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SPRINGDALE CITY COUNCIL
COUNCIL INVESTIGATIVE COMMITTEE

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The above-captioned proceeding took place before Chairperson Meghan Sullivan-Wisecup and Committee Member Jeffrey Anderson at the Springdale Municipal Building at 11700 Springdale Pike, Springdale, Ohio, on Thursday, the 5th of July 2018 at 7:00 p.m.

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APPEARANCES:

On behalf of the Council Investigative
Committee:

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* * *

1 MS. SULLIVAN-WISECUP: Good evening.
2 I'd like to call tonight's CIC meeting to order.
3 Let's start with the Pledge of Allegiance. Please
4 stand.

5 (Pledge of Allegiance.)

6 MS. SULLIVAN-WISECUP: I actually
7 accidentally left off roll call, so we'll add roll
8 call. Jeff, are you here?

9 MR. ANDERSON: Present.

10 MS. SULLIVAN-WISECUP: I'm present as
11 well. Both Jeff Anderson and Meghan Sullivan are
12 present. Next, we have the approval of the June
13 21st minutes. Corrections?

14 MR. ANDERSON: I do. I'd like to
15 make corrections for those minutes. I can just
16 run through them. On page 1, it lists me as "Vice
17 Chairman," I think that should say "Member." On
18 page 11, Row 4, it says "of months" and it should
19 say minutes, so instead of "of months," it should
20 say "minutes." The full sentence was: Let me
21 play back for a couple of minutes to make sure I
22 understood the process that we've been through.
23 The original minutes the draft minutes said
24 "months." I did not talk that long.

25 On page 37, line 4, it says -- it has

1 an abbreviation, DAS, where the sentence says: It
2 should not be more than the people who were at the
3 DAS or in the attendance to begin with. I believe
4 the word should be dais instead of DAS.

5 On page 24, line 13, it says: I
6 guess my preference would be if we were just going
7 to respond to that e-mail threat. I believe that
8 should say thread. Those are the only changes I
9 had.

10 MS. SULLIVAN-WISECUP: Okay. I don't
11 think it was threatening. Okay. I will let them
12 know, we'll make those changes. I didn't see any,
13 but I didn't go through. I didn't notice those,
14 so awesome, thank you.

15 MR. ANDERSON: So I guess I move to
16 adopt the minutes as amended.

17 MS. SULLIVAN-WISECUP: I second. All
18 in favor of adopting them as amended? Opposed?
19 Abstained? Okay, those are accepted.

20 New business, we have introduction of
21 our new legal counsel. We have Alan Abes from
22 Dinsmore, and he has graciously come into the
23 family here. Would you like to introduce yourself
24 a little bit here, please?

25 MR. ABES: Sure. Alan Abes from

1 Dinsmore. I talked to council a couple of weeks
2 ago in advance of my being retained, and I'm happy
3 to help. Obviously, my job is determined by the
4 committee, so whatever you ask me to do, that will
5 be my role, and we'll keep it as efficient as we
6 can to get our work done as quickly as we can.

7 MS. SULLIVAN-WISECUP: Welcome.
8 We'll move now to investigative process. I think
9 we just want to go through and talk about the
10 options we have as far as our investigative
11 process and make a decision on how we want to go
12 forward with the investigative process.

13 Alan, did you want to kind of walk us
14 through our options as far as investigative
15 process going forward?

16 MR. ABES: Sure. So the committee
17 has chosen to conduct its business in open
18 meetings. So the bulk of what we do will be
19 conducted here for the public to hear so there's
20 no question about what's happening. Obviously,
21 the purpose of the investigation is to determine
22 what happened with respect to a sensitive
23 situation that happened in the confidential
24 executive session, and we want to make sure that
25 everything we do is above-board and transparent

1 and ultimately leads to an outcome.

2 Within that context, we do have the
3 option of having certain conferences privately
4 with me under the case law from the First District
5 Court of Appeals, which governs Hamilton County,
6 that can be done under or for two reasons: One is
7 to provide information and the second is to ask
8 questions. So to the extent that we feel it's
9 appropriate to have a private conference, because
10 that's typically what's done with an attorney
11 under the attorney-client privilege, also the
12 attorney work product doctrine, the committee has
13 the option of doing that. But we've decided or
14 you've decided and instructed me that most of our
15 work will be done in public.

16 To the extent that we have certain
17 communications with each other, those also fall
18 into the case that I described, so those are
19 attorney-client privileged, but the committee can
20 always vote to wave attorney-client privilege with
21 respect to anything that needs to come up in the
22 meeting.

23 MS. SULLIVAN-WISECUP: Okay. Jeff?

24 MR. ANDERSON: Yeah. So we're just
25 talking about our options in general. Going into

1 this, we've had a couple of meetings without you,
2 and we had outlined some ideas for how we thought
3 this could occur. We had listed a set of scope
4 items in our first meeting that we thought is
5 relevant for the CIC to take care of, so there
6 were four different items that we believe were in
7 scope for our work.

8 When we're talking about
9 investigative process, it's really about, at least
10 for this step, the first two scope items, which
11 was to -- the first one was to investigate the
12 breach and the second was to interview each person
13 present to make an accounting in lieu of that. So
14 the two major items that we're after there, and
15 then there's some work product we need to make
16 after that.

17 The process that we were thinking
18 about is just a set of questions, right, so we've
19 identified a number of people that we think that
20 have information that would be relevant to our
21 scope, and we're going to send them a list or a
22 set of questions. And then I guess we have the
23 option to either have written questions, all oral
24 questions, a combination, or one and then the
25 other; is that right?

1 MR. ABES: That's right. So in lieu
2 of calling everybody to testify in an open
3 committee session or otherwise and getting
4 duplicative answers or getting information that's
5 not particularly helpful, one option is to send
6 everybody a set of written questions. My thought
7 would be to send everybody the same master set of
8 questions so they're answering the same inquiries,
9 but also to send supplemental questions to certain
10 people based on the facts as we know or suspect
11 them right now.

12 In preparing to help you, I reviewed
13 the relevant council minutes, and there were
14 extended discussions about what we're
15 investigating in those minutes. So it's clear
16 that there are certain people who were involved in
17 particular events or have certain knowledge, and
18 we will want to ask supplemental questions about
19 those events or the facts that they know or have
20 communicated to council before.

21 So to the extent that we can
22 streamline the process, it would make sense to
23 send those written questions, and then when we get
24 the answers back, then, we can evaluate what else
25 we need. So at that point, we could either send

1 further written questions or we could call certain
2 people in to testify live. It might be that we
3 get 90 percent of what we need from the answers to
4 the written questions, but there might be gaps or
5 we might have further inquiries about their
6 answers or their answers might be unclear,
7 ambiguous, et cetera, so we would want to ask them
8 questions in person to clarify. But it's really
9 our option or the committee's option to do
10 whatever you think is most efficient, and we'll
11 conclude the investigation as quickly as possible
12 but also as thoroughly as possible.

13 So you really have maximum
14 flexibility. There's no prescribed rule for this.
15 Whatever you think is the most appropriate method,
16 you can choose. We would send out any questions
17 pursuant to subpoena, so there's an obligation to
18 answer those questions; otherwise, it would
19 certainly be voluntary. And when we do that,
20 we'll have people sign in front of a notary so
21 they're swearing that the answers are true, and
22 then when we get that back, then, we'll evaluate
23 where we go from there.

24 My suggestion would be to have the
25 answers come directly to me. At that point, they

1 are attorney work product, and they would not be
2 public records, and then we could evaluate where
3 we need to go from there. To the extent, however,
4 that we rely on any of those answers in issuing
5 the report, then, those answers would become
6 public. So essentially, you can think of it as
7 sending it to me as a mailbox. While it's in the
8 mailbox, they're not public records; but to the
9 extent we take them out of the mailbox and use
10 them publicly, then, they become public records.
11 So the potential downside is that anybody who is
12 asked to answer the questions would not have a
13 reasonable belief that their answers would be kept
14 confidential. However, based on the way this
15 investigation has been structured, I don't think
16 that's a reasonable expectation anyway, and that's
17 not really the way that you've decided to do
18 business, which I think is perfectly appropriate.

