge?

12 **A. Yes.**

13 **Q.** You knew that Mr. Lapolla had
 14 brought a lawsuit. Did you know that he had
 15 brought a lawsuit based on the fact that he was
 16 in the Juvenile Detention Center?

17 **A. No, I did not know the particulars.**

18 **Q.** You did not know that?

19 **A. No, this was my first month on the job and**
 20 **I was absorbing -- second month, and there was a**
 21 **lot of things that were being communicated to me**
 22 **and shown to me and given to me.**

23 Yes, at some point I do recall being
 24 told that Mr. Lapolla had filed a lawsuit. Not
 25 about the particulars or allegations or anything

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1 along those lines.

2 **Q.** The procedure in the County, if the
 3 County is served with a lawsuit, does it go to
 4 your office?

5 **A. No.**

6 **Q.** Where does it go?

7 **A. County Counsel's office.**

8 **Q.** Going back. So Mr. Brennan told you
 9 that there were maintenance needs -- you
 10 discussed maintenance needs at a variety of
 11 locations?

12 **A. Yes.**

13 **Q.** What locations did you discuss?

14 **A. I don't recall.**

15 **Q.** You said Mr. Brennan represented to
 16 you that there were maintenance needs at the
 17 Watchung Stables?

18 **A. Watchung Stables, Trailside Center and the**
 19 **Deserted Village. Also, as I mentioned, there**
 20 **were some discussions about making some additions**
 21 **and some renovations to those facilities as well.**

22 **Q.** There was some discussion about
 23 that?

24 **A. Yes.**

25 **Q.** Had there been anything beyond

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- 1 discussion about that, like plans or submissions
 2 or proposals or anything?
 3 **A. No.**
 4 **Q.** Has there ever been any renovations
 5 to the Watchung Stables, the Trailside or the
 6 Deserted Village?
 7 **A. Yes.**
 8 **Q.** What was actually done?
 9 **A. The Stables, there were some new rings**
 10 **that were added, some repairs were made to the**
 11 **Stable. Trailside there was some roof repair,**
 12 **there was some -- at the Deserted Village there**
 13 **was some renovations made to one particular**
 14 **building that is now being utilized quite a bit.**
 15 **Q.** What was the nature of those
 16 renovations to that building?
 17 **A. They were repaired. With regard to the**
 18 **Deserted Village, it was a building that was not**
 19 **able to be inhabited. So the necessary repairs**
 20 **were made and now it is being used for historical**
 21 **workshops, things of that nature, guest speakers,**
 22 **things along those lines.**
 23 **Q.** So as far as you recall Trailside
 24 had a roof repair, the Stable had some new rings?
 25 **A. Right.**

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- 1 whether or not there was actually a need for one
 2 person to be assigned to these three facilities,
 3 to oversee the maintenance?
 4 **A. I don't understand the question.**
 5 **Q.** Mr. Brennan told you that in his
 6 view there needed to be someone to oversee the
 7 maintenance and potential renovations of the
 8 facilities, these three facilities, right?
 9 **A. Yes.**
 10 **Q.** Did you make any independent
 11 assessment whether or not that was true?
 12 **A. No.**
 13 **Q.** Did you look to see if that would be
 14 the best use of the County's money paying Mr.
 15 Lapolla his salary in excess of \$120,000 a year?
 16 **A. When Mr. Brennan said that there was not**
 17 **one individual that was assigned I said "well,**
 18 **what does that mean?"**
 19 He said that "sometimes repairs
 20 aren't done in a timely manner and there could be
 21 safety issues." So it would be a good idea in
 22 his view to oversee that.
 23 I thought that made sense.
 24 **Q.** Did you look to see whether there
 25 was any position that would have been a better

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- 1 **Q.** For the people who ride the horses?
 2 **A. That's correct.**
 3 **Q.** And the Deserted Village there was a
 4 renovation to a building that you told us about?
 5 **A. Yes.**
 6 **Q.** Any other renovations to these three
 7 facilities?
 8 **A. There was wifi installed at Trailside**
 9 **Facility. I don't know if you call that a**
 10 **renovation. That is all I can think of right**
 11 **now.**
 12 **Q.** And Mr. Brennan told you that he
 13 believed there was a need to oversee what at
 14 these facilities?
 15 **A. The maintenance and repair of the**
 16 **facilities.**
 17 **Q.** Who had been overseeing the
 18 maintenance of these facilities before Mr.
 19 Lapolla was assigned there?
 20 **A. According to Mr. Brennan it wasn't one**
 21 **particular individual. It was various**
 22 **individuals from Park Maintenance or Facilities,**
 23 **but there wasn't one, according to him, there was**
 24 **not one individual specifically assigned.**
 25 **Q.** Did you make any assessment of

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- 1 use of County money to pay Mr. Lapolla to work
 2 at?
 3 **A. I did ask that question, yes.**
 4 **Q.** Who did you ask it of?
 5 **A. Mr. Brennan.**
 6 **Q.** What did he say?
 7 **A. He said no, there were no other positions**
 8 **or spots where he felt that he needed someone.**
 9 **That he thought this was the best position to**
 10 **place Mr. Lapolla.**
 11 **Q.** Mr. Brennan was Mr. Lapolla's
 12 supervisor, is that correct?
 13 **A. Yes.**
 14 **Q.** And Mr. Brennan at the time, what
 15 was his job at the time?
 16 **A. I believe he was the division head of --**
 17 **this is what, 2011. Just read it. Division head**
 18 **of Park Maintenance.**
 19 **Q.** And as division head of Park
 20 Maintenance did Mr. Brennan have any duties
 21 supervising any of the trades people?
 22 **A. Not directly.**
 23 **Q.** Mr. Brennan's job as division head
 24 of Park Maintenance was to keep the parks mowed
 25 and keep the toilets at the park fixed if they

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- 1 needed to get fixed or something, correct?
- 2 **A. Correct.**
- 3 **Q.** Did you ever discuss with Mr.
- 4 Graziano whether or not there would be a place
- 5 within his department that Mr. Lapolla would be
- 6 suited to work?
- 7 **A. Yes.**
- 8 **Q.** What did he say?
- 9 **A. He said he will look and see if something**
- 10 **else comes up.**
- 11 **Q.** Was that statement by Mr. Graziano
- 12 before or after the decision was made to put Mr.
- 13 Lapolla at the Watchung Stables?
- 14 **A. It was actually at the same time. Mr.**
- 15 **Graziano was also in this meeting with Mr.**
- 16 **Brennan and myself.**
- 17 **Q.** Right.
- 18 **A. So I said to Mr. Graziano, I asked him the**
- 19 **same question that I asked Mr. Brennan, "are**
- 20 **there any other positions?"**
- 21 He said "I will look and see if
- 22 anything else comes up."
- 23 **Q.** Did you know whether there were any
- 24 other openings?
- 25 **A. I am not aware at the present time whether**

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- 1 that position where Mr. --
- 2 **MR. VARADY:** Object to the form of
- 3 the question.
- 4 **Q.** -- where Mr. Palmieri was?
- 5 **MR. VARADY:** Object to the form of
- 6 the question. You can answer.
- 7 **A. No.**
- 8 **Q.** Did you, when Mr. Palmieri left his
- 9 position, did you call Mr. Graziano and say
- 10 "let's move Mr. Lapolla from the Stables back
- 11 into the position where Mr. Palmieri was?"
- 12 **A. No.**
- 13 **Q.** Did you have an understanding at any
- 14 time after October 24, 2011 what it was that Mr.
- 15 Lapolla was doing at the Watchung Stables?
- 16 **A. Yes.**
- 17 **Q.** What did you understand?
- 18 **A. That he was overseeing the maintenance and**
- 19 **repair of the facilities.**
- 20 **Q.** What did that mean "overseeing the
- 21 maintenance and repair of the facilities?"
- 22 **A. Ensuring that if there were repairs that**
- 23 **needed to be made or upgrades that they were done**
- 24 **or if there was something broke, say the**
- 25 **facility, the manager of that particular facility**

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- 1 **there are or are not.**
- 2 **Q.** Did you ask Mr. Graziano whether
- 3 there were any openings in his department?
- 4 **A. As I stated, I asked him if there were any**
- 5 **other positions and he said he would look and**
- 6 **see.**
- 7 **Q.** Did he ever get back to you?
- 8 **A. He did not.**
- 9 **Q.** Did you ever get back to him?
- 10 **A. No.**
- 11 **Q.** Did anyone think that when Mr.
- 12 Palmieri resigned his position that that would be
- 13 the position for Mr. Lapolla to go into?
- 14 **A. I don't know.**
- 15 **Q.** Well, you were the County Manager --
- 16 **MR. VARADY:** The question was
- 17 whether there was anybody.
- 18 **MS. FELLMAN:** I'm sorry?
- 19 **MR. RENAUD:** Your question was
- 20 whether there anybody.
- 21 **Q.** Let me restate the question.
- 22 When Mr. Palmieri vacated his
- 23 position and Mr. Graziano said that he would see
- 24 if there were other positions, did Mr. Graziano
- 25 come to you and say let's put Mr. Lapolla back in

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- 1 **said there is a problem, there is something that**
- 2 **needs attention, that it would get taken care of**
- 3 **and a work order would be issued and the work**
- 4 **would be done.**
- 5 **Q.** Who issued the work order if a
- 6 repair needed to be made at the Watchung Stables
- 7 or the other two facilities?
- 8 **A. I don't know. Someone in the Department**
- 9 **of Public Works or the Division of Park**
- 10 **Maintenance. There are a number of people that**
- 11 **can actually put work orders in. It wouldn't be**
- 12 **one specific person.**
- 13 **Q.** Have you ever made an assessment,
- 14 yourself, since October of 2011 to the present
- 15 date whether or not what Mr. Lapolla is doing at
- 16 the Watchung Stables and the other two facilities
- 17 is good use of the County's money?
- 18 **A. No.**
- 19 **Q.** Why not?
- 20 **A. Because I relied on, and I do rely on my**
- 21 **department heads and my division heads to tell me**
- 22 **and to tell me is personnel being used properly.**
- 23 **Q.** Have you ever had a discussion with
- 24 Mr. Graziano, Mr. Guzzo, Mr. Brennan about
- 25 whether or not what Mr. Lapolla is doing at the

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1 Watchung Stables and the other two facilities is
2 a good use of the \$120,000 plus salary that he is
3 making?

4 **A. Yes.**

5 **Q.** Tell me about any conversations you
6 had.

7 **A. As I stated previously, I asked what he is
8 doing and what tasks needs to be performed there
9 and Mr. Brennan told me what those things were.**

10 **And I feel that all those facilities are very
11 important, they are utilized by a lot of County
12 residents and making sure they are maintained
13 properly, I think is important.**

14 **Also, there was, again, as I
15 mentioned, there was some discussion about doing
16 some expansion at the Watchung Stables. But for
17 budgetary reasons those never went forward.**

18 **Q.** So since you had the discussion with
19 Mr. Graziano, which is reflected in this
20 Brennan-1, where the decision was made, where you
21 made the decision to assign Mr. Lapolla to the
22 Watchung Stables and the other facilities that we
23 have talked about, since that time have you
24 spoken with Mr. Brennan, Mr. Graziano, Mr. Guzzo
25 or anyone else to determine whether what in fact

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1 Mr. Lapolla is doing at the Watchung Stables and
2 the other two facilities is a good use of the
3 County's money?

4 **MR. VARADY:** Objection. You just
5 asked that question. Let's move on.

6 **MS. FELLMAN:** No.

7 **MR. VARADY:** You did.

8 **MS. FELLMAN:** No, I want to know if
9 since.

10 **Q.** You told me you spoke about it at
11 the time. My question is since then, since
12 October of 2011 have you had a conversation with
13 anybody who reports to you or anybody who reports
14 to any of your directors about whether or not
15 what Mr. Lapolla is actually doing at the
16 Watchung Stables and the other two facilities is
17 a good use of the County money?

18 **MR. VARADY:** Two objections. One it
19 has been asked and answered. Number two, I
20 object to the form of the question as being
21 probably five or six different questions but you
22 can answer for the sake of moving on. My
23 objections are noted.

24 **MS. FELLMAN:** I disagree with your
25 objections. Go ahead, sir.

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1 **MR. VARADY:** It doesn't matter if
2 you agree with my objection. You are not judge.
3 Let's move on here because you are repeating
4 yourself.

5 **MS. FELLMAN:** No, I didn't get an
6 answer that since October 2011 you have had any
7 discussions.

8 **MR. VARADY:** Answer the question.

9 **A. Yes.**

10 **Q.** What discussions have you had?

11 **A. As I stated previously I asked Mr. Brennan
12 what Mr. Lapolla was doing and he told me he was
13 overseeing these repairs and as I stated these
14 are important facilities that are utilized by
15 many County employees. So I do think that it is
16 important to keep these facilities operating
17 properly.**

18 **Q.** When did you have this discussion
19 with Mr. Brennan?

20 **MR. VARADY:** Objection to the form
21 of the question. You said discussions.

22 **Q.** When did you have these discussions
23 with Mr. Brennan?

24 **A. I don't recall.**

25 **Q.** But since October 2011 you have had

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1 these discussions?

2 **MR. VARADY:** Objection. Asked and
3 answered.

4 **MS. FELLMAN:** I just want to make
5 sure it is clear.

6 **MR. VARADY:** It is clear, move on.

7 **Q.** You have had discussions with Mr.
8 Brennan and he has told you, that, yes, Mr.
9 Lapolla is doing something, is that what he told
10 you?

11 **A. Yes.**

12 **Q.** Did he tell you specifically what he
13 is doing?

14 **A. No.**

15 **Q.** Do you know whether or not any of
16 the people that come to do work at the Watchung
17 Stables or the other two facilities actually take
18 any instruction from Mr. Lapolla?

19 **A. No.**

20 **Q.** So as far as you know they don't
21 take instruction?

22 **MR. VARADY:** Objection. That is not
23 what he said.

24 **MR. RENAUD:** Objection.

25 **A. I don't know the answer to the question.**

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1 Q. You don't know whether they do or
2 they don't?
3 A. **That's correct.**
4 Q. Did Mr. Lapolla ever ask to speak to
5 you?
6 A. **Yes.**
7 Q. How many occasions?
8 A. **Two or three.**
9 Q. And did you speak to him?
10 A. **No.**
11 Q. Why not?
12 A. **I was advised by my County Counsel not to**
13 **because there was a pending lawsuit.**
14 MR. RENAUD: Objection. I was going
15 to say you probably shouldn't be telling what
16 County Counsel is telling you. But the cat is
17 out of the bag now.
18 THE WITNESS: I am answering the
19 question honestly.
20 MS. FELLMAN: I think it is
21 perfectly acceptable for him to give his reason
22 why he didn't speak.
23 MR. VARADY: He answered the
24 question. You want to ask the next one.
25 THE WITNESS: Again, I am just

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1 trying to be as honest as I can here.
2 Q. Did you tell Mr. Lapolla that there
3 is no need to speak to him? Did you ever
4 communicate with Mr. Lapolla that you see no need
5 to speak to him?
6 A. **No.**
7 Q. Do you know what it was Mr. Lapolla
8 wanted to speak to you about?
9 A. **I do not.**
10 Q. If you were to know that Mr. Lapolla
11 wanted to speak to you about the circumstances of
12 the position he is in at the Watchung Stables,
13 would you speak with him?
14 MR. VARADY: Objection. He is not
15 here to answer hypothetical questions. Don't
16 answer that.
17 MS. FELLMAN: You are not going to
18 let him answer?
19 MR. VARADY: Correct.
20 Q. The two pages that are attached to
21 this letter, it says that a copy of your job
22 duties is attached. So that is 00056 and 00057.
23 Could you just look those over. You
24 don't have to read them in detail. I just want
25 to ask you generally about it. Let me just try

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1 to fast track --
2 MR. VARADY: Can he finish looking
3 at the document please?
4 A. **Okay.**
5 Q. Who prepared this list of job
6 duties?
7 A. **I don't know.**
8 Q. Going on. The next, it is
9 Brennan-2, it is bates stamped 00058. And you
10 will see at the last sentence there it says, "in
11 the interim please continue reporting to the
12 Juvenile Detention Center until further notice."
13 A. **Okay.**
14 Q. And it is correct, sir, that you
15 never made a determination as to what Mr. Lapolla
16 was actually doing at the Juvenile Detention
17 Center, is that correct?
18 A. **Yes.**
19 Q. Going on. Brennan-3, bates stamp
20 00060.
21 A. **Okay.**
22 Q. You are copied on this letter,
23 correct?
24 A. **Yes.**
25 Q. Do you recall whether or not you

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1 received this?
2 A. **I don't recall.**
3 Q. Did you ever make any inquiry as to
4 whether or not what Mr. Lapolla states in this
5 letter about Mr. Brennan's knowledge of the
6 circumstances of the Juvenile Detention Facility,
7 whether that was true or not?
8 A. **No.**
9 Q. You see the third paragraph where
10 Mr. Lapolla says that he is concerned that
11 responsibilities outlined in the memo are not
12 supervisory, do you see that?
13 A. **Yes.**
14 Q. Did you do anything to determine
15 whether or not Mr. Lapolla's job duties that were
16 outlined were supervisory as required by his
17 civil service title?
18 A. **No.**
19 Q. Next one is Brennan-4.
20 MR. VARADY: We are dealing with
21 Friday, December 9, 2011, to Richmond Lapolla
22 from Michael Brennan, re: Assignment?
23 MS. FELLMAN: Yes.
24 Q. Would you take a look at this, sir.
25 A. **Okay.**

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1 Q. Two people mentioned in here, Lewis
 2 McKnight and Pete Zimbaro, see them mentioned at
 3 the bottom of the page?
 4 A. I do.
 5 Q. Do you know who those people are?
 6 A. Yes.
 7 Q. Who are they?
 8 A. **Individuals who are employed by the County**
 9 **of Union.**
 10 Q. What is their job title and/or
 11 function?
 12 A. **I don't know.**
 13 Q. Do you know whether or not in fact
 14 Mr. Lapolla supervises them?
 15 A. **I do not.**
 16 Q. There is back and forth here
 17 regarding the state of the Juvenile Detention
 18 Center facility where Mr. Lapolla was located,
 19 what the state was. Do you see that reference to
 20 that in the last paragraph?
 21 MR. VARADY: Where are you?
 22 MS. FELLMAN: Last paragraph of the
 23 letter.
 24 MR. VARADY: You want him to read
 25 that?

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1 were performing no work," as you contend. Did
 2 you ever make a determination whether or not that
 3 was true?
 4 A. **I believe previously I stated that Mr.**
 5 **Brennan stated that Mr. Lapolla really wasn't**
 6 **doing very much at the Juvenile Detention and I**
 7 **accepted that statement.**
 8 Q. Mr. Lapolla contends he had no work.
 9 Did you ever determine whether or not that was
 10 true?
 11 A. **No.**
 12 Q. Next one is 00063, Brennan-5.
 13 A. **Okay.**
 14 Q. You are copied on this letter as
 15 well?
 16 A. **Um hum.**
 17 Q. Yes, sir?
 18 MR. VARADY: You have to say yes or
 19 no.
 20 A. **I am sorry, yes.**
 21 Q. And according to what Mr. Lapolla
 22 says here, "Mr. Brennan never came back to 'my
 23 office' nor phoned me to question me as to my
 24 work duties, etcetera."
 25 MR. VARADY: He is addressing Mr.

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1 MS. FELLMAN: Just read it to
 2 yourself.
 3 A. **Okay.**
 4 Q. Did you make any inquiry as to what
 5 the actual state of the place where Mr. Lapolla
 6 was located?
 7 MR. VARADY: After receiving a copy
 8 of this memo which he doesn't recall receiving.
 9 MS. FELLMAN: Well, I don't know.
 10 There are all these letters that you are copied
 11 on.
 12 Q. Do you really think you didn't get
 13 copies of these letters?
 14 A. **You asked me the question if I recall**
 15 **receiving the memo and I answered no.**
 16 Q. Chances are you got the copies,
 17 right?
 18 A. **Yes.**
 19 Q. Did you do anything about trying to
 20 determine what the state of the location was
 21 where Mr. Lapolla was working?
 22 A. **No.**
 23 Q. Did you do anything to determine
 24 whether or not what Mr. Lapolla says which is
 25 that he had no work, as you see here, quote "you

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1 Brennan in the letter. It is not the third
 2 person.
 3 MS. FELLMAN: Let me restate it.
 4 Q. Mr. Lapolla states to Mr. Brennan --
 5 MR. VARADY: In the letter.
 6 MS. FELLMAN: In the letter.
 7 Q. "You never came back to 'my office'
 8 nor phoned me to question me as to my work duties
 9 etcetera. After the first day you took me to the
 10 Linden office, you never returned again."
 11 Do you see that?
 12 A. **Yes.**
 13 Q. Did you ever make a determination
 14 whether that was true or not?
 15 A. **No.**
 16 Q. Did you question Mr. Brennan about
 17 it after you got a copy of Mr. Lapolla's letter?
 18 A. **No.**
 19 Q. Now Mr. Lapolla in these various
 20 letters is questioning that this assignment at
 21 the Watchung Stables and the other two facilities
 22 does not match his civil service job description.
 23 You understood that, correct?
 24 MR. VARADY: Understood what?
 25 MS. FELLMAN: That that was Mr.

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1 Lapolla's contention.
 2 MR. VARADY: Don't you have to lay a
 3 foundation.
 4 MS. FELLMAN: Are we going to go
 5 through this again?
 6 MR. VARADY: Yes, you do.
 7 MS. FELLMAN: I'll go through this
 8 again.
 9 Q. There are several letters over and
 10 over again, you are copied on these letters. You
 11 have no reason to believe that you didn't receive
 12 these letters, that by normal course you would
 13 get the letters, correct?
 14 MR. RENAUD: Object to the form of
 15 the question.
 16 MR. VARADY: Object to the form of
 17 the question.
 18 Q. Is that correct, sir?
 19 A. Yes.
 20 Q. Now, my question is, in these
 21 letters Mr. Lapolla is repeatedly questioning
 22 that the job description and the job duties that
 23 he is being given at the Watchung Stables does
 24 not meet his civil service job description. You
 25 understand that?

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1 Are you asking him in terms of legally or is that
 2 somebody's job?
 3 MS. FELLMAN: Yes, somebody's job.
 4 MR. RENAUD: You asked if they could
 5 make a determination. That is what my objection
 6 is.
 7 MS. FELLMAN: Let me restate the
 8 question.
 9 Q. If there is a question as to whether
 10 or not a job that you want to assign one of your
 11 employees to does or does not satisfy the
 12 requirements of that person's civil service
 13 title, is there someone in the County other than
 14 going to legal counsel in the County, is there
 15 someone whose job it is to make that assessment?
 16 A. Yes.
 17 Q. Who is that?
 18 A. The Director of Administration.
 19 Q. And that is now Mr. Albert?
 20 A. Now is Mr. Albert, yes.
 21 Q. Who was it before Mr. Albert?
 22 A. Matthew Dorado.
 23 Q. Where is Mr. Dorado now? Is he
 24 still with the County?
 25 A. No.