19 MR. ANDERSON: So I think we should
20 be clear about that, though, because that's a
21 decision point that we've made and we've made
22 decisions to that fact, but I don't know that we
23 ever stated our opinions on that. I know there's
24 kind of a -- there's conflict there, right, so do
25 we feel that the people that we're asking the

1 questions of, that there's risk that they wouldn't
2 be completely truthful if they knew it was going
3 to be in the public eye? Or is there -- or do we
4 feel like we'll get to a different set of truths
5 if they feel that -- if there's some sort of
6 confidentiality or blind associated with their
7 answers? And I know there's ways that we can
8 address that, but I'm curious what your view on
9 that is.

10 MS. SULLIVAN-WISECUP: My view is,
11 because I wasn't sure exactly -- as we had talked
12 about before was, I wasn't sure exactly at what
13 point in time it was going to be released or if
14 those answers were going to be released in whole
15 or in part depending on how the report came out.
16 So I wasn't exactly sure until right now exactly
17 what the confidentiality portion of that was
18 definitely going to be. I know in life if there's
19 an expectation of it being confidential, that
20 people would be more honest; but at the same time,
21 we did say that we wanted things to be open and we
22 wanted things to be what they were. I'm kind of
23 torn on it because I want the most truth possible,
24 and I'm trying to figure out how exactly we would
25 get the truth, or even, either way, if we'll get

1 the truth.

2 MR. ABES: Let me just add that when
3 everybody signs their answers, they're going to
4 sign what's called a verification, and the
5 verification will be in front of a notary, and
6 when they swear to their answers in front of the
7 notary, they're swearing that they're telling the
8 truth; and they will be answering the questions
9 under subpoena, and, therefore, they are compelled
10 to tell the truth. Now, obviously, we know that
11 that doesn't guarantee anything, but same would be
12 true if we had a live witness, for example.

13 MS. SULLIVAN-WISECUP: What if they
14 choose not to answer the questions?

15 MR. ABES: They would be in breach of
16 the subpoena. They would be in contempt of this
17 committee. They have to answer the questions to
18 the best of their ability.

19 MS. SULLIVAN-WISECUP: Okay.

20 MR. ANDERSON: Can you say more on
21 that? I mean, this isn't -- this is a serious
22 matter for us, but it's not a national security
23 issue or it's not a federal case.

24 MR. ABES: Right.

25 MR. ANDERSON: What does it mean

1 practically if a resident gets issued one of these
2 subpoenas, if they choose not to answer it or
3 don't answer it as truthfully as they could and
4 that later comes out through our testimony and
5 it's recanted, is there a -- practically, like
6 what does that practically mean for the resident?
7 The reason I'm asking is that I think the number
8 and the detail that we're asking for should be
9 commiserate with that, right, so what is the
10 practical reality of that?

11 MR. ABES: So there's a greater
12 practical reality for an elected official, for
13 example, because there are provisions in your
14 charter and council rules that provide for
15 cooperating with investigations of council.
16 There's a greater practical reality for an
17 employee because you can always discipline an
18 employee for not being truthful. For a resident,
19 there's not a lot of practical application, except
20 if you jump through a lot of hoops, there's
21 potential to have any order of this committee
22 enforced by the court, but the chances of that
23 happening are infrequent. The same is true, by
24 the way, for live testimony. So it really doesn't
25 matter for this question the form in which we send

1 the questions. We can have somebody here live, we
2 can send them written questions, they can take
3 whatever calculated risk they want to about how to
4 answer those questions.

5 But I think that with all of the
6 mechanisms we have in place, we have the subpoena
7 power, we have the verification, we have the
8 ability to call people back to testify in front of
9 the committee, so at some point, you're relying on
10 people's good faith to answer the questions
11 honestly as they're swearing that they're doing.
12 If they don't, then, our power is somewhat
13 limited, especially from a practical standpoint.
14 As you said, this is not a national security
15 investigation. We're not going to spend untold
16 dollars chasing people to the ends of the earth
17 trying to find the answers.

18 We'll keep this cost proportionate.
19 We'll decide as best we can on what's most
20 efficient, calculated to get the best answers we
21 can, and target purpose, and ultimately, when we
22 issue the report, we use the best information we
23 can get, and that's really all we're going to be
24 able to do.

25 MR. ANDERSON: So with that in mind,

1 my view on it is that the questions and answers
2 should be open. And the majority of witnesses to
3 date are either current elected officials,
4 administration, or prior elected officials, and I
5 wouldn't -- I would hope that all of those people
6 wouldn't -- I wouldn't question the answers that
7 they gave, especially if they testify to them. So
8 I would rather not have an expectation of
9 confidentiality in the answers being given in at
10 least our first round.

11 MS. SULLIVAN-WISECUP: Yeah.

12 MR. ANDERSON: Now, if it turns out
13 through our investigation we find some things that
14 take us down a rabbit hole that we don't expect,
15 we can certainly change our approach, right? We
16 can certainly -- there's nothing that restricts us
17 from moving things into more of a closed session,
18 if we needed to?

19 MR. ABES: No, there's not. It all
20 depends on how you structure the inquiry. So I
21 agree that for the first round, because we're
22 asking everybody essentially the same set of
23 questions except for the limited supplemental
24 questions that we're planning, that it makes sense
25 to have that in the open, but you never know where

1 an investigation is going to lead. To the extent
2 that you find something that requires
3 confidentiality, we can structure that in a way
4 that keeps it confidential. The question is going
5 to be ultimately when we issue the report, then,
6 what has to become open that was previously kept
7 confidential because it's now a part of the public
8 report. But again, that depends on how we
9 structure the report, and right now, it's
10 premature to answer that question because we
11 really don't know where the questions are going to
12 take us. But I think that for now, the right
13 approach to have everything open and then adjust
14 on the fly as we need to.

15 MR. ANDERSON: As much as about good
16 and open government as one specific case we're
17 investigating, so open would be my preference.

18 MS. SULLIVAN-WISECUP: Open would be
19 my preference as well.

20 MR. ANDERSON: So that was
21 investigative process, we went down how to ask
22 them, so a set of questions written initially; is
23 that correct?

24 MS. SULLIVAN-WISECUP: We need to
25 have a vote on that, but I --

1 MR. ANDERSON: I'm not asking what
2 the questions are yet, just the process is to have
3 written questions.

4 MS. SULLIVAN-WISECUP: Yes. I prefer
5 to start with the written questions, and then if
6 there's anything that needs to be supplemented,
7 like he had said, that you can either send out
8 another line of questioning written or call them
9 in. I prefer to start with the written where
10 everybody has the same, the few that are
11 supplemented, and then see where that takes us.
12 That's my preference.

13 MR. ABES: I think with the written
14 questions, it's highly unlikely that you will ask
15 each and every person to come in and testify.
16 We'll pick the people whose answers suggest that
17 more testimony is warranted.

18 MR. ANDERSON: I think there should
19 be enough questions but not too many, and that may
20 not be required unless there's conflict that we
21 need clarified or a clarification question. I
22 mean, the ideal happy is we send out the initial
23 set of questions, get them back very quickly,
24 thoroughly and completely compile them, and even
25 though there's it's a year ago, there's sufficient

1 overlap, we can feel a good confidence of what
2 happened and then make our determination.

3 MS. SULLIVAN-WISECUP: Right.

4 MR. ANDERSON: Okay. So written
5 questions. What's the time period for those, like
6 so how long do you typically give in these
7 situations to return?

8 MR. ABES: Right. So typically in a
9 litigation setting, which is usually where you see
10 questions like this, the Rules of Civil Procedure
11 usually provide either 28 or 30 days to answer the
12 questions. I think for these questions that we're
13 contemplating, two weeks is appropriate. We're
14 not sending nearly as many questions as I would
15 send in a typical case. The questions are also
16 not terribly complicated. Some of them are just
17 identifying who do you recall was at a meeting, et
18 cetera; that's not going to take very long. There
19 will be a few questions that will require some
20 thought, and to the extent that we decide to ask
21 people, for example, what happened in the
22 executive session, that will be a lengthier answer
23 than some of the other questions require, but I
24 don't think this is really going to require a
25 whole lot of time for people answering the

1 questions. And to the extent that they need more
2 time, they can ask. If somebody needs an extra
3 day or week or few extra days, we can decide
4 whether to grant that.

5 MR. ANDERSON: So subpoena and
6 questions, I understand that that can be a very
7 formal undertaking. Do we have an ability to put
8 a cover letter on top of that from the City that
9 says, hey, this is what we're doing?