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1 A. Yes.
 2 Q. Did you know that at the time you
 3 got these letters that was his contention, that
 4 the job at the Watchung Stables did not meet his
 5 civil service job description?
 6 A. Yes.
 7 Q. What did you do about that?
 8 A. I spoke to Mr. Brennan about it. And he
 9 said that it is his understanding that it does
 10 meet the civil service requirements.
 11 Q. Did you ask him why?
 12 A. I did not.
 13 Q. Did you go any further than ask Mr.
 14 Brennan, Mr. Brennan's opinion?
 15 A. I did not.
 16 Q. Is there someone in the County that
 17 can make an assessment of whether a job that a
 18 civil service employee is assigned to actually
 19 meet their civil service job description?
 20 MR. RENAUD: I object. What does
 21 someone in the County mean?
 22 Q. Like someone in administration or
 23 someone in personnel, is there someone who holds
 24 that as a job function?
 25 MR. RENAUD: I just want to clarify.

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1 Q. He left the County?
 2 A. Yes.
 3 Q. Do you know why he left?
 4 A. He took another position.
 5 Q. When was it approximately that Mr.
 6 Dorado left?
 7 A. The end of the year. I don't remember if
 8 it was the end of 2012 or 2013. I am not sure.
 9 Q. Did you contact Mr. Dorado or if Mr.
 10 Albert was already in the new position about
 11 whether or not Mr. Lapolla's stated concern that
 12 the job at the Watchung Stables does not meet his
 13 civil service job description?
 14 A. Mr. Brennan indicated to me that he spoke
 15 with Mr. Dorado about it.
 16 Q. Tell me about that conversation
 17 between you and Mr. Brennan.
 18 A. Mr. Brennan indicated that it was his
 19 belief, his understanding that the job did meet
 20 civil service requirements but he wanted to get
 21 the opinion of Mr. Dorado. Mr. Dorado stated
 22 that in his opinion it was in conjunction and
 23 appropriate to his job description.
 24 Q. If you would look at the next
 25 document, Brennan-6, do you recognize this

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1 document, sir?
 2 **A. No.**
 3 **Q.** Have you ever seen this document
 4 before?
 5 **A. No.**
 6 **Q.** Going on. The next one is Brennan-7
 7 which is several pictures. I would just ask you
 8 to look through them and let me generally ask you
 9 about them and then we will go from there.
 10 **A. Okay.**
 11 **Q.** Have you ever seen these pictures
 12 before?
 13 **A. No.**
 14 **Q.** Do you recognize what they are
 15 depicting?
 16 **A. Yes.**
 17 **Q.** What are they depicting?
 18 **A. The Juvenile Detention Facility.**
 19 **Q.** And how do you know that that is
 20 what they are depicting?
 21 **A. I have been in the Facility a number of**
 22 **times.**
 23 **Q.** Who is assigned to the Juvenile
 24 Detention Facility now, once Mr. Lapolla was
 25 moved out?

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1 that, correct?
 2 **A. Yes.**
 3 **Q.** When you gave final approval to Mr.
 4 Brennan for Mr. Lapolla to be moved from the
 5 Juvenile Detention Center to the Watchung Stable,
 6 who did you put into the position at the Juvenile
 7 Detention Center?
 8 **MR. VARADY:** Objection.
 9 **MS. FELLMAN:** In his place.
 10 **MR. VARADY:** Objection. Assumes
 11 that he did that.
 12 **Q.** Did anyone put someone into the
 13 position vacated by Mr. Lapolla when Mr. Lapolla
 14 was moved from the Juvenile Detention Center to
 15 the Watchung Stables?
 16 **MR. VARADY:** Object to the form of
 17 the question. You can answer.
 18 **A. No.**
 19 **Q.** Why not?
 20 **A. I don't know. I left that decision to Mr.**
 21 **Brennan.**
 22 **Q.** Did you discuss whether there was a
 23 need for someone at the Juvenile Detention Center
 24 after Mr. Lapolla was removed from that position
 25 or transferred out of that position?

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1 **A. I do not know.**
 2 **Q.** Well you moved him out, correct?
 3 **A. I concurred with the recommendation to**
 4 **reassign him.**
 5 **Q.** You were the County Manager and it
 6 would have been your final decision to move Mr.
 7 Lapolla out of the Juvenile Detention Center into
 8 the Watchung Stable position, correct?
 9 **MR. RENAUD:** I object to the form of
 10 the question. He really phrased it correctly and
 11 you are changing his answer.
 12 **MS. FELLMAN:** Let me restate the
 13 question.
 14 **MR. VARADY:** He answered already.
 15 **MR. RENAUD:** He said he concurred
 16 with the decision that was made by somebody else
 17 if I remember correctly.
 18 **Q.** Was it Mr. Brennan's decision to
 19 move Mr. Lapolla from the Juvenile Detention
 20 Center to the Watchung Stable's position?
 21 **A. Yes.**
 22 **Q.** Could he make that decision without
 23 you giving your approval?
 24 **A. No.**
 25 **Q.** So you had to give final approval to

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1 **A. No.**
 2 **Q.** Why not?
 3 **A. Again, because I leave those decisions --**
 4 **I left that decision to the division head.**
 5 **Q.** Did you discuss the need for someone
 6 at the Juvenile Detention Center, after Mr.
 7 Lapolla was taken out of the position, did you
 8 discuss the need for that with anybody, Mr.
 9 Graziano, Mr. Guzzo, Mr. Lyons or anybody?
 10 **A. No.**
 11 **Q.** Did anyone ever come to you and say
 12 "now that Mr. Lapolla is not in that position at
 13 the Juvenile Detention Center we need someone to
 14 be put in that position?"
 15 **A. No.**
 16 **Q.** That has never been brought up to
 17 you at all?
 18 **A. No, ma'am.**
 19 **Q.** Now, have you assigned anyone, since
 20 you have been the County Manager, has anyone been
 21 assigned to, anyone from the County, been
 22 assigned to a facility to oversee a construction
 23 project?
 24 **A. I am not sure.**
 25 **Q.** Since you have been County Manager,

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- 1 has there been any large construction projects
 2 that the County has been involved with, shared
 3 with the state or someone else?
 4 **A. Yes.**
 5 **Q.** What projects were those?
 6 **A. The county courthouse renovation. Which**
 7 **is ongoing.**
 8 **Q.** How many millions of dollars was
 9 that project?
 10 **A. Approximately 26 million.**
 11 **Q.** And that was started after you
 12 became County Manager?
 13 **A. No.**
 14 **Q.** When was it started?
 15 **A. In 2004, I believe.**
 16 **Q.** The \$26 million, has that been paid
 17 out over a period of time?
 18 **A. Most of it has not been paid out. As I**
 19 **mentioned, it is an ongoing project.**
 20 **Q.** Has any of it been paid out?
 21 **A. Yes.**
 22 **Q.** How much of it has been paid out?
 23 **A. A couple of million. I don't know the**
 24 **exact amount.**
 25 **Q.** Who is the general contractor?

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- 1 **A. That's correct.**
 2 **Q.** Since there was a construction
 3 manager company on-site there is no one from the
 4 County assigned to also participate and oversee
 5 the construction and the renovation, correct?
 6 **A. That's correct.**
 7 **Q.** As far as you know is there any
 8 other major construction or renovation project
 9 going on at the County or that is in the works
 10 since you have been County Manager?
 11 **A. No.**
 12 **Q.** Have you ever heard of Jingoli?
 13 **A. Yes.**
 14 **Q.** And is Jingoli a construction
 15 manager company?
 16 **A. I believe so.**
 17 **Q.** And is that the same as what Mast
 18 Construction is?
 19 **A. I believe so.**
 20 **Q.** Did Jingoli bid for this project,
 21 for the courthouse renovation project?
 22 **A. I don't know.**
 23 **Q.** Do you know whether or not Jingoli
 24 was considered for this project to provide these
 25 services with regard to the renovation of the

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- 1 **A. I am not sure.**
 2 **Q.** Jingoli?
 3 **A. I am not sure.**
 4 **Q.** Who is the architect?
 5 **A. Netta Architects.**
 6 **Q.** There is a general contractor
 7 assigned to the project, correct?
 8 **A. Yes.**
 9 **Q.** Is there anyone from the County of
 10 Union assigned to the project, the county
 11 courthouse renovation?
 12 **A. No.**
 13 **Q.** Why not?
 14 **A. The County has contracted with Mast**
 15 **Construction to oversee the construction of the**
 16 **project.**
 17 **MS. FELLMAN:** Read that back.
 18 **(Whereupon the previous answer was**
 19 **read back as follows:**
 20 **A. The County has contracted with Mast**
 21 **Construction to oversee the construction of the**
 22 **project.)**
 23 **(Record resumed.)**
 24 **Q.** Mast Construction is a construction
 25 manager company?

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- 1 courthouse?
 2 **A. I don't know. What I do know is that the**
 3 **state has a process: There are request for**
 4 **proposals, those proposals are reviewed and there**
 5 **are rules and regulations, rules of bidder,**
 6 **things of that nature. I don't know who the**
 7 **bidders were.**
 8 **Q.** Is there a new school being built at
 9 the Vo-Tech?
 10 **A. There -- I am not sure. There has been**
 11 **discussion about it. I am not sure if it is**
 12 **actually in progress or not.**
 13 **Q.** Has there been any construction
 14 going on at the Vo-Tech since you have become
 15 County Manager?
 16 **A. I don't believe so. I think a project may**
 17 **have been finished just as I was coming in. But**
 18 **I don't think we started any new projects. I**
 19 **don't think.**
 20 **Q.** Since you have been County Manager
 21 has there ever been anyone from the County of
 22 Union assigned to report to work on a day-to-day
 23 basis at the Vo-Tech facility?
 24 **A. No.**
 25 **Q.** You said there is a discussion about

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1 a project, an expansion on the project at the
2 Vo-Tech. What stage is it in?

3 **A. I don't know. The Vo-Tech is not directly**
4 **under my responsibility. So I don't know -- that**
5 **is why I don't know the specifics.**

6 **Q.** What do you mean none of the Vo-Tech
7 is under your responsibility?

8 **MR. VARADY:** Under his direct
9 responsibility.

10 **A. The Vocational Technical School is not**
11 **under my direct responsibility.**

12 **Q.** Have you been contacted by anyone
13 from the Vo-Tech since you have been County
14 Manager for someone from the County to assist in
15 the construction or renovation of any projects?

16 **A. No.**

17 **Q.** So, sir, is the County presently
18 committed to paying for any construction project
19 at the Vo-Tech?

20 **A. I am not sure.**

21 **Q.** You are not sure?

22 **A. No.**

23 **Q.** What would you do to determine that,
24 to make that determination?

25 **A. I would contact my Finance Director.**

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1 **Q.** Let me show you what has been marked
2 as Lyons-1 and just have you take a look at that.

3 **A. Okay.**

4 **Q.** Have you ever seen that newspaper
5 article?

6 **A. Yes.**

7 **Q.** When did you see that?

8 **A. I don't recall.**

9 **Q.** As a result of that newspaper
10 article did you do anything in connection with
11 your position of County Manager?

12 **A. No.**

13 **Q.** Sir, can you see what has been
14 marked as Faella-2, Faella-1, and Faella-3. I
15 ask you to look at Faella-3 first, sir. Let me
16 just direct your attention to the substance of
17 this. This is called a notice, it is plaintiff's
18 first request -- this is not the right one.

19 Let me show you what has been marked
20 as Exhibit Faella-1 and Exhibit Faella-2 and ask
21 you to take a look at those.

22 **A. Okay.**

23 **Q.** Do you recognize any of the
24 documents that are contained in Exhibit Faella-1
25 or Exhibit Faella-2?

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1 **A. Yes.**

2 **Q.** Tell me what you recognize?

3 **A. Evaluation sheets.**

4 **Q.** Do you see the evaluation sheet, any
5 evaluation sheets for Mr. Lapolla?

6 **A. Would they be in Faella-2? Do you know**
7 **which document contains it?**

8 **Q.** I think it is probably in Faella-1.
9 I will find it.