10 MR. ABES: Yes.

11 MR. ANDERSON: Some people aren't in
12 these sessions all the time. We can write a cover
13 letter?

14 MR. ABES: Yes. Even in the most
15 contentious high-stakes litigation, lawyers often
16 send cover letters that have further explanation.
17 So typically when I send a subpoena, for example,
18 I put in a set of topics or questions. I put in a
19 date by which I have to have a response. But then
20 I'll send a cover letter that says essentially,
21 hey, I'm sending you what I have to send you from
22 a formal standpoint, but if you need more time,
23 need a different date, need to discuss the scope
24 of the questions, let us know, and then we do.

25 So here we certainly have the ability

1 to send a cover letter that has a little bit of
2 more colloquial explanation of what we're doing,
3 little less formal, and then it lets people know
4 that they can contact me if they have questions,
5 they can contact me if they need more time, but it
6 also just explains what we're doing.

7 MR. ANDERSON: So you identified you
8 as the mailbox earlier for the responses. Those
9 clarifying questions in the subpoena, is that
10 typically the best way to do it, that they would
11 ask you for clarification on questions or should
12 that be one of or both of us?

13 MR. ABES: I think it should be me.
14 The subpoenas I would anticipate would come from
15 me. The return would come from me. They would
16 obviously be issued under the authority of the
17 committee, but I'm essentially acting as the
18 committee's representative here, and to the extent
19 that anybody has questions, I think it makes much
20 more sense to have legal counsel answer those
21 questions as opposed to one member of the
22 committee. You certainly don't want to have to
23 convene a meeting every time somebody has a
24 clarifying question, so it makes much more sense
25 to have that go through me. I can answer those

1 questions, and we don't have to worry about
2 keeping or anything like that.

3 MR. ANDERSON: But we wouldn't be
4 giving any of the respondents legal advice through
5 that, it's still strictly limited, your time is
6 strictly limited to responding to questions about
7 how to respond --

8 MR. ABES: Yes.

9 MR. ANDERSON: -- or what the
10 questions mean, not to provide them with guidance
11 on what if I did this or what if I did this?

12 MR. ABES: We are not going to
13 provide any legal advice at all. I have only been
14 retained as counsel to the committee. I am not
15 the lawyer for anybody who's receiving the
16 questions. I am not authorized to provide them
17 with legal advice. They are all free to seek
18 advice from their own counsel, to the extent they
19 need it. My personal opinion is that that's
20 really not going to be necessary, certainly not
21 for most people here. If anybody has a
22 significant question about how to answer
23 something, then, they should seek the advice of
24 their own counsel, but we can't give it.

25 MS. SULLIVAN-WISECUP: Okay. Then,

1 so I was trying to think -- I had something
2 earlier and I lost it because he was answering the
3 questions. I should have written it down. I'm
4 sorry. So when he was -- okay. So I want to make
5 sure that I'm completely clear. So you'll send
6 out the questions with a cover letter on it saying
7 here's, you know, whatever. And then if they have
8 questions, back to you, and then they'll get it
9 back to you.

10 And then what happens after you have
11 all of that? Will you meet with us, do you meet
12 here and say it, or what happens, what's the next
13 step after that?

14 MR. ABES: So some of that might
15 depend on the answers we get.

16 MS. SULLIVAN-WISECUP: Okay.

17 MR. ABES: Obviously, if there are
18 any bombshells in the answers or anything
19 unexpected, we'll have to consider the appropriate
20 path, but my guess is that I will review the
21 answers, I will get a sense of where the answers
22 need to take us for our next step, that I will
23 meet with you privately to provide information
24 only, no deliberation, no decisions per the case
25 law, but to provide information only as to where

1 we need to go based on the answers. We will then
2 decide do we need to send more written questions,
3 do we need to have anybody in for live testimony.

4 At that point, the answers will still
5 stay in what we're calling the mailbox because
6 they are my work product. I'm really the person
7 who's at that point deciding how to advise the
8 committee based on the answers we've received.
9 And then we'll decide on the procedure.

10 It's only at the end of that
11 investigatory process that we'll decide what then
12 becomes public because we're going to rely on it
13 to issue our public report. But I think for the
14 bulk of the investigative process, then, we will
15 talk privately under the attorney-client
16 privilege, because what we're getting is not ready
17 for prime time yet. It's just raw data. Once the
18 raw data becomes the finished product, then,
19 there's a public product to share.

20 MS. SULLIVAN-WISECUP: Okay.

21 MR. ANDERSON: You had mentioned
22 follow-up questions, if they're needed, and what
23 they will be, and you're saying that that would
24 happen inside of the attorney-client meeting
25 reviewing the information?

1 MR. ABES: Nothing would be decided
2 there because we're, again, not allowed to make
3 any decisions, we're not allowed to have
4 deliberations. All we're allowed to do in a
5 private attorney-client meeting under these
6 circumstances is to provide information and to ask
7 questions about that information. To the extent
8 that you then need to deliberate or make any
9 decisions, we would do that in an open meeting.

10 MS. SULLIVAN-WISECUP: Okay. Do you
11 have any further questions about the investigative
12 process?

13 MR. ANDERSON: So I just want to play
14 it back to make sure I didn't get lost in all of
15 that. The investigative process, we're agreeing
16 on the following: A set of written questions that
17 we'll go through tonight to a set of respondents
18 that we'll go through tonight. We will ask for
19 written responses back within two weeks from when
20 we issue the subpoenas on the CIC's authority.
21 Those will come from Dinsmore letterhead with our
22 names on it. They will respond back to Dinsmore
23 with their written, notarized responses. They
24 will be compiled. And then we will meet to
25 receive that information, and then at that point,

1 determine an agenda for follow-on meeting.
2 Whether that agenda needs to include further
3 follow-on questions or live testimony will be a
4 part of the deliberation, not content. And then
5 we would make some decisions in our subsequent
6 meeting as to do we have enough to complete our
7 next step of the work product or whatever those
8 next steps would be. Did I get that right?

9 MR. ABES: That's correct.

10 MS. SULLIVAN-WISECUP: That was my
11 understanding as well, yes.

12 MR. ANDERSON: Okay.

13 MS. SULLIVAN-WISECUP: We're all on
14 the same page.

15 MR. ANDERSON: Yes. In that case, I
16 don't have any further questions on investigative
17 process that we've agreed to tonight.

18 MS. SULLIVAN-WISECUP: Do we have to
19 do a formal voting on it?

20 MR. ANDERSON: Unless Alan thinks we
21 do. We don't have to vote on the process?

22 MR. ABES: No, no. I know we're
23 going to discuss specific questions to ask, and we
24 should take a vote on that.

25 MS. SULLIVAN-WISECUP: Yes. At the

1 last meeting, we had discussed -- or moving on to
2 No. C, the list of persons to be questioned, at
3 the last meeting, we had discussed making a list,
4 and I have my list. Do you?

5 MR. ANDERSON: I do. I had agreed in
6 the last meeting to follow up with the cable
7 television.

8 MS. SULLIVAN-WISECUP: ICRC.

9 MR. ANDERSON: Thank you. The ICRC
10 video of that meeting to see some clues to make
11 sure, and then I compared that with the minutes
12 that were posted for that meeting, and then I came
13 up with my list. As we suspected, in the video,
14 as soon as the committee voted to move to
15 executive session, that was the end of the
16 recording. So there was nothing -- you couldn't
17 even see anyone getting up or leaving, but we did
18 see everyone that was in the meeting, so it did
19 confirm the minutes. Plus, I think I improved
20 their viewer stats by probably 200 percent, so I'm
21 sure they appreciated that. So my list, yes, is
22 the -- do you want to go through it?

23 MS. SULLIVAN-WISECUP: Go for it,
24 yes.

25 MR. ANDERSON: So I had who I would

1 believe to be in attendance at that meeting would
2 be: At the time Councilman Bob Diehl, Council
3 Person Emerson, Council Person Harlow, Council
4 Person Hawkins, Council Person Shroyer, Council
5 Person Vanover, City Administrator Derrick Parham,
6 Mayor Webster, and Amanda Zimmerlin.

7 MS. SULLIVAN-WISECUP: Assistant City
8 Administrator.

9 MR. ANDERSON: All right. In
10 addition to those people that were -- oh, and then
11 Ms. Ghantous, Council Person Ghantous.

12 MS. SULLIVAN-WISECUP: Yes.

13 MR. ANDERSON: In addition to those
14 people that I believe were in the session --
15 that's the committee for in the session. In
16 addition to that, I felt that Mick Higgins, the
17 president, should also be included in the
18 questions based on the discussions that Council
19 Person Emerson had brought up in an open meeting.

20 MS. SULLIVAN-WISECUP: That was the
21 same people that I had in my extensive list. And
22 then I had did have Tier 2, if needed, but after I
23 saw the proposed questions, I don't think that
24 we'll need those.

25 MR. ABES: I'm sorry, did you mention

1 Jeff Forbes on that list?

2 MR. ANDERSON: I did not, no. Thank
3 you.

4 MS. SULLIVAN-WISECUP: Legal counsel,
5 Mr. Forbes.

6 MR. ANDERSON: Mr. Forbes as well.

7 MS. SULLIVAN-WISECUP: Yes.

8 MR. ANDERSON: That's what happens
9 when you go from the minutes as opposed to the
10 video.

11 MS. SULLIVAN-WISECUP: Yes. My list
12 had everyone in executive session, and then that's
13 it for my first tier of people, and this was on
14 contingent on addressing all of the questions.

15 MR. ANDERSON: Based off of our last
16 meeting, we agreed on our process that we would
17 use to determine whether people should be called
18 because we want to limit the questions to not
19 conjecture, but that there's some reason that
20 we're asking the questions, to limit the scope as
21 much as possible but still get to the full facts
22 of the matter. So we had agreed, I believe, that
23 if you weren't believed to be in the session or
24 named in one of the open meetings as having
25 received or given information related to our scope

1 of work that there wouldn't be any other subpoenas
2 until such time that other people were brought in
3 through those answers, right?

4 MR. ABES: Yes.

5 MR. ANDERSON: So if there were
6 people that had conversations with people, that
7 would be in that second round of subpoenas just to
8 confirm that they did or didn't?

9 MS. SULLIVAN-WISECUP: Yes, yes, I
10 agree. That's what I had. So that is the list of
11 persons to be questioned I have as well. So we
12 are in agreement with that one as well.

13 MR. ANDERSON: Okay.

14 MS. SULLIVAN-WISECUP: We'll go on to
15 questions, list of approval.

16 MR. ANDERSON: Yeah. So at this
17 point, just for speed and clarity, I would like to
18 make a motion to remove the attorney-client
19 privilege related to three documents that were
20 prepared by Dinsmore associates related to draft
21 questions, work product for us to use as a basis
22 for us to start with for our questions for
23 tonight. So I make a motion to remove
24 attorney-client privilege for those three
25 documents.

1 MS. SULLIVAN-WISECUP: Second. Both
2 of us agree. Aye? All right. We are free to
3 discuss these questions. We want to start with
4 the one that is the broad -- let me see, what is
5 it, the City of Springdale --

6 MR. ABES: Maybe I should just
7 explain.

8 MR. ANDERSON: Give some background
9 on it.

10 MR. ABES: So I prepared three drafts
11 for you. The first two drafts look like what we
12 would send out. They have a caption on them.
13 They have a verification at the end, and they're
14 formatted in the way that we would send them out.
15 I drafted one master set of questions intended for
16 everybody who was in the executive session, so all
17 of the questions pertain to what happened in the
18 executive session and what happened in the
19 aftermath. I drafted one set of questions that
20 would only go to Mr. Higgins because he was not in
21 the executive session, so we have some different
22 inquiries for him.

23 Then, in the interest of time, I
24 didn't format the last set of questions, but I
25 drafted some potential supplemental written

1 questions for certain people who were in the
2 executive session, because based on my review of
3 the minutes from prior council meetings, those
4 people have or potentially have certain
5 information that's not appropriate to ask
6 everybody who was in the executive session, and I
7 just listed those questions on this document. But
8 if we agree to send supplemental questions to
9 those people, I would format them differently and
10 send them separately to each individual.

11 MR. ANDERSON: But they would go in
12 the same first wave of questions, but it would
13 just be a specific list for that person?

14 MR. ABES: Yes. For their cover
15 letter, I would change that accordingly so they
16 know what I'm sending them.

17 MR. ANDERSON: For other people's
18 benefit that don't have the documents that we just
19 described -- and we don't have copies available
20 today for anyone who wants them, but they are
21 considered public record now that we're discussing
22 them --

23 MR. ABES: They are now.

24 MR. ANDERSON: -- as draft questions.
25 I just want to caution anyone that might be

1 looking at this later that you can request the
2 drafts as written as we received them now that
3 that's made public by the committee, but keep in
4 mind, they were drafts done solely by Dinsmore and
5 associates without consultation directly about any
6 of the questions. So we'll go through those
7 tonight. You can request them as we received
8 them, but please don't treat them as if they're
9 the questions going out until we've reviewed them
10 and gone through them.

11 MR. ABES: That's correct.

12 MS. SULLIVAN-WISECUP: Okay.

13 MR. ANDERSON: Sorry, the way for
14 them to get them if they were interested would be
15 a normal records request to the administration?

16 MR. ABES: Correct.

17 MR. ANDERSON: They could request the
18 documents that were referenced tonight, and we
19 will make them available to the city
20 administration so they'll be up on file.

21 MS. SULLIVAN-WISECUP: Also sent to
22 the clerk.

23 MR. ANDERSON: You've got that, get
24 that to Kathy?

25 MS. SULLIVAN-WISECUP: Absolutely.

1 MR. ABES: I would send only the
2 questions, but not the previous cover note that I
3 sent you, which remains attorney-client
4 privileged.

5 MS. SULLIVAN-WISECUP: So only the
6 files?

7 MR. ABES: Yes, the three work files.

8 MS. SULLIVAN-WISECUP: Okay.

9 MR. ANDERSON: Okay. So the first
10 Word document, which is the general questions,
11 that's the one you don't have?

12 MS. SULLIVAN-WISECUP: That's the one
13 I don't have, not even a copy.

14 MR. ANDERSON: The first one, this
15 would be the general, the executive session people
16 we just listed, except for Mick Higgins, without
17 the supplementals. So I did review these. I'm
18 not sure, what do you think is the best way to go
19 through them? I wasn't planning to read them.

20 MS. SULLIVAN-WISECUP: No.

21 MR. ANDERSON: Just if there were
22 questions or comments about them. Overall, I was
23 very happy with it, not just the formatting, but
24 the depth of questions without being overly
25 intrusive. It will be for the basic 13 questions,

1 which doesn't feel too burdensome, especially when
2 you look at three or four of them are simple
3 questions.

4 MR. ABES: State your name.

5 MR. ANDERSON: State your name, were
6 you present type questions. And I mean,
7 there's -- really, the meat of it is two or three
8 questions that say what do you recall. There was
9 one thing I think we should make sure is explicit,
10 too, on this. We do reference another document
11 that will be an appendix that was also removed
12 from attorney-client privilege at that May meeting
13 when we convened this committee, and that was a
14 summary by the law office, by the law director, on
15 his recollection of the meeting as the basis for
16 people to provide their recollection. I feel like
17 we should talk about that, about how we get the
18 best accounting of the meeting without inciting
19 too much group think but still keeping it neat and
20 manageable.

21 So I like the idea of having that as
22 the basis, but making sure it's clear that that's
23 not an authoritative accounting of the meeting.
24 That was something that was brought up in the
25 council meeting, is how do we keep -- you know, it

1 wasn't even to make that document available
2 because it could affect people's views of it.
3 It's one person's remembrance. So how do we feel
4 that that's the basis for some of the questions?

5 MS. SULLIVAN-WISECUP: I'm trying to
6 remember how he worded it, what he was asking
7 specifically about the --

8 MR. ANDERSON: Starts on Question 5.

9 MR. ABES: So I think the way it's
10 set up is that I introduce the document and ask
11 the recipient to read the document and then
12 identify anything that they believe is inaccurate
13 or incomplete about the document. But then
14 there's a follow-up question asking every attendee
15 to describe in as much detail as they can what
16 happened in the meeting. So what I was trying to
17 do was to avoid getting wildly different accounts
18 because people didn't have any baseline, given
19 that this was a year ago, more than a year ago
20 now. The summary that I reviewed I thought was a
21 good general summary. It was clear from the
22 council minutes that it was intended to be only a
23 general summary and not a word-for-word
24 description of what happened at the meeting.