10 **A. Got it.**

11 **Q.** Can you look at the bottom at the
12 bates stamp number and tell me the first
13 evaluation you see for Mr. Lapolla?

14 **A. I am looking at one dated 12-4-13.**
15 **000218. It is kind of a little bit before the**
16 **middle of Faella-1. That is what I am looking at**
17 **right now. I don't know if that is what you are**
18 **referring to.**

19 **Q.** So bates stamp number 000218 is an
20 evaluation of Mr. Lapolla dated 12-4-13, correct?

21 **A. That's right.**

22 **Q.** And it appears that it was completed
23 by Mr. Brennan?

24 **A. Right.**

25 **Q.** Because Mr. Brennan is his

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1 supervisor?

2 **A. Right.**

3 **Q.** Attached to it is the rating -- what
4 do you call what is attached to it?

5 **MR. VARADY:** Which number?

6 **MS. FELLMAN:** 000219.

7 **MR. VARADY:** What do you call that
8 form?

9 **MS. FELLMAN:** Yes.

10 **A. It says assessment of performance.**

11 **Q.** Does everyone who works for the
12 County have this kind of a form completed in
13 their evaluation?

14 **A. No.**

15 **Q.** Who has this kind of a form?

16 **A. I believe all exclusionary employees. I**
17 **think some Union employees might have a different**
18 **form.**

19 **Q.** Exclusionary means what to the
20 layperson?

21 **A. Non-union.**

22 **Q.** And that would mean anybody in a
23 supervisory position?

24 **A. Right.**

25 **Q.** Are bureau heads exclusionary?

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1 **A. Yes.**
 2 **Q.** So going on, the next one in this
 3 line is 000220, correct?
 4 **A. Okay.**
 5 **Q.** And this one was completed by Mr.
 6 Brennan again or who?
 7 **A. It says Michael Brennan, evaluation by**
 8 **Michael Brennan.**
 9 **Q.** Okay. And the next one is 000222,
 10 correct?
 11 **A. Right.**
 12 **Q.** It has got the attachment with it,
 13 correct?
 14 **A. Right.**
 15 **Q.** And who prepared this evaluation?
 16 **A. I did.**
 17 **Q.** How did it come to be that you
 18 prepared this evaluation dated 12-16-10?
 19 **A. As I mentioned previously, for a brief**
 20 **time Mr. Lapolla was in the Department of Parks**
 21 **and Community Renewal when he was working, when**
 22 **he was assigned to the Vo-Tech. So when it came**
 23 **time to do his evaluation I called Mr. Capodice.**
 24 **Again, as I stated previously, I asked what Mr.**
 25 **Lapolla was doing. He stated that he was working**

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1 **Mr. Capodice who was working at the Vo-Tech, not**
 2 **a County employee.**
 3 **Q.** At the time this was completed?
 4 **MR. VARADY:** Which one?
 5 **MS. FELLMAN:** The one we are looking
 6 at, 000222.
 7 **Q.** At the time this was completed,
 8 where was Mr. Lapolla working?
 9 **A. At the Vo-Tech.**
 10 **MR. VARADY:** If you want them to
 11 leave the room I can clear up your confusion.
 12 (Whereupon there was an off the
 13 record discussion.)
 14 (Record resumed.)
 15 **MR. VARADY:** If you recall Mr.
 16 Capodice's testimony, he was asked to give an
 17 evaluation of Mr. Lapolla while he was there.
 18 Mr. Capodice testified I can do that because they
 19 sent me a County form and I am not a County
 20 employee. He then stated he wrote a letter and
 21 that letter went to Mr. Faella and Mr. Faella did
 22 the County form evaluation. There is no mystery.
 23 That is what Capodice said.
 24 **MS. FELLMAN:** But Mr. Lapolla was
 25 already assigned to the Juvenile Detention Center

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1 **on a couple of projects. I asked if he performed**
 2 **them satisfactorily and he said he did. So on**
 3 **the basis of that I gave standard performance for**
 4 **all of the criteria.**
 5 **Q.** This evaluation was prepared by you
 6 on December 16, 2010?
 7 **A. It doesn't have a date, actually.**
 8 **Q.** On the bottom.
 9 **A. On the bottom, yes, 12-6-10.**
 10 **Q.** It says "candidate's signature," and
 11 above that is Richmond Lapolla, correct?
 12 **A. Okay.**
 13 **Q.** And your signature and next to it is
 14 12-14-10, correct?
 15 **A. Yes.**
 16 **Q.** You identify your signature as
 17 supervisor's signature?
 18 **A. Director's signature.**
 19 **MR. VARADY:** Underneath.
 20 **Q.** Director's signature?
 21 **A. Correct.**
 22 **Q.** Why didn't the supervisor complete
 23 this? Why didn't his direct supervisor complete
 24 this?
 25 **A. I guess because his direct supervisor was**

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1 at that point.
 2 **MR. VARADY:** This is the annual, he
 3 had spent part of the year, July 25, right, was
 4 the last? Remember Bistocchi writes a letter to
 5 Devaney saying "all these projects are over. We
 6 thank you. We are not going to need him any
 7 more. See you." That is in July.
 8 Then when the evaluation comes they
 9 have Tom's letter and Pete's letter saying he did
 10 a great job, satisfactory letter and the County
 11 has to fill out the form. That is what Pete
 12 testified to.
 13 **MS. FELLMAN:** Okay.
 14 **Q.** We are going back, sir.
 15 **MS. FELLMAN:** Let's just mark this
 16 because I think this is the only one in the group
 17 we need to mark, Faella-1.
 18 **Q.** Sir, we have marked as Faella-1, the
 19 performance evaluation that is dated December of
 20 2010. Mr. Lapolla signed it on December 16, 2010
 21 and you have testified that you signed it on
 22 December 14, 2010. Is that correct?
 23 **A. Yes.**
 24 **Q.** It is a two page document. Now, did
 25 you complete the second page?

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1 **A. Yes.**

2 **Q.** And why is it that you are the one
3 who completed this performance evaluation for Mr.
4 Lapolla in 2010?

5 **A. As I mentioned, Mr. Lapolla was working in
6 the department at the time.**

7 **Q.** In whose department?

8 **A. In the Department of Parks and Community
9 Renewal.**

10 **Q.** And what do you base that on?

11 **A. This form that I am looking at, it says
12 "Name: Richmond C. Lapolla. Title: Director of
13 Repair and Maintenance. Department: Parks and
14 Community Renewal." That is what I am basing it
15 on.**

16 **Q.** Mr. Lapolla, I can show you a
17 document, if you need to see it, but I can advise
18 you that on August 2, 2010 Mr. Lapolla was
19 reassigned from the Vo-Tech to the Juvenile
20 Detention Center.

21 **A. Okay.**

22 **Q.** So he was now in the Juvenile
23 Detention Center at this point in time, in
24 December of 2010.

25 **A. Okay.**

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1 **If it didn't happen, then I can't speak to that.**

2 **Q.** So are you saying that while Mr.
3 Lapolla was working at the Vo-Tech he was
4 assigned to your department which was Parks and
5 Community Renewal?

6 **A. Apparently.**

7 **Q.** Is that what your recollection is?

8 **A. To be honest with you, my recollection was
9 that I didn't realize it until I was asked to do
10 the evaluation -- I wasn't asked, it was put in
11 the group with all the other evaluations that I
12 was asked to do. And then -- I am not sure. I
13 don't know if I asked personnel why but was told
14 that for the time when Mr. Lapolla was at the
15 Vo-Tech he was under the Department of Parks and
16 Community Renewal. Therefore, I needed to do the
17 evaluation.**

18 **Q.** Did you know Mr. Lapolla had worked
19 half of the year out of the Juvenile Detention
20 Center, which would have been under Mr.
21 Graziano's department?

22 **A. I may not have thought about it or I may,
23 at the time when I was doing it -- because there
24 are people who are assigned and reassigned during
25 the course of the year. That is not uncommon.**

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1 **Q.** Mr. Lapolla had left the Vo-Tech as
2 of July 30, 2010?

3 **A. Okay.**

4 **Q.** It was my understanding that Mr.
5 Lapolla's supervisor at the Juvenile Detention
6 Center was Mr. Brennan, isn't that correct?

7 **A. Yes.**

8 **Q.** But Mr. Brennan worked out of the
9 Department of Public Works and Facilities under
10 Mr. Graziano in the Division of Park Maintenance,
11 isn't that correct?

12 **A. Yes.**

13 **Q.** So why was this document completed
14 by the Director of the Parks and Community
15 Renewal, which was you at the time, as opposed to
16 Mr. Graziano or Mr. Brennan out of the Department
17 of Public Works and Facilities?

18 **MR. VARADY:** Object to the form of
19 the question.

20 **MS. FELLMAN:** If you know.

21 **A. I am not really sure. Probably should
22 have been two evaluations, one for the time when
23 Mr. Lapolla was in Parks Department and another
24 for the time when he was under Mr. Brennan. I
25 would assume that is what should have happened.**

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1 **So, as I said, perhaps there should have been two
2 done, one for the time when he was in the Parks
3 Department, and the other one by Mr. Brennan.
4 That may have been the way it should have been
5 handled, I guess.**

6 (Evaluation of Mr. Lapolla, Bates
7 Number 000224, received and marked Plaintiff's
8 Exhibit Faella-1A for Identification.)

9 **Q.** Now if you will look at the next
10 document, this is 000224, this is being directed
11 to Mr. Sigmund, who was the Director of Parks and
12 Recreation.

13 **MR. VARADY:** For 2007.

14 **MS. FELLMAN:** For 2007.

15 **Q.** So that was before the merger, is
16 that correct?

17 **A. Right.**

18 **Q.** So tell me, going back, tell me what
19 you did, how you completed this evaluation that's
20 been marked Faella-1A?

21 **A. Again, as I mentioned, I spoke to Mr.
22 Capodice and asked him what Mr. Lapolla was
23 doing. He said he was working on two major
24 projects. I said how did he perform. He said he
25 performed satisfactorily. Based on that, I gave**

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1 him satisfactory for all components which is a
2 two.

3 Q. Did you go over this document with
4 Mr. Lapolla?

5 A. **I don't think so.**

6 Q. How did it come to be that Mr.
7 Lapolla signed this document?

8 A. **I don't recall.**

9 Q. Did you bring it to the Juvenile
10 Detention Center for him to sign?

11 A. **No.**

12 Q. Did he come into your office to sign
13 it?

14 A. **No.**

15 Q. Did you send your secretary to the
16 Juvenile Detention Center to have him sign it?

17 A. **No.**

18 Q. Are you sure?

19 A. **Yes.**

20 Q. You don't know how this got signed?

21 A. **I do not.**

22 Q. Who was your secretary at the time?

23 A. **Debra Rastelli.**

24 Q. Did you have an assistant at the
25 time?

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1 A. **Yes.**

2 Q. Who was your assistant?

3 A. **Kathleen Addressa.**

4 Q. Did you send Miss Addressa to the
5 Detention Center to have Mr. Lapolla sign off on
6 it?

7 A. **I don't recall.**

8 Q. You may have?

9 A. **As I said, I don't recall.**

10 Q. Now, if you go through the rest of
11 the documents in Faella-1, you can see from the
12 cover letter from counsel that they relate to
13 other people who made application for the
14 position of the division head of Facilities, is
15 that correct?

16 A. **Okay.**

17 Q. If you would look at Exhibit
18 Faella-3 and flip to the third page, the
19 substantive page, there should be a list on page
20 three. That is the last page, I am sorry.

21 So that these two piles of
22 documents, Faella-1 and Faella-2, is what was
23 produced in response to the further request for
24 production of documents that is marked Faella-3.
25 I will represent that to you and I am sure

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1 counsel will speak up if I am not correct.