25 I think that some of the other

1 questions that are in the document will prompt
2 people to remember or place significance to
3 certain events that are not described in the memo
4 that the law director prepared, particularly a
5 couple of questions that are based on Council
6 Person Emerson's recollection of what happened
7 when she talked to Mr. Higgins at the polling
8 place in question, with respect to some raised
9 voices that allegedly took place in the session,
10 and with respect to some comments made by
11 particular council members, and there were a bunch
12 related to Mr. Higgins. Those items are not in
13 the law director's summary, so I think when the
14 recipients read the document as a whole, they will
15 have the baseline recollection, that they won't
16 have to waste time repeating what is contained in
17 the law director's memo, but they will be prompted
18 and reminded and asked specifically to say, okay,
19 what else happened at the meeting so they can
20 relay anything else that they think is
21 significant.

22 So my thought was to try to walk that
23 line between having people recreate something and
24 take a lot of time in doing so and not prompting
25 the group think and saying, oh, yes, everything

1 that happened in the meeting is there in
2 Mr. Forbes' memo because clearly it's not.
3 There's really no discussion of the tenor or tone
4 of the meeting. It's more just a straightforward
5 recollection of the content of the meeting. But I
6 do think that we walk a line sufficiently that
7 people will be free to say what else is on their
8 mind and that they will certainly be prompted to
9 do so.

10 MS. SULLIVAN-WISECUP: One thing that
11 was in the scope as well was that we wanted to
12 make sure that everyone gave their side of what
13 happened in that executive session so that we had
14 a better view of what had happened in the meeting,
15 and I think that that was covered under the next
16 question about No. 6. I think that with as much
17 conversation as was done in the city council
18 meeting once the summary was released, enough
19 people said that that wasn't exactly what
20 happened, and then we're hoping that they will
21 elaborate and they will state their part of what
22 happened.

23 MR. ABES: I didn't do this, but if
24 you want, we could add a note to the question that
25 references the exhibit and remind them what was

1 said in council, which was that this was not
2 intended to be a word-for-word recitation of what
3 happened in executive session. It's up to you.

4 MR. ANDERSON: I don't know. Do you
5 think that that's necessary?

6 MS. SULLIVAN-WISECUP: I don't.

7 MR. ANDERSON: I don't think that's
8 necessary. You know, I read the question as it's
9 written or as proposed and it certainly stays
10 open-ended to me. It asks for an accurate and
11 complete -- I mean, I could give a little bit on
12 complete.

13 MS. SULLIVAN-WISECUP: It was a year
14 ago, over a year ago.

15 MR. ANDERSON: It was over a year
16 ago, but the piece that didn't come through in
17 that part of it was more what you just described,
18 what stood out to you in that session as opposed
19 to a recitation of a summary of the facts. As I
20 was thinking through that, I don't think that
21 that's necessary, right, because our scope is to
22 recreate exact as possible in the minutes what
23 occurred in the meeting, that was one of the scope
24 items. People's views or feelings that they got
25 out of a meeting or in a meeting, I don't believe

1 that that is part of that scope. It's certainly
2 relevant for some of the questions later if we're
3 going to ask why -- if there was a breach, you
4 know, you can talk about what was said and why,
5 and then that's part of that and that's important.
6 But in terms of recreating a record, what they
7 feel is important isn't as relevant as what was
8 said or what was done.

9 MR. ABES: I think that's right. To
10 the extent that we do uncover that there was a
11 breach and even uncover the source of that breach,
12 then, motivation becomes important because
13 depending on who would be the source of the
14 breach, council would have the option of
15 disciplining an employee or taking action against
16 a council member as provided under the Charter of
17 Council Rules, so motivation would be important.
18 But right now, we're just trying to discover what
19 actually happened, so I don't think we need to
20 take that next-level step again.

21 MS. SULLIVAN-WISECUP: Right.

22 MR. ANDERSON: Are you on the same
23 page?

24 MS. SULLIVAN-WISECUP: Yeah. I don't
25 want to say I don't care, but for what we're

1 doing, I don't care how they feel. In our
2 minutes, it doesn't say Meghan felt sad or she
3 appeared to be glum. I want factual stuff.

4 MR. ANDERSON: Okay. All right. So
5 we talked about some of these base questions.
6 There's the demographics, whether you attended
7 questions, those are fine. Tell us who you think
8 was there, fine, so we can get some confirmation.
9 And then review the summary, and then give your
10 accounting, either your own total accounting or
11 amendments to that. And then there's some
12 questions about do you recall specific things that
13 were brought up in that council meeting, right.

14 So there was the whole question about
15 discipline and disciplining or felt disciplined,
16 that raised a lot of questions during our council
17 meeting about this committee in this instance. So
18 Questions 7 and 8 that were proposed are really
19 trying to get at that question. I'm wondering if
20 that's relevant right now. So, you know, to be
21 clear, right, it's asking if certain people used
22 raised voices or felt disciplined or asked
23 questions, and it calls out a few of the council
24 people because it was alleged in that other
25 meeting that that's what happened.

1 MR. ABES: Right.

2 MR. ANDERSON: That's where that's
3 coming from?

4 MR. ABES: Yeah. So in the minutes
5 of the -- I believe the May 2nd council meeting,
6 there was an extended discussion where Mr. Higgins
7 was present and he had a back-and-forth with
8 Council Person Emerson. And, Meghan, actually you
9 asked the question: What do you allege
10 Mr. Higgins actually said about the executive
11 session? And that's when Council Person Emerson
12 identified these two items.

13 MR. ANDERSON: Okay.

14 MR. ABES: So what I'm trying to do
15 with these questions is get corroboration of what
16 was actually said in the meeting, because if she
17 is alleging that that's what Mr. Higgins relayed
18 to her, then, I do think that this initial stage
19 we need to ask about whether that actually
20 happened, what people recall about that.

21 The whole extended discussion of
22 disciplining in the council meeting I thought was
23 a little confusing and a little off the point. I
24 didn't feel a need to ask a specific question
25 about that because I think it resulted from people

1 talking past each other and not really being on
2 the same page. I don't think that that's really
3 the important point.

4 It seemed like Mr. Higgins thought
5 that disciplining an employee would be an
6 appropriate subject for executive session, and
7 then he was saying, well, did that or didn't that
8 happen, but that's not even a stated reason for
9 the executive session in the motion, so I think
10 that that's beside the point. But these two items
11 come directly from what Council Person Emerson
12 said and that's why they're important.

13 MR. ANDERSON: To be clear, this
14 isn't to bring up any ill will or feelings in the
15 meeting. We do need to ask these questions so we
16 can corroborate a claim that is core to the CIC
17 scope.

18 MR. ABES: That's exactly right.

19 MR. ANDERSON: I agree with that.

20 MS. SULLIVAN-WISECUP: Yes, as long
21 as it's within the scope, I'm okay with it.

22 MR. ANDERSON: Yeah. I had a
23 visceral reaction when I read those proposed
24 questions at first because there's obviously a lot
25 of emotion around a lot of this, right, you saw

1 that in some of the meetings?

2 MR. ABES: Right.

3 MR. ANDERSON: And rightly so. I
4 didn't want this to come across as trying to pour
5 salt in a wound or even allege that it happened.
6 So I'm wondering if there's a way we can make that
7 even more clear that it has to do with
8 corroborating a claim in the May 2nd meeting;
9 would that be appropriate here, because we
10 reference the other meeting? Although, I'm
11 worried that it might be confusing because it's
12 too many meetings. Is there a way that we can
13 make that more clear or do we even need to?

14 MR. ABES: I don't think we need to.
15 And I share your concern because I was hesitant to
16 reference specific council people by name in the
17 questions because I do not want anybody to believe
18 that they are a target of the investigation or
19 that anything they did even prompted the
20 investigation. But when the subject matter
21 contained in Question 7 and 8 is the subject
22 matter that is allegedly the content of the
23 breach, I don't think we have any choice but to
24 ask the question. And I don't think that it will
25 be taken as accusatory, at least I hope not,

1 because it is certainly clear from the council
2 minutes that that was the subject of the alleged
3 breach. I think the only thing we could do, if
4 you want, again, is perhaps to reference the May
5 2nd minutes, so if people want to some context for
6 it, they could go back and take a look and see
7 that that's why we're asking the question. But
8 you didn't want to do that for the other question,
9 and it feels just as clunky for this as it did for
10 that.

11 MR. ANDERSON: I feel a little better
12 having talked about it. If anyone has questions,
13 they can ask us why, and if they ask you why this
14 is being asked, that would be the answer you would
15 give, it relates to or it's germane based off of
16 the meeting?