2 MS. FELLMAN: Is that correct,
3 counsel?

4 MR. VARADY: That I will speak up if
5 you are not correct, absolutely. These are
6 documents that I sent, that I got from the County
7 as a result of your notice to produce.

8 MS. FELLMAN: They are in response
9 to my further notice to produce documents.

10 MR. VARADY: That is Faella-3.

11 MS. FELLMAN: That is Faella-3. You
12 have represented, Mr. Varady, that these are all
13 the documents responsive to that request?

14 MR. VARADY: The client has told me
15 that that is all the documents responsive to the
16 request. In fact, I volunteered to get you a
17 certification and this morning I saw you faxed me
18 late Friday, that has been forwarded to the
19 County to get a certification.

20 MS. FELLMAN: Very good.

21 Q. So is it correct, sir, that in
22 connection with your selecting the person to fill
23 the position of Facilities Manager or Director,
24 that you did not review any of these documents
25 contained in Faella-1 or Faella-2?

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1 A. **Yes.**

2 Q. Now, Mr. Chirafesi, when he was
3 appointed in, I guess it was June of 2014,
4 approximately, to the position of the head of the
5 Facilities' Division, who did you hire in place
6 of him?

7 A. **I don't believe we filled that position.
8 I don't think we did.**

9 Q. Was that position that he held prior
10 to being appointed to the Facilities' Division
11 Head an exclusionary position?

12 A. **It would have been, yes.**

13 Q. Why is it that his position is still
14 vacant, his old position?

15 A. **I am just not sure if the department has
16 -- I am almost positive it has not been. It has
17 not been filled, I don't believe. I don't
18 believe it has.**

19 Q. And you don't recall the reason why?

20 A. **Typically in mid year it is difficult
21 because of budgetary reasons but at some point
22 the position will probably be filled.**

23 Q. I think that is it for Faella-1.
24 Let's look at Faella-2.

25 If you could look at the first

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1 document, 000354.

2 **A. Okay.**

3 **Q.** This appears to be a performance
4 evaluation for Mr. Chirafesi dated December 4,
5 2013.

6 **A. Okay.**

7 **Q.** It was completed by Mr. Brennan.

8 **A. Okay.**

9 **Q.** Do you know why it was completed by
10 Mr. Brennan?

11 **A. Yes, because Mr. Brennan was filling in.
12 In addition to being the Division Head of Park
13 Maintenance, as Acting Division Head of
14 Facilities.**

15 **Q.** After Mr. Palmieri left?

16 **A. That's correct.**

17 **Q.** Mr. Chirafesi's civil service title
18 is carpenter, correct?

19 **A. Okay.**

20 **Q.** And he was --

21 **MR. VARADY:** Do you know that?

22 **THE WITNESS:** I don't know. I am
23 reading.

24 **MR. VARADY:** Is the question what it
25 says or what the witness knows.

198

1 **MS. FELLMAN:** Okay. Let me go back.

2 **Q.** You will agree it states here that
3 Mr. Chirafesi's civil service title is carpenter,
4 correct?

5 **A. No.**

6 **Q.** If you look back on all of his
7 evaluations that we have been given, they all say
8 carpenter. Go ahead and look at them, sir.
9 Except the one marked from 2007 it says
10 carpenter/project coordinator construction. And
11 the one from 2006 says carpenter/project
12 coordinator construction.

13 **Q.** What does that stand for? And there
14 is another one, I apologize 2006.

15 **MR. VARADY:** What does what stand
16 for?

17 **MS. FELLMAN:** Carpenter.

18 **Q.** What is that designation?

19 **A. I don't understand the question.**

20 **Q.** Where it says "title: Carpenter"
21 what does that mean? Any of the ones. They are
22 all the same, they all say carpenter.

23 **MR. VARADY:** Some say carpenter
24 slash.

25 **MS. FELLMAN:** That's correct.

199

1 **Q.** But they all include, the whole set
2 all includes a title of carpenter. What does
3 that mean?

4 **MR. VARADY:** I will object to the
5 form of the question because it is inaccurate as
6 to what these documents show.

7 **MS. FELLMAN:** All of them say
8 carpenter. Some say carpenter/project
9 coordinator construction.

10 **Q.** What does that title stand for?

11 **A. I am not sure.**

12 **Q.** Do you know whether or not that is a
13 civil service title?

14 **A. That is my -- I don't know. I don't know.
15 Sometimes a civil service title may not be the
16 same thing as what an individual's day-to-day
17 duties are. So the person filling -- so I don't
18 know the person filling it out put the actual
19 formal civil service title or just a description
20 of their duties. I also don't know if that is an
21 actual civil service title or not. I don't know.**

22 **Q.** When you made the determination to
23 select Mr. Chirafesi to fill the position of the
24 head of the Facilities' Division, did you know
25 what his civil service title was?

200

1 **A. As stated, I believe on two other
2 occasions, no, I did not.**

3 **Q.** Did you ever check with Mr. -- I
4 guess it would have been Mr. Albert, as to
5 whether or not Mr. Chirafesi's civil service
6 title was sufficient for him to hold the position
7 of Division of Facilities?

8 **A. Again, as I stated previously, I left that
9 work to the individuals on the committee to vet
10 that out.**

11 **Q.** But my question is, did you ever
12 specifically ask --

13 **MR. VARADY:** He answered it.

14 **Q.** -- Mr. Albert what Mr. Chirafesi's
15 civil service title was and whether or not his
16 civil service title matched the requirements of
17 the position?

18 **MR. VARADY:** Objection. Asked and
19 answered.

20 **Q.** You didn't ask specifically,
21 correct?

22 **A. Did I ask, no.**

23 **Q.** It seems that prior to Mr. Brennan,
24 Mr. Palmieri was Mr. Chirafesi's supervisor,
25 correct?

201

1 MR. VARADY: Are you asking him if
2 he knows that?

3 MS. FELLMAN: It states it here. I
4 am asking him if that is correct.

5 MR. VARADY: That is not what you
6 asked.

7 MS. FELLMAN: Let me restate the
8 question.

9 Q. The document indicates prior to Mr.
10 Brennan, Mr. Palmieri was Mr. Chirafesi's --

11 MR. VARADY: Which document, we have
12 Bates stamps so why don't we use them.

13 MS. FELLMAN: 000356. December 6,
14 2012.

15 MR. VARADY: Your question is, does
16 this document indicate what?

17 Q. According to the document Mr.
18 Palmieri was Mr. Chirafesi's supervisor. Do you
19 agree with that is what it appears to be?

20 A. Yes.

21 Q. Was it your understanding that Mr.
22 Palmieri was Mr. Chirafesi's supervisor?

23 A. I don't know that.

24 Q. You don't?

25 A. No.

202

1 Q. You don't know who Mr. Chirafesi's
2 supervisor was during the time that he was
3 working in the department that you told us about?

4 A. I don't understand the question.

5 Q. You testified that you wanted to
6 have someone who had worked in the department
7 that he was now going to be the division head of,
8 correct?

9 A. Right.

10 Q. But you didn't know who his
11 supervisor was while he worked in that
12 department?

13 A. No. I have 2,750 employees that I
14 oversee. I don't know who all the supervisors
15 are, ma'am.

16 Q. But you didn't promote 7,000
17 employees this year, did you?

18 MR. VARADY: Nor did he say he
19 oversaw 7,000.

20 Q. How many did you say you had?

21 A. 2,750.

22 Q. You didn't promote 2,750 employees
23 this year?

24 A. That's correct.

25 Q. How many employees did you actually

203

1 promote, managerial employees did you promote?
2 MR. RENAUD: Managerial or
3 employees?

4 Q. How many managerial employees did
5 you actually promote in 2014?

6 A. Half a dozen or so.

7 Q. You never made a determination as to
8 who Mr. Chirafesi's direct supervisor was when he
9 worked in the department?

10 MR. RENAUD: While you are thinking
11 about that, gosh it is going to take an awful
12 long time to take this deposition if you are
13 going to ask him every question three times.

14 That's an objection, by the way.

15 MR. VARADY: I thought it was a
16 comment.

17 Q. It was in the department of --
18 (Whereupon there was an off the
19 record discussion.)

20 (Record resumed.)

21 Q. Is it correct that when you made
22 this selection of Mr. Chirafesi you did not know
23 who his immediate supervisor was?

24 MR. VARADY: How many times are you
25 going to ask this question? He said he didn't

204

1 know.

2 Q. You said you didn't know it was Niel
3 Palmieri?

4 A. Yes, I answered the question that I did
5 not know that.

6 Q. Did you every check to see whether
7 or not there was any connection between Mr.
8 Palmieri and Mr. Chirafesi?

9 A. I don't understand.

10 Q. You understood that Mr. Palmieri
11 left a mess, you already told us that, correct?

12 A. Yes.

13 Q. And he was actually indicted, wasn't
14 he?

15 A. Yes.

16 Q. And did it ever concern you that Mr.
17 Chirafesi might have been working -- what his
18 connection might have been or not with Mr.
19 Palmieri?

20 A. It is my understanding that the
21 investigation that led to Mr. Palmieri being
22 indicted took quite a long time and a number of
23 individuals were interviewed. So I assume that
24 if there were any individuals who had some
25 connection to Mr. Palmieri, they also would have

205

1 **been subject to some type of indictment or some**
 2 **type of charges and no one else in that division**
 3 **was. So I assume that no one else in that**
 4 **division was involved with anything that Mr.**
 5 **Palmieri was doing.**

6 **Q.** Okay.

7 Did you ever have a discussion with
 8 Mr. Chirafesi about his knowledge, if any, as to
 9 what was going on with Mr. Palmieri in the
 10 department?

11 **A.** Yes.

12 **Q.** And when did you have that
 13 conversation?

14 **A.** After he was hired.

15 **Q.** And what did he tell you?

16 **A.** He said that he had no knowledge of any
 17 activities that Mr. Palmieri was involved with.

18 **Q.** Why was it that you asked him that
 19 after you put him in the position of division
 20 head?

21 **A.** Because it was very important to have the
 22 individual who was going to be the new division
 23 head to make sure that the rules were being
 24 followed, to make sure that things were being
 25 done properly and I just wanted to make sure that

206

1 **there was -- that I asked the question and he**
 2 **gave me the answer. That is what happened.**

3 **Q.** Moving on.

4 I don't mean to beat a dead horse
 5 but now that you have looked through Faella-1 and
 6 two, did it refresh your recollection about any
 7 conversations that you may have had with your
 8 committee, the three people in your interview
 9 committee, about any of the other candidates for
 10 the position?

11 **A.** Ma'am, the answer that I had given
 12 previously is the same answer.

13 **Q.** Sometimes looking at documents
 14 refreshes a person's recollection.

15 **A.** I understand.

16 **Q.** It does not yours?

17 **A.** That's correct.

18 **Q.** It doesn't change anything?

19 **A.** It does not. I understand.

20 (Notice of job vacancy received and
 21 marked Plaintiff's Exhibit Faella-4 for
 22 Identification.)

23 BY MS. FELLMAN:

24 **Q.** I am just going to show you a
 25 picture that we pulled up on the web that talks

207

1 about the Freeholders' Mark West Hall building
 2 expansion, Union County Vocational-Technical
 3 School with groundbreaking. 38,000 square foot
 4 expansion.

5 Then there is a picture of
 6 Freeholders and so forth.

7 **MR. VARADY:** I am going to object to
 8 this. We are not going to start searching the
 9 web and asking questions after five-and-a-half
 10 hours. I am not going to allow him to look at it
 11 nor testify about it.

12 **MS. FELLMAN:** You are not going to
 13 allow it to see if it refreshes his recollection?

14 **MR. VARADY:** You can ask him
 15 questions if you want to read from it. But we
 16 are not going to search the web for pictures.

17 **MS. FELLMAN:** I am just asking you
 18 whether or not --

19 **MR. VARADY:** And you should have
 20 provided it to me in discovery, for one who
 21 stands on procedure.