17 MR. ABES: Yeah, I would. This would
18 not be legal advice, obviously, but I would tell
19 them just in the interest of practicality that it
20 was discussed in an open council meeting that that
21 was the subject of the alleged breach and that's
22 why we're asking about it.

23 MR. ANDERSON: You can also reference
24 this meeting tonight and said we considered that
25 and do not feel that it has anything to do with

1 accusatory or it's just relevant to the facts that
2 we're trying to find?

3 MR. ABES: That's correct. We should
4 note that I drafted the questions. I don't have
5 the slightest idea at this point whether there was
6 a breach or, if so, who did it. I'm only going by
7 what I read in the council minutes.

8 MS. SULLIVAN-WISECUP: When I read
9 this at home, that's actually -- this question was
10 the one that I had the notes on that I don't have
11 the paperwork. I wanted to make sure that it
12 wasn't accusing a person.

13 MR. ANDERSON: So you're okay with
14 Questions 7 and 8 as written?

15 MS. SULLIVAN-WISECUP: Yes, now with
16 the explanation, yes, yes.

17 MR. ANDERSON: Okay. So then ask
18 questions about the -- now we're in the section
19 where we were talking about the alleged breach
20 based off the commentary from Council Person
21 Emerson in the May 2nd meeting, and that describes
22 the discussion that was allegedly had, potentially
23 had --

24 MR. ABES: Right, potentially.

25 MR. ANDERSON: -- on Election Day

1 outside of a polling station. So this is
2 responding to that breach incident. So we're
3 asking about general questions to the first group
4 of items, and then we're asking about specific
5 things to determine the breach. But that's where
6 this is coming from, the November 7th, Questions
7 9, and 10, and 11 are from that?

8 MS. SULLIVAN-WISECUP: Right.

9 MR. ABES: I did not expand the scope
10 of the inquiry. The only allegations that I read
11 stem from what was said on the election date of
12 November 7th, 2017. I did not ask about any other
13 conversations, any other time period, any other
14 alleged breach. All of the facts I have point to
15 what happened on that particular day, so I
16 confined the inquiry to that particular day.

17 MR. ANDERSON: To be clear, that's
18 the limited scope that I'm aware of based on the
19 facts that we have on the record, was the
20 assertion, the claim, from Council Person Emerson
21 described on the date of the breach and then the
22 session that was brought up that it was coming
23 from it. Are you aware of any other dates that we
24 need to have in this opening round based off of
25 this?

1 MS. SULLIVAN-WISECUP: I don't have
2 any specific dates other than that. Nobody said
3 on any other specific dates that anything was
4 breached other than that. I know when Mr. Higgins
5 was here, he said he felt that other things had
6 possibly not been for the reasons that were stated
7 for executive session. And then he said -- then,
8 it was sent back to him, what did you think
9 happened, he said he didn't know, he wanted us to
10 tell him. But nothing specifically had been said,
11 no specifics have been used, so as far as I was
12 concerned, this is what our focus is.

13 MR. ABES: Right. That was the
14 subject of the lawsuit that he brought. He cited
15 two other examples where he thought that the
16 stated reason for going into executive session was
17 not appropriate, but there were no facts in any of
18 the pleadings that I reviewed that would give rise
19 to us needing to ask any further questions. And
20 there were certainly no other facts in the council
21 minutes reflecting any other significant date or
22 possible breach.

23 MR. ANDERSON: I'm comfortable with
24 that. I just want to make sure that we're
25 explicit on that. You are as well?

1 MS. SULLIVAN-WISECUP: Absolutely,
2 absolutely.

3 MR. ANDERSON: Those are good
4 questions. The last two items that we have in
5 this general questionnaire, one of them is whether
6 you had prior communications -- this is one of the
7 open-ended -- related to the rental permits, which
8 was also the topic of that meeting. So we're
9 trying to close the loop there, if there's
10 assertions in the May meeting of, well, I had
11 other discussions prior to executive where I got
12 that information. So it's trying to get a
13 complete picture there of where else that
14 information could have come from other than
15 executive session that could have been
16 misunderstood. That's the point of Questions 12
17 and 13, around other conversations that you might
18 have had around this one alleged breach date that
19 occurred on November 7th?

20 MR. ABES: That's exactly right.
21 There's discussion from multiple people in the
22 council minutes that the information could have
23 come from some source other than executive
24 session. So to the extent that that's the
25 allegation, then, I want to make sure that we ask

1 people who did you talk to, when did you talk to
2 them, what did you talk to them about with respect
3 to the rental inspection program, and let's see if
4 there is any information that corroborates that
5 statement.

6 MR. ANDERSON: To be clear, which we
7 agreed in the scope, I want to make sure we're on
8 the same page, we're not trying to assess the
9 content of that meeting, the fact that the
10 executive session was related to that, we're not
11 assessing any claims about constitutionality,
12 legality?

13 MS. SULLIVAN-WISECUP: Correct.

14 MR. ANDERSON: The content is not in
15 question in any of these questions?

16 MR. ABES: The scope of this inquiry
17 has nothing to do with the merits of the rental
18 inspection program or the legality of the rental
19 inspection program. It's just that that was a
20 topic discussed, and, therefore, we have to ask
21 about these other conversations that could have
22 taken place about that particular topic.

23 MS. SULLIVAN-WISECUP: Okay.

24 MR. ANDERSON: I'm comfortable with
25 that opening set of questions. Do you have any

1 other changes to the document?

2 MS. SULLIVAN-WISECUP: No. I was
3 very comfortable with those. The only thing I had
4 questions about were answered in 7 and 8.

5 MR. ANDERSON: Do you want to move to
6 the next one?

7 MS. SULLIVAN-WISECUP: Yes. Do you
8 want to accept these or do it all at one time?

9 MR. ANDERSON: We don't need to do
10 motions to accept them.

11 MS. SULLIVAN-WISECUP: We're good.
12 Okay.

13 MR. ABES: It's whatever you feel
14 most comfortable with. It's not really necessary.

15 MS. SULLIVAN-WISECUP: We're going to
16 go to the one that is specifically for
17 Mr. Higgins.

18 MR. ANDERSON: So on this one,
19 Mr. Higgins wouldn't be receiving the one we just
20 reviewed because that's focused on council
21 executive session content, there is some duplicate
22 proposed here?

23 MR. ABES: Yes. He would only get
24 one set of questions.

25 MS. SULLIVAN-WISECUP: Very general

1 questions in here, state your name, and then the
2 first few questions are about the conversation or
3 before the conversation. I don't have any
4 problems with these. They're pretty typical
5 questions that one would expect asking if anything
6 specific had happened, pretty much exactly what I
7 expected to see. I mean, to be honest, they were
8 pretty much exactly what I had expected to see.

9 MR. ABES: There are only nine
10 questions, including state your name.

11 MS. SULLIVAN-WISECUP: Yes.

12 MR. ABES: The questions all deal
13 with what did you discuss with Council Person
14 Emerson, what did you discuss with anybody else
15 with respect to the rental inspection program.
16 And we're also trying to find out, if there was a
17 breach, who might have relayed any information to
18 Mr. Higgins. If there was a breach, whoever
19 breached confidentiality didn't necessarily tell
20 Mr. Higgins, but whoever that person told could
21 have then told Mr. Higgins or it could have been
22 even further removed. So we're just trying to
23 figure out what was discussed, who told you, and
24 what did you talk about with respect to the rental
25 inspection program that could provide a source of

1 your information other than a breach.

2 MR. ANDERSON: So I have one
3 question. So what was proposed in Question 2, I'm
4 concerned it might be too open-ended for this
5 questionnaire. The question that's proposed, it
6 says: State whether before the Emerson
7 conversation you communicated in any way
8 whatsoever with any attendee in connection with
9 the executive session; if so, describe when, how,
10 what you or she or he communicated. My concern
11 with that is I think we need to bound it to
12 related to the Emerson conversation or rental
13 inspection. The resident that we're referring to
14 has been very active in the community in a number
15 of ways, is a frequent attendee of council
16 meetings, he's PTA President, been on committees.
17 So I feel like we need to -- I feel like if he
18 reads this, he's -- it's going to be a big answer.
19 Does that make sense?