22 **MS. FELLMAN:** I really thought
 23 frankly that the County Manager would remember if
 24 there were such a thing. It may be that this is
 25 not something that happened during his time.

208

1 **MR. VARADY:** We are not going to
 2 take a ten minute break and search the web.
 3 **MS. FELLMAN:** That is not what we
 4 are doing.

5 **MR. VARADY:** Tell Mr. Lapolla to
 6 please be quiet. He doesn't have a say here
 7 otherwise he is going to leave the office right
 8 now.

9 **MS. FELLMAN:** He is not leaving
 10 anywhere.

11 **MR. VARADY:** Him and that smirk.
 12 Yes he will.

13 **MS. FELLMAN:** If he leaves, I will
 14 leave. Then we'll have to come back.

15 **MR. VARADY:** Then we'll talk to
 16 Judge Healy about this.

17 **MS. FELLMAN:** Just sit there and be
 18 quiet.

19 **MR. VARADY:** I don't have to take a
 20 client of yours answering my objections. We are
 21 not going to search the web. If you want to
 22 continue asking Mr. Faella questions, if you
 23 don't have any further questions, we'll let him
 24 go.

25 BY MS. FELLMAN:

209

1 Q. I just want to know Mr. Faella does
2 that refresh your recollection about any ongoing
3 project that you have broken ground on?

4 MR. VARADY: Does what?

5 MS. FELLMAN: What I just read the
6 headline, what I read to you about a ground
7 breaking at the West Hall Building expansion.
8 Does that refresh your recollection about any
9 project that is going on at the Vo-Tech while you
10 have been County Manager?

11 A. **Is there a date?**

12 Q. That is what I don't know. I can't
13 find a date. That's why I'm asking, did it apply
14 to your time?

15 A. **It is possible, but I don't recall.
16 Again, I am being, I am answering questions as
17 honestly as I can.**

18 Q. That's fine.

19 I just thought if it did, then we
20 could discuss it; if it doesn't, that's fine.

21 A. **I am sorry.**

22 Q. Let's look at what has been marked
23 Faella-4. It is entitled "Notice of Job
24 Vacancy." And there is the department that I can
25 never keep straight, it is Public Works and

210

1 Facilities Management. That is the department
2 that came in 2013, after the two departments were
3 separated, correct, sir?

4 A. **Yes.**

5 Q. It is, the position is County
6 Division Head, Division of Facilities Management.
7 And then it has a description of the position,
8 and the requirements, and so forth.

9 Who prepared this document?

10 A. **Our Department of Administration.**

11 Q. And that would be Mr. Albert's
12 department?

13 A. **That's correct.**

14 Q. Did you have any input into
15 delineating the specifics of this job posting?

16 A. **No.**

17 Q. Do you know what the BOMA is? See
18 where it says "familiar with BOMA standards?"

19 A. **No.**

20 **I assume it is some professional
21 technical license but I am not familiar with what
22 the acronym stands for.**

23 Q. The salary range is stated as 73,000
24 and change up to 110,000 and change, correct?

25 A. **Yes.**

211

1 Q. Who set that salary range?

2 A. **That is set by, each year, it is set in
3 our County budget.**

4 Q. The position as we know was budgeted
5 for Mr. Palmieri's salary?

6 A. **But there is a range for every salary,
7 there is a minimum and a maximum that is
8 established for each position.**

9 Q. Was Mr. Lapolla's salary at \$120,000
10 plus ever a consideration in his not being given
11 the job of the Division Head in Facilities?

12 MR. VARADY: Object to the form of
13 the question. You can answer.

14 A. **No.**

15 Q. He was never asked if he wanted to
16 take a salary decrease, correct?

17 A. **I don't know that.**

18 Q. You never asked him, correct?

19 A. **That's correct.**

20 Q. Was Mr. Palmieri's salary higher
21 than \$110,000?

22 A. **It was right around 110. I don't remember
23 the exact number. But it was somewhere around
24 there.**

25 Q. Do you know whether or not this job

212

1 posting was posted outside of the County?

2 A. **I believe it was also put on the state
3 personnel web site.**

4 Q. Is that a civil service web site?

5 A. **I am not sure. Again, that would be under
6 Mr. Albert's department to give you the specifics
7 about that.**

8 Q. Did you ever ask anyone to apply, to
9 put in an application for this position that's
10 set forth in Faella-4?

11 A. **No.**

12 Q. Did you ever talk to Mr. Brennan
13 about applying?

14 A. **No.**

15 Q. Now you told us you did not review
16 any of the resumes or any of the letters from any
17 of the candidates, correct?

18 A. **Correct.**

19 Q. So the next document in here is Mr.
20 Lapolla's letter and Mr. Lapolla's resume, I
21 didn't show you these yet. So Faella-5 and
22 Faella-6. Let's mark these.

23 (Letter dated February 24, 2014 to
24 whom it may concern received and marked
25 Plaintiff's Exhibit Faella-5 for Identification.

213

1 Resume of Mr. Lapolla received and
2 marked Plaintiff's Exhibit Faella-6 for
3 Identification.)

4 **Q.** Sir, just take a look at these and
5 see if you have ever seen either of these
6 documents, Faella-5 or Faella-6?

7 **MR. VARADY:** Hasn't he testified
8 about that already?

9 **MS. FELLMAN:** Yes. I want to
10 refresh his recollection. I haven't shown him
11 these before. He said he hasn't seen these
12 before.

13 **MR. VARADY:** Come on, Sue.

14 **MS. FELLMAN:** All he has to do is
15 look at them and say no, he has never seen them,
16 and we are done.

17 **A. No, I have never seen them.**

18 **Q.** Fine.

19 **MR. VARADY:** We are done.

20 (Memo dated June 20, 2014 from
21 Richmond Lapolla to Mr. Faella received and
22 marked Plaintiff's Exhibit Faella-7 for
23 Identification.)

24 **Q.** Just take a look at this, sir. When
25 you have had a chance to read it, let me know.

215

1 withholding documents from us which you have an
2 obligation to give us from the original
3 interrogatory which says what are you going to
4 rely on, the original notice to produce.

5 If that is the way you want to play.

6 What is the question?

7 **Q.** These appear to be two E-mails from
8 Mr. Lapolla to you, correct, sir?

9 **A. Yes.**

10 **Q.** Do you recall receiving either of
11 these?

12 **A. Yes.**

13 **Q.** And you notice here Mr. Lapolla on
14 the second page of this document, Mr. Lapolla
15 mentioned the September 30th 2013 E-mail, Mr.
16 Lapolla states that he has placed in his position
17 that does not permit him to work in his certified
18 position since February of 2005. And he
19 respectfully requests that "I be reinstated into
20 the position of Director of Facilities
21 Management." He would be happy to sit down with
22 you and discuss the position.

23 Do you see that?

24 **A. Yes, I do.**

25 **Q.** What did you do, if anything, after

214

1 **MR. VARADY:** Sue, were these
2 supplied to us, there is no Bates stamp on them?

3 **MS. FELLMAN:** I think they were
4 attached to the complaint. But if they weren't,
5 I don't know.

6 **MR. VARADY:** They were attached to
7 the new complaint?

8 **MS. FELLMAN:** Yes.

9 **MR. VARADY:** No, not to my copy.

10 **MS. FELLMAN:** Well --

11 **MR. VARADY:** Well what?

12 **MS. FELLMAN:** I don't know if you
13 made a request for anything regarding --

14 **MR. VARADY:** I have a request for
15 production of documents which is continuing under
16 my understanding of the rules.

17 **MS. FELLMAN:** These deal with the
18 new complaint which you did not serve a request
19 for production.

20 **MR. VARADY:** It is not a new
21 complaint, it is an amounted complaint.

22 **MS. FELLMAN:** The new counts.

23 **MR. VARADY:** So you are telling me
24 there are documents, I will send one, and I will
25 move to extend discovery because you are

216

1 you received the E-mail from Mr. Lapolla of
2 September 30, 2013?

3 **A. I contacted Robert Barry our County
4 Counsel and asked him if or how I should respond.
5 He advised me --**

6 **MR. VARADY:** Don't say what Mr.
7 Barry said.

8 **THE WITNESS:** Oh, sorry.

9 **Q.** So following your discussion with
10 Mr. Barry, you did nothing further, is that
11 correct?

12 **MR. VARADY:** Don't answer that
13 question, it is privileged.

14 **Q.** Did you do anything other than
15 forward this to Mr. Barry?

16 **MR. VARADY:** Don't answer it.

17 **MS. FELLMAN:** He can answer the
18 question. It depends, there could be a lot of
19 things he could do which wouldn't have anything
20 to do with the --

21 **MR. VARADY:** I think it is
22 privileged. Maybe if you had supplied it
23 beforehand.

24 **MS. FELLMAN:** Maybe if you supplied
25 it since that is what our request was. These

217

1 were sent to him, to your client.

2 MR. VARADY: Maybe if you had
3 supplied these, instead of trying to surprise us.

4 MS. FELLMAN: We are not trying to
5 surprise you.

6 MR. VARADY: I am not allowing him
7 to answer any discussions or anything that he
8 might have done as a result of consulting County
9 Counsel on the basis of attorney/client
10 privilege.

11 MS. FELLMAN: I'm not sure. I'm not
12 sure. You could be right.

13 So let me be sure we have the
14 question out there so we know what we are arguing
15 over.

16 MR. VARADY: Sure.

17 Q. I asked you what you did when you
18 got this. You said you contacted Mr. Barry.

19 My question to you is, did you do
20 anything else with regard to this document, the
21 E-mail, the first E-mail, other than contact Mr.
22 Barry?

23 MR. VARADY: I object on the grounds
24 of attorney/client privilege.

25 MS. FELLMAN: You are not going to

219

1 question to you was, at any point in time knowing
2 what Mr. Lapolla was making, did you ever
3 consider that there could be a savings to the
4 County of a significant amount of money if Mr.
5 Lapolla were placed in the slot that was vacated
6 by Mr. Palmieri?

7 MR. VARADY: I believe he answered
8 that my saying he contacted County Counsel. That
9 is his answer.

10 Q. I am not asking about this E-mail.
11 I am asking you, sir, at any point in time -- you
12 knew what Mr. Lapolla was making before you got
13 this E-mail, correct?

14 A. Correct.

15 Q. Before you got this E-mail you knew
16 what the position that Mr. Palmieri had been
17 paid, correct?

18 A. Correct.

19 Q. Did you ever take into account the
20 fact that Mr. Lapolla, if he were transferred
21 into the position that was vacated by Mr.
22 Palmieri that that would save the County a
23 significant amount of money?

24 MR. VARADY: I object to the form of
25 the question. You can answer.

218

1 let him answer?

2 MR. VARADY: Correct.

3 Q. Moving on to the E-mail of February
4 11, 2014.

5 MR. VARADY: I don't have it.

6 MS. FELLMAN: It is the first page.

7 MR. VARADY: It says July 14, 2014.

8 MS. FELLMAN: That's to me.

9 MR. VARADY: Oh, on the first page.

10 Q. The first page is February 11, 2014.

11 A. Right.

12 Q. Mr. Lapolla sent you another E-mail?

13 A. Right.

14 Q. And he states in here that he could
15 be transferred to the slot and a salary position
16 could be eliminated, a savings of over \$100,000.
17 Do you see that?

18 A. Yes.

19 Q. Did you consider the merits of the
20 claim, that the County could save \$100,000 or
21 thereabouts by transferring Mr. Lapolla to the
22 position?