20 MS. SULLIVAN-WISECUP: When I read
21 through it, I thought that it said in connection
22 with the executive session, so I was thinking it
23 was only about that one when I read it, so I
24 didn't even read it the way you read it. So what
25 he's asking, yeah, yeah, because --

1 MR. ANDERSON: Do you see what I'm
2 saying?

3 MR. ABES: I do see what you're
4 saying. Obviously, if you were to ask about
5 whether he talked about the council meeting with
6 somebody, that could go on forever. But I tried
7 to bound it by defining the executive session as
8 the one in question on May 17th, 2017, so we're
9 really just asking him did you talk about that
10 executive session with anybody. But if -- can you
11 think of a way to confine it even further?

12 MR. ANDERSON: Even what you just
13 said there, I think if that was in the question,
14 it would be cleaner. I'm just afraid if somebody
15 isn't wanting to be as cooperative as possible
16 that they might read that question a different
17 way. So even I think if we revised that to say
18 state whether there was a conversation that you
19 communicated in any way whatsoever with any
20 attendee related to the executive session, I feel
21 like that that's different.

22 MS. SULLIVAN-WISECUP: Than in
23 connection to.

24 MR. ANDERSON: Am I reading it --
25 maybe I'm not -- I know I'm not an attorney. But

1 am I reading it too lay person?

2 MR. ABES: I'm not sure I quite see
3 the distinction between those.

4 MS. SULLIVAN-WISECUP: When I first
5 read it, I read it as meaning did you speak to
6 anybody about the executive session, you know,
7 instead of in connection to. You know what I
8 mean? My head automatically went to that.

9 MR. ABES: Should we reference the
10 content of the executive session?

11 MR. ANDERSON: Yeah, if we bound it
12 with that, I would feel a lot more comfortable.

13 MR. ABES: How about in connection
14 with the content discussed or the actions taken in
15 the executive session?

16 MR. ANDERSON: Perfect.

17 MS. SULLIVAN-WISECUP: Yes.

18 MR. ANDERSON: Are you good with
19 that?

20 MS. SULLIVAN-WISECUP: I'm very good
21 with that, anything to make it as clear as
22 possible.

23 MR. ANDERSON: Am I the only one that
24 would read it that way?

25 MS. SULLIVAN-WISECUP: Honestly,

1 after you said it, I started looking at a little
2 closer. Oh, wow, I never looked at it that way.

3 MR. ABES: I think the more specific,
4 the better, especially because we're not dealing
5 with a Council Person, so I think that that's
6 fair.

7 MR. ANDERSON: I would make the same
8 adjustment to Question 3.

9 MR. ABES: I will do that.

10 MS. SULLIVAN-WISECUP: Yes.

11 MR. ANDERSON: And 4 as well. Oh,
12 no, 4 is okay, 4 is okay there.

13 MS. SULLIVAN-WISECUP: He says
14 pertaining to there.

15 MR. ABES: Sounds good.

16 MR. ANDERSON: I don't have anything
17 else for this set of questions. Do you?

18 MS. SULLIVAN-WISECUP: No other
19 changes. Then, the supplemental. Okay. The
20 supplemental, can you make sure I have it?

21 MR. ANDERSON: 15.

22 MS. SULLIVAN-WISECUP: Just wanted to
23 make sure I had all of the pages because I didn't
24 staple these.

25 MR. ABES: For these, by the way, I

1 did catch a typo. Question 4, it says: Refers to
2 the same question as question 3 above, so I can
3 change that. So the people listed here are:
4 Council Person Emerson, Mayor Webster, Council
5 Person Shroyer, Council Person Hawkins, Law
6 Director Forbes. The reason -- I'll just tell you
7 briefly why I think we need some supplemental
8 questions for them.

9 Obviously, Council Person Emerson is
10 the one who alleged that Mr. Higgins told her
11 information that he only could have learned in the
12 executive session. They had a specific
13 conversation on the Election Day of November 7th,
14 2017. We need to ask her more specific questions
15 about that conversation. To the extent that she
16 happens to answer these questions in the master
17 set, that's fine, they can just refer back to her
18 response; but I think that we need to ask her
19 detailed questions about what exactly Mr. Higgins
20 told her, who else might have heard or witnessed
21 the conversation, if anyone. She said in the
22 council minutes that she talked to Mayor Webster
23 that day and relayed what happened with
24 Mr. Higgins, so we need to ask her about that
25 specific conversation; and obviously, to the

1 extent that she has anything in writing about
2 that, we would want to know. So I think we need
3 to ask her those very targeted questions.

4 The reason why I propose asking Mayor
5 Webster some additional questions is the same. He
6 had that conversation with Council Person Emerson
7 on that day and we need to ask him about the
8 conversation. To the extent that she told him
9 something on that day, it is essentially immediate
10 corroboration of what she's saying now, and it's,
11 therefore, important.

12 For Council Person Shroyer and
13 Council Person Hawkins, again, not singling them
14 out at all. It's just that the content of what
15 Council Person Emerson alleges Mr. Higgins told
16 her has to do with them and what happened with
17 respect to their comments or comments directed
18 toward them in the executive session. So simply I
19 would like to have them answer whether they talked
20 to Mr. Higgins with respect to the rental
21 inspection program before or after the meeting
22 because, again, when Mr. Higgins and Council
23 Person Shroyer spoke at one of the meetings, they
24 said, well, this is how else the information could
25 have come to light. So we're just closing the

1 loop, checking the boxes, asking everybody who
2 could know about this conversation what was said
3 to make sure that we have a full picture of that.
4 There's really nothing else with respect to any
5 other subject we would want to ask them. All of
6 the questions directed to them are just did you
7 talk to him, what did you talk about, do you have
8 any evidence of what you talked about.

9 With respect to Mr. Forbes,
10 obviously, being a lawyer, I always tread lightly
11 when it comes to questioning a lawyer. The City
12 and the Council have an attorney-client privilege
13 with him. I know that you waived that with
14 respect to certain matters regarding this
15 investigation. So I want to be very careful in
16 how we tread, but he is in many respects kind of a
17 focal point because he was involved in defending
18 the lawsuit that Mr. Higgins brought, and he also
19 prepared the summary of the executive session, and
20 he was obviously involved in a lot of the
21 discussion in the executive session based on the
22 stated reason for going into that session. So to
23 the extent that anything came to light in the
24 lawsuit that Mr. Higgins brought, I simply want to
25 ask whether anybody representing Mr. Higgins told

1 Mr. Forbes anything that happened in the executive
2 session, that way if -- and the answer might be
3 no, and if the answer is no, that's fine. But to
4 cover all of our bases, I want to make sure that
5 in that adversarial setting nothing came out that
6 would provide evidence for the inquiry that we're
7 conducting here. And if something did come out,
8 if the lawyer told Mr. Forbes what happened in the
9 executive session, that lawyer really only would
10 have gotten it from Mr. Higgins, and, therefore,
11 it corroborates the allegations of the breach. So
12 we do need to ask those questions. That does not
13 require Mr. Forbes to disclose anything that is
14 protected by the attorney-client privilege because
15 everything in those questions would come from what
16 happened -- what the other side told him in
17 adversarial litigation, so there's no question of
18 privilege there.

19 MS. SULLIVAN-WISECUP: I wanted to
20 clarify something real quickly, just something
21 that I had asked was, if his attorney had said
22 something to him about any other executive session
23 other than this one, we don't care, correct? I
24 want to make sure that we're on the same page on
25 this.

1 MR. ABES: We've not asked that
2 question because, as we discussed a few minutes
3 ago, the scope of this inquiry does not pertain to
4 any executive session other than the one that took
5 place May 17th. Now, if in the course of
6 answering these questions, we find information
7 that leads to another potential breach, we'll have
8 to decide where to take that information, but
9 that's not the point of the question. The only
10 point of the question is to the extent that
11 Mr. Higgins' attorney said anything about what
12 happened in the May 17th executive session, then,
13 we should know that.

14 MS. SULLIVAN-WISECUP: That was my
15 clarification.

16 MR. ANDERSON: And when I read the
17 questions, I read them that they all specifically
18 state about this executive session, questions
19 defined in the terms at the top of the subpoena.
20 Agreed, if there's something else that we assert,
21 we wouldn't ignore it?

22 MS. SULLIVAN-WISECUP: Okay.

23 MR. ANDERSON: We will look at it and
24 take it where it takes us, right?

25 MS. SULLIVAN-WISECUP: Right.

1 MR. ANDERSON: If we need to go back
2 then and report to council as a whole that there's
3 this additional finding in this investigation, we
4 certainly have the opportunity to change or revise
5 our scope. I wouldn't ignore it.