23 A. **When I received this E-mail I contacted
24 County Counsel.**

25 Q. That wasn't my question. My

220

1 A. **Again, when I received the E-mail I
2 contacted County Counsel.**

3 Q. We are not talking about this
4 E-mail. Let me just go back and repeat what my
5 questions were.

6 I asked you before this E-mail did
7 you know how much money Mr. Lapolla was making?

8 A. Yes.

9 Q. And before you got this E-mail you
10 knew what Mr. Palmieri had been paid, correct?

11 A. Yes.

12 Q. Before you got this E-mail did it
13 ever occur to you, did you ever take into account
14 that the County could a save significant amount
15 of money if Mr. Lapolla were transferred into the
16 position vacated by Mr. Palmieri?

17 MR. VARADY: Object to the form of
18 the question. You can answer.

19 A. No.

20 Q. Why not?

21 A. **Because there are -- It is not as simple
22 as you make it appear. There would be other
23 positions that would have to be backfilled. So I
24 don't know if there would be an overall savings.**

25 Q. The backfill would be what position?

221

1 **A. Whatever positions were being vacated or**
 2 **if they were going to be filled which may be they**
 3 **were not filled. In some cases decisions are**
 4 **made just not to fill positions. In some cases**
 5 **they are.**

6 **Q.** And then you have already indicated
 7 after you got this E-mail you forwarded it to Mr.
 8 Barry, correct?

9 **A. That's correct. That's correct.**

10 **Q.** Just to put on the record, other
 11 than forwarding this E-mail to Mr. Barry, did you
 12 do anything else other than --

13 **MR. VARADY:** That was asked and I
 14 objected on the ground of privilege. You can
 15 move on.

16 **MS. FELLMAN:** You are not going to
 17 allow him to answer the question if he did
 18 anything else other than to contact Mr. Barry?

19 **MR. VARADY:** Correct.

20 **Q.** I just have a few more documents I
 21 want to show you.

22 Let me show you what has been marked
 23 as Devanney-18 and ask if you have ever seen this
 24 before.

25 **MR. VARADY:** Seen this newspaper

222

1 article or whatever it is?

2 **MS. FELLMAN:** Yes, seen the
 3 newspaper article.

4 **MR. VARADY:** Your question was have
 5 you seen it.

6 **A. Yes.**

7 **Q.** When did you see that?

8 **A. Sometime shortly after October 4th, I**
 9 **guess.**

10 **Q.** October 4th, what year was that?

11 **A. October 4, 2013 seems to be the date of**
 12 **the article. I probably saw it that day or the**
 13 **next day.**

14 **Q.** Who is Steven Merman?

15 **A. He is one of our Deputy County Counsels**
 16 **for the County of Union.**

17 **Q.** One of the things I wanted to do was
 18 go over this chart. I am going to show you what
 19 has been marked as Devanney-13, several
 20 organizational charts. The last one we have has
 21 a handwritten note up there of 2011. You can
 22 take a look at that.

23 Do you have an organizational chart
 24 since you have become County Manager for 2012 and
 25 2013?

223

1 **A. Yes. Again, that would be Mr. Albert's**
 2 **department would be able to give you that**
 3 **information.**

4 **Q.** In your position as County Manager
 5 did you set the policy for the County?

6 **A. I don't understand the question.**

7 **Q.** There were certain policies that
 8 would be set for what goes on in the County, is
 9 that correct?

10 **MR. VARADY:** I object to the form of
 11 the question. What do you mean certain policies?

12 **MS. FELLMAN:** That is what I am
 13 trying to find out.

14 **Q.** What policies do you set for the
 15 County?

16 **MR. VARADY:** If any.

17 **MS. FELLMAN:** If any.

18 **A. None.**

19 **Q.** You set no policies?

20 **A. No.**

21 **Q.** Who sets the policies?

22 **A. Our Freeholder Board.**

23 **Q.** How does that come about that the
 24 Freeholder Board sets the policies?

25 **A. Two things: One, we have a policy**

224

1 **subcommittee, which as I mentioned previously,**
 2 **four Freeholders. Policies and -- if there are**
 3 **policies and procedures that the County wishes to**
 4 **review or implement new policies, our Director of**
 5 **Administration would request a meeting of the**
 6 **policy committee and also the County Counsel**
 7 **would be involved as well for any legal aspects**
 8 **of it and then would request a meeting of the**
 9 **policy subcommittee to make recommendations. And**
 10 **if those are favorably received, depending on the**
 11 **policy or the procedure that is either being**
 12 **implemented changed it may require a County**
 13 **resolution or in some cases a county ordinance.**

14 **Q.** Do you set the policy for how the
 15 departments are to run?

16 **MR. VARADY:** What do you mean by
 17 policy of how the departments are run?

18 **MS. FELLMAN:** The policies. You set
 19 the policies.

20 **MR. VARADY:** It depends what you
 21 mean. You have a civil rights claim.

22 **MS. FELLMAN:** I am sorry?

23 **MR. VARADY:** Your claim is a civil
 24 rights claim. You have to define what you mean
 25 by policies, not how the departments are run,

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1 rules, regulations, time people report to work.

2 MS. FELLMAN: Let me find the
3 document. We'll just do it that way.

4 Q. Does anyone set policies and
5 procedures for the various departments within the
6 County of Union?

7 MR. VARADY: Objection to the form.
8 What do you mean by policies and procedures for
9 the departments?

10 MS. FELLMAN: Policies and
11 procedures for operating the department.

12 A. **There is an overall County Policy Manual
13 that outlines policies and procedures for each
14 department to follow.**

15 Q. What is the name of that document?

16 A. **I believe County Manual. I believe County
17 Policy Manual. I'm not sure. Again, that is in
18 Mr. Albert's department, he could speak to the
19 specifics of that.**

20 Q. If you wanted to make a decision,
21 you wanted to have a procedure for how invoices
22 are paid, for example, if you were dissatisfied,
23 or whatever, that invoices, that there wasn't
24 enough control over payment of invoices, that
25 kind of an example. How would that become a

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1 policy of the County, to change?

2 MR. VARADY: Object to the form of
3 the question as to whether or not that would even
4 be a policy of the County.

5 MS. FELLMAN: That is what I am
6 trying to figure out.

7 Q. Would you consider that a policy?
8 In other words, before anybody can pay an invoice
9 the County Manager has to sign off on it. Would
10 you consider that a policy?

11 A. **Yes, that would be a policy. I would
12 consider that a policy.**

13 Q. I am sorry?

14 A. **Yes, I would consider that a policy.**

15 Q. How would that policy be
16 implemented?

17 A. **The department heads would be issued a
18 memo saying that, again, as I mentioned
19 previously, subsequent to either a resolution or
20 an ordinance being passed by the Board of
21 Freeholders the new policy is such and such and
22 so and so and must be followed and implemented
23 immediately.**

24 Q. So that kind of a policy, such as
25 all of the department heads or division heads

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1 having to get the County Manager to sign off,
2 that would have to be put into the form of a
3 resolution by the Board of Freeholders before it
4 could be implemented?

5 MR. VARADY: Object to the form of
6 the question. You can answer it.

7 (Whereupon the pending question was
8 read back as follows:

9 Q. So that kind of a policy, such as
10 all of the department heads or division heads
11 having to get the County Manager to sign off,
12 that would have to be put into the form of a
13 resolution by the Board of Freeholders before it
14 could be implemented?)

15 (Record resumed.)

16 MR. VARADY: Further objection, that
17 was asked and answered in the previous question.

18 MS. FELLMAN: I am not sure it was.

19 MR. VARADY: Yes, it was. You gave
20 him an example.

21 MS. FELLMAN: I want to be sure.

22 MR. VARADY: You want to be sure
23 doesn't mean you can ask the question three or
24 four times. He testified already as to that.

25 MS. FELLMAN: You are testifying.

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1 MR. VARADY: I didn't say what he
2 testified to, he answered that question, he
3 testified to it.

4 Q. So the answer is, that if you as the
5 County Manager decided that you wanted all
6 invoices before they were paid, for you to sign
7 off on them, before that could be implemented,
8 the Board of Freeholders would have to put that
9 into the form of a resolution and vote on it?

10 A. **If that were a policy. If something was a
11 policy change, then it would have to be -- it
12 would have to go through the process that I
13 mentioned previously.**

14 Q. What if there were no policy in that
15 sense? Let's say, that wasn't the case. Now you
16 as the County Manager wanted that to be the
17 procedure. Would you have to go and get the
18 Board of Freeholders to sign off on that?

19 A. **Yes. Again, as I mentioned, if you wanted
20 to implement a new policy, it would have to be
21 brought before the policy committee and if they
22 approved it, then it would be, depending on what
23 the format was, then it would be adopted.**

24 Q. Do you have any knowledge as to
25 whether that was the case when Mr. Devanney was

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1 County Manager?

2 **A. I don't know.**

3 **Q.** Do you have any knowledge that there
4 has been any change in what is required to be set
5 to a resolution between when Mr. Devaney was
6 County Manager and now that you are County
7 Manager?

8 **A. Yes.**

9 **Q.** What do you understand?

10 **A. In the job postings there is -- the policy**
11 **committee set forth that, again, as I discussed**
12 **much earlier in the day, most positions are now**
13 **posted. That is a new policy.**

14 **Q.** Most positions are now posted, that
15 is a new policy?

16 **A. Right.**

17 **Q.** So that came to be a policy by way
18 of a resolution by the Board of Freeholders?

19 **A. That came to be by way of an affirmative**
20 **-- the policy committee stating that this is a**
21 **new policy that is going to be enacted. Again,**
22 **as I mentioned, some policies require**
23 **resolutions, some policies require an ordinance,**
24 **some do not. It depends on what the County**
25 **Counsel says or whether there is some legal**

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1 **requirements in some cases. In some cases there**
2 **are not.**

3 **Q.** Are there any procedures that the
4 County Manager is entitled to enact on his own or
5 her own?

6 **A. Yes.**

7 **Q.** And what type of procedures are
8 those?

9 **A. Actually the example that you had asked**
10 **earlier like about invoices, if you wish to have**
11 **another sign off on that, that is something that**
12 **would be my prerogative to okay.**

13 **Q.** So how do you distinguish -- that
14 would be a policy, you would agree?

15 MR. VARADY: Objection.

16 MS. FELLMAN: Can I finish the
17 question?

18 **Q.** You would agree that if it came out
19 of your office and you said the policy for
20 payment of invoices is now going to be "I have to
21 sign off on them."

22 MR. VARADY: Objection to the form
23 of the question.

24 **Q.** Regardless of what you call it.

25 MR. VARADY: Well, it is not. That

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1 is the problem with your question because I
2 believe he testified it was a procedure. Big
3 difference.

4 **Q.** Would it be different if you called
5 it a policy?

6 **A. Again, I don't make those determinations.**
7 **Our County Counsel. If it is something deemed a**
8 **procedure, I have discretion. If it is something**
9 **that is a policy, then it would go before the**
10 **policy committee.**

11 **Q.** What is your understanding as County
12 Manager as the kinds of things that -- you
13 already said that if it was a procedure, it is
14 within your discretion, correct?

15 **A. That's correct.**

16 **Q.** And a procedure such as the example
17 I gave, signing off on invoices, that would be
18 within your discretion?

19 **A. Yes.**

20 **Q.** And day-to-day operations, those
21 kinds of matters, you want to have people have
22 passes to get in and out of a door, or people not
23 to have passes to get in and out of a door; or a
24 policy, for example, regarding the use of cars,
25 of vehicles, county vehicles, is that something

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1 that the County Manager has the discretion to
2 make changes to?

3 MR. VARADY: Which one, the keys or
4 the cars?

5 MS. FELLMAN: Let's take them
6 separately.

7 **Q.** Keys?

8 **A. In the case of the keys, that would be my**
9 **discretion. In the case of vehicles, that would**
10 **be a policy change.**

11 **Q.** Can you explain why --

12 MR. VARADY: Are you finished with
13 your answer?

14 THE WITNESS: Yes.

15 **Q.** -- if it is decided that only
16 certain people are allowed to have door-to-door
17 vehicles, portal-to-portal vehicles, is that a
18 policy that has to take the policy committees'
19 involvement or is that a procedure that the
20 County Manager can make?

21 **A. That would be a policy.**

22 **Q.** What would be the sequence of events
23 for making that happen?

24 **A. Again, as I mentioned, a request would be**
25 **made by the Department Of administration for a**

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1 **policy committee meeting to discuss.**

2 **Q.** So if the policy committee meets and
3 discusses, then what happens?

4 **A.** **If they, again, as I mentioned, if they**
5 **affirm this, depending on, like in that scenario**
6 **that you outline, that would be a 24/7 employees,**
7 **that would be a resolution that would be required**
8 **for that one, I believe. I believe.**

9 **Again, I am not County Counsel.**
10 **That is my belief in that case.**

11 **Q.** So what kind of day-to-day
12 policy/procedures, whatever word you want to use.

13 **MR. VARADY:** Operations.

14 **Q.** Are within the discretion of the
15 County Manager, from your understanding?

16 **MR. VARADY:** Using procedures.

17 **MS. FELLMAN:** No.

18 **MR. VARADY:** You said whatever word
19 you want to use. We want to use procedures.

20 **MS. FELLMAN:** I think you could look
21 the definition up and the mere fact you call it a
22 policy doesn't change the fact that, as he just
23 said, that there are things he can do such as
24 decide about how invoices should be paid.

25 **Now you want to call that a**

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1 procedure, you can. I call that a policy. The
2 point is, it is within his discretion.

3 **MR. VARADY:** What decisions can he
4 make.

5 **MS. FELLMAN:** What I want to know is
6 what types of procedures/policies, whatever word
7 you want to put on it, are within the discretion
8 of the County Manager.

9 **MR. VARADY:** Object to the form of
10 the question. You can answer.

11 **A.** **To decide whether to allow employees to**
12 **work overtime because of additional workload that**
13 **is required.**

14 I am trying to think of other
15 examples.

16 To decide which type of events are
17 held at various times. I prepare the executive
18 budget for the County. Again, recommending what
19 dollars are to be spent for which types of
20 programs. Those are a couple of examples.

21 **Q.** We have talked about some of the
22 other things today already that you have already
23 indicated were within your discretion, correct?

24 **MR. VARADY:** Object to the form of
25 the question.

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1 **Q.** We talked about the filling of
2 positions. We talked about -- let me ask you
3 this: For example, if you determined to fire
4 someone, could you do that?

5 **A.** **Yes.**

6 **Q.** That doesn't require a policy
7 decision, correct?

8 **A.** **That's correct.**

9 **Q.** And hiring is the same thing, it
10 doesn't require a policy decision, correct?

11 **A.** **No.**

12 **Q.** Unless you are opening a new
13 position or something, I guess?

14 **A.** **That's correct.**

15 **Q.** What about raises, are those within
16 the discretion of the County Manager?

17 **A.** **No.**

18 **Q.** What about issues such as how to run
19 the jail, the Juvenile Detention Center,
20 operational issues for running of the Detention
21 Center, do those require any sort of a policy
22 committee decision?

23 **A.** **It is my understanding that the operations**
24 **of the jail follow state guidelines.**

25 **Q.** Okay.

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1 Do any of the department heads set
2 their own procedures for running their
3 departments?

4 **A.** **No.**

5 **Q.** Do you set procedures for the
6 running of the various departments?

7 **A.** **Yes.**

8 **Q.** You as County Manager?

9 **A.** **Yes.**

10 **Q.** That doesn't require input from the
11 policy committee?

12 **A.** **Again, if it is a policy change, it would.**
13 **It depends, not to be -- it depends on the issue,**
14 **it depends on the particular circumstances. Some**
15 **case it would, some case it wouldn't.**

16 **Q.** You might have said already, I
17 apologize if you did, can you give me an example
18 of a policy change in running a department that
19 would require the input of the policy committee?

20 **MR. VARADY:** We went over this.

21 **A.** **The example that you gave with the**
22 **vehicles, that would be a policy that would**
23 **require policy committee and Freeholder**
24 **resolution.**

25 **Q.** Why is that, if you understand?

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1 **A. Because --**

2 **Q.** That particular example.

3 **A. Because there is a current policy that**
4 **exists.**

5 **Q.** What if there were no policy that
6 existed about who should get what cars, would the
7 County Manager be able to set forth a
8 policy/procedure for who would get the vehicles?

9 **MR. VARADY:** You are dealing at a
10 zero point where no one is assigned a car?

11 **MS. FELLMAN:** Yes, as an example.

12 **MR. VARADY:** And you are asking how
13 it would be determined, how would the procedure
14 or policy be set to assign cars?

15 **MS. FELLMAN:** No, what he said was,
16 the reason for the assignment of vehicles would
17 have to go to the policy committee was because
18 there was already a policy in place. If that was
19 changed, that would take involvement of the
20 policy committee.

21 **MR. VARADY:** So you are saying if
22 there is no policy, no cars are assigned, from
23 square one how would we assign cars?

24 **MS. FELLMAN:** Yes.

25 **Q.** Could you, as the County Manager,

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1 make a decision as to who would get vehicles?

2 **A. On a temporary basis I could. But I would**
3 **certainly refer the matter, as I mentioned again**
4 **previously, that I would believe a new policy**
5 **ought to be created to deal with that issue.**

6 **Q.** For example, computers, or cell
7 phones. So let's say --

8 **MR. VARADY:** I am going to object.
9 Where are we going with this?

10 **MS. FELLMAN:** I am trying to get a
11 handle on this.

12 **MR. VARADY:** No, we are not going to
13 go through cell phones, computers. You went
14 through examples, he gave you examples.

15 **MS. FELLMAN:** This is an example of
16 something that had not occurred before.

17 **MR. VARADY:** How will it lead to
18 relevant information in this lawsuit, tell me
19 that?

20 **MS. FELLMAN:** Probably not.

21 **MR. VARADY:** That's great. Then
22 let's move on. We have been here for a long
23 time.

24 **Q.** I would like to know that if you
25 decided --

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1 **MR. VARADY:** After this is all over
2 you and Mr. Faella can have a cup of tea
3 somewhere and he can tell you about the
4 mechanisms of the County.

5 **MS. FELLMAN:** I will defer to your
6 objection.

7 **MR. VARADY:** Thank you.

8 **BY MS. FELLMAN:**

9 **Q.** Do any of the departments have their
10 own procedures or specific procedures for running
11 their own department? Not global, but some
12 specific procedures for running their own
13 department.

14 **A. No, as I mentioned, we have an overall**
15 **County policy that applies to all of the**
16 **departments.**

17 **Q.** But within a specific department,
18 meeting the needs of that specific department, do
19 the department heads ever create policies that
20 are specific, or procedures, whatever you want to
21 call it, that are specific to their running of
22 their department?

23 **MR. RENAUD:** I object to the
24 question. You just asked that question.

25 **MS. FELLMAN:** No, I didn't.

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1 **MR. VARADY:** Objection. You just
2 asked that.

3 **MS. FELLMAN:** He answered the
4 question.

5 **Q.** Is that right, you said yes?

6 **A. I said yes.**

7 **Q.** Now, is this what you are referring
8 to when you said the County Policy?

9 **A. Yes.**

10 **Q.** So the County Policy that you are
11 saying is county-wide is the County Employee
12 Handbook? I can pull the whole one out if you
13 need me to. I have it here.

14 **MR. VARADY:** The question is based
15 on looking at the cover.

16 **MS. FELLMAN:** The cover.

17 **MR. VARADY:** Is that the policy of
18 the County of Union, I guess that is the
19 question.

20 **A. Yes.**

21 **Q.** So there is no other policy manual
22 for department heads or for division heads, the
23 only manual that you are aware of for the County
24 of Union is the one that is entitled "Employee
25 Handbook?"

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1 A. Yes.

2 Q. Have you, since you have been County
3 Manager, prepared any policy/procedures for the
4 departments or department heads to comply with?

5 A. No.

6 **Something I would like to do in the**
7 **future.**

8 Q. You haven't had time yet?

9 A. That's correct.

10 Q. When you prepare it, what type of
11 things would you put in there? What is your
12 vision?

13 MR. RENAUD: Can I object. Where
14 are we going with this? Can I ask why this would
15 possibly matter in this lawsuit.

16 MS. FELLMAN: It has something to do
17 with it. Because we have Mr. Faella's testimony.
18 And I have a right to inquire.

19 MR. VARADY: You don't have a right
20 to inquire into his vision.

21 MR. RENAUD: You going to ask about
22 his wish list?

23 MS. FELLMAN: I would like to know
24 his understanding of what he can do.

25 MR. VARADY: We went through that.

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1 MS. FELLMAN: It is going to take
2 two seconds for him to answer the question or we
3 can fight over it.

4 MR. VARADY: We can fight over it.
5 I am going to tell him not to answer.

6 MS. FELLMAN: You are not going to
7 let him answer the question as to what this
8 manual would include that he is intending to --

9 MR. VARADY: That's correct. My
10 reading of the rules is it is supposed to lead to
11 information that is relevant to the lawsuit. You
12 already agreed with me that part of this
13 questioning probably would not lead.

14 MS. FELLMAN: It depends on what
15 things come up. I don't know what is coming up.
16 Since I don't know what might come up, I am
17 exploring all the various options because I don't
18 know what might come up.

19 MR. VARADY: I am going to tell him
20 not to answer that.

21 MS. FELLMAN: I know some things
22 that might come up. But I don't know if they
23 will or not. That is why I don't know if it is
24 relevant or not.

25 MR. VARADY: He said he hasn't

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1 changed or submitted anything in what has been
2 identified in prior deposition Devanney-14 which
3 he testified is the policy of the County of
4 Union. He contributed nothing to that.

5 Your question is what would you like
6 to do, I am not letting him answer that.

7 MS. FELLMAN: I am asking what kind
8 of directives would be in that policy manual or
9 procedure manual.

10 MR. VARADY: I am not going to let
11 him answer that. It won't lead to any
12 information. At this point I think it is
13 becoming overburdensome.

14 MS. FELLMAN: I think it certainly
15 could and you are not letting me ask.

16 BY MS. FELLMAN:

17 Q. What is the most recent employee
18 manual that you are aware of?

19 A. The 2014.

20 Q. It just came out this year?

21 A. Yes.

22 Q. Does every employee get a copy of
23 the employee handbook?

24 A. Yes.

25 Q. I just have one more list to look

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1 at.

2 Have you spoken to anyone about Mr.
3 Lapolla's performance, job performance?

4 MR. VARADY: Where?

5 Q. At any point in time since you have
6 been County Manager.

7 A. Yes.

8 Q. Who have you spoken to?

9 A. **Again, as I believe I have answered two**
10 **other times, I have spoken with Mr. Capodice when**
11 **I had to fill out an evaluation and asked him**
12 **about Mr. Lapolla's performance.**

13 Q. Other than the occasion that you
14 spoke to Mr. Capodice, have you spoken to anyone
15 else regarding Mr. Lapolla's performance?

16 A. No.

17 Q. I take it you have no knowledge as
18 to why it was that Mr. Lapolla was transferred to
19 the Vo-Tech?

20 A. I do not.

21 MS. FELLMAN: Sir, I think that is
22 it.

23 (Whereupon the deposition concluded
24 at 4:21 p.m.)

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CERTIFICATE

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I, BETH J. SPINNER, a Certified Shorthand Reporter, Registered Professional Reporter, and Notary Public of the State of New Jersey do hereby certify that prior to the commencement of the examination the witness and/or witnesses were sworn to testify the truth, the whole truth, and nothing but the truth.

I do further certify that the foregoing is a true and accurate computer-aided transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action and that I am not interested in the event nor outcome of this litigation.

Notary Public of the State of New Jersey
My commission expires June 28, 2019

Dated: September 24, 2014

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