6 MS. SULLIVAN-WISECUP: Right.

7 MR. ANDERSON: But we're not asking
8 for it.

9 MS. SULLIVAN-WISECUP: I just wanted
10 to make sure that we were clear on that. We
11 weren't looking for anything. We were asking
12 specifically about this executive session?

13 MR. ABES: That's right.

14 MR. ANDERSON: To be clear, we have
15 never asserted this council or the committee --
16 the council as a whole or this committee has asked
17 the law director to waive attorney-client
18 privilege on the lawsuit that we're talking about.

19 MR. ABES: Correct.

20 MR. ANDERSON: Right. So that
21 privilege still remains and none of these
22 questions would require us to do that because the
23 way -- this would be things that their attorney
24 would have said that is not protected by
25 privilege.

1 MR. ABES: That's correct. Anything
2 that adversaries say to each other is not
3 protected by an attorney-client privilege, so
4 we're not in any way asking for a waiver or
5 suggesting that there should be a waiver of the
6 attorney-client privilege between Mr. Forbes and
7 the City. Anything the other side told him,
8 that's fair game.

9 The remainder of the questions to
10 Mr. Forbes -- and there unfortunately are more of
11 them to him than to anybody else -- deal with what
12 happened in the executive session and any further
13 discussions of the rental inspection program. So
14 it's clear from the council minutes that
15 Mr. Forbes provided that summary that we discussed
16 with respect to the first set of questions. I
17 want to make sure that we have the full picture of
18 what happened. Again, he said that he was not
19 providing a word-for-word recitation.

20 Now that we have a clear direction
21 for the committee, there might be other events
22 that took place that he would recall that would
23 have significance in a way that they did not have
24 significance before, so we should be thorough. To
25 the extent that he claims that there is an

1 attorney-client privilege with respect to any of
2 these questions, then, it would be appropriate for
3 that question to be put before the committee. The
4 committee would then decide whether it wants to
5 ask the full council to waive that privilege.

6 Council may decide not to do that,
7 you might decide not to do that, and that's
8 perfectly appropriate. But I don't think we would
9 be doing as thorough an investigation as we should
10 if we don't at least ask the question do you have
11 the information, and then we can decide to pursue
12 that information. And we could decide that the
13 attorney-client privilege outweighs the need for
14 that information and, therefore, we would not
15 pursue it any further; but we should at least make
16 an informed decision about that and not just
17 assume that if he has the information that we
18 shouldn't pursue it because it might be
19 privileged.

20 With respect to the rental inspection
21 program, again, he might be able to corroborate
22 certain discussions that were had outside of the
23 executive session. It's possible that either he
24 spoke to Mr. Higgins or people who spoke to
25 Mr. Higgins then spoke to Mr. Forbes. To the

1 extent those discussions were privileged, we'll
2 have the same discussion I just described. To the
3 extent they're not privileged or we want to waive
4 the privilege, then, it's just independent factual
5 corroboration for an innocent reason for what
6 Mr. Higgins did.

7 MR. ANDERSON: So Mr. Forbes would
8 get the 15 or the 13 base questions and then an
9 additional 15 questions that we're proposing
10 tonight, some of them being slightly different?

11 MR. ABES: Yes. But he's also the
12 most equipped to answer questions of this nature,
13 so I don't think it will bother him too much.

14 MS. SULLIVAN-WISECUP: I think you
15 should write a couple more.

16 MR. ANDERSON: I was going to suggest
17 that, except then I realized that we're asking
18 attorneys to ask questions to other attorneys that
19 we're being billed for. I do find these questions
20 to be appropriate. I don't have any questions or
21 comments about these.

22 MS. SULLIVAN-WISECUP: I'm good on
23 those. So now that we've agreed on these
24 questions --

25 MR. ANDERSON: Can we talk a little

1 bit more about the cover letter we talked about
2 because we didn't have that as a draft product?
3 The questions I think --

4 MS. SULLIVAN-WISECUP: Yes, we're
5 good, crystal clear on them.

6 MR. ANDERSON: How do we close out an
7 appropriate cover letter so that we can get this
8 submitted without having another meeting just to
9 review a cover letter; do you have thoughts on
10 that?

11 MR. ABES: I don't think you need to
12 review the cover letter. The cover letter is
13 going to be pretty bare bones. I'm not going to
14 write a three-page cover letter. I'm going to
15 write a one-or-two-paragraph cover letter. It's
16 simply going to explain why people are receiving
17 what they're receiving. It's going to give them
18 just a little bit of explanation as to how they
19 can respond. It will let them know if they have
20 questions, they can contact me. I will try to
21 keep it as friendly and explanatory as possible so
22 people are not confused and so people are not
23 intimidated. But most of the people who are
24 receiving this are either on the council or
25 employed by the City, they know this is coming.

1 It's really Mr. Higgins who is the only person who
2 is not affiliated with the City formally who may
3 not have the full context as to what's happening,
4 but he can call me, ask me any questions he wants
5 about.

6 MR. ANDERSON: I'd like to be
7 somewhat -- the subpoena documents look very
8 formal, and I think they're appropriate to do
9 that. I would like to see at least some language
10 at the top -- I mean, I want to recognize, yes,
11 they are elected officials, but we are asking for
12 help without admittedly a lot of formality behind
13 it, short of contempt of council, which is serious
14 but not -- I mean, if you want to be
15 obstructionist, you could. So I would like for a
16 cover letter to be a little bit more friendly in
17 asking for help without removing the teeth. Like
18 I want it to have the weight that the subpoena
19 has, but it should say that the City of Springdale
20 needs your help and explain about the executive
21 session and why it's important. I believe
22 Mr. Higgins knows that, but I think that that same
23 cover letter could be used.

24 MR. ABES: We could certainly ask for
25 help and say something to the effect of you need

1 to protect the executive session and promote good
2 government of the City and et cetera.

3 MS. SULLIVAN-WISECUP: Yes.

4 MR. ANDERSON: Yes, I think that's
5 important. And then where do they go if they have
6 questions, that would be true for the elected
7 officials, the city workers, and the residents
8 that are getting that, right? So there's a couple
9 of things that people might ask if they have
10 questions about the subpoena, right, who do they
11 contact, and you mentioned it would be you. You
12 know, even does the City do notary services or do
13 they need to go to the bank? You see subpoenas
14 all the time and it may seem normal to you, but
15 it's not normal to us.

16 MS. SULLIVAN-WISECUP: I know most
17 lawyers have to have their notary.

18 MR. ABES: Don't have to, but most
19 do, yeah.

20 MS. SULLIVAN-WISECUP: Every lawyer I
21 ever met had one.

22 MR. ABES: So I can see if we can put
23 something in there about that. It's a little bit
24 of an inconvenience to go get it notarized. The
25 reason I put that in there is because without the

1 verification in front of the notary, it's not
2 sworn testimony, and we want sworn testimony.

3 MR. ANDERSON: I'm fine with it being
4 notarized. I just want it recognized that getting
5 subpoenas is not normal for most people and asking
6 somebody who gets a letter in the mail to take
7 action within two weeks and also go -- write your
8 answers down as clean as possible, swear to it,
9 have it notarized, it's not normal.

10 MR. ABES: I understand. If I were
11 sending a subpoena to a large corporation, I
12 wouldn't worry about that so much. But plenty of
13 times in litigation, I've had to send subpoenas to
14 individual witnesses who are just caught in the
15 litigation because it's third party. All
16 attorneys have their way of softening that blow
17 because sometimes people don't understand. They
18 think they're being sued or they don't understand
19 why they're getting this or they think they have
20 to go get a lawyer. So yes, plenty of times I've
21 explained to people, no, here's what it really is.
22 So I will soften it as much as I can.

23 MR. ANDERSON: Right. Not going to
24 tell them not to get an attorney, but I don't want
25 them to think that they can't ask us questions

1 first. Then, the dais looks intimidating, but I
2 would rather they contact you or they contact us
3 and we tell them to call you.

4 MR. ABES: Right. And this is
5 certainly a less painful way for them to provide
6 their information than if we were to call them in
7 one by one to testify in front of the committee.

8 MR. ANDERSON: Might want to mention
9 that in the letter, this is for their convenience,
10 allows them to answer on their own time and not
11 necessarily, but possible, have to come in at an
12 appointed hour and be asked questions.

13 MS. SULLIVAN-WISECUP: I, personally,
14 would feel more interrogated if I had to stand
15 right there and answer in front of -- you know,
16 what I mean?

17 MR. ABES: That would be a much more
18 painful experience.

19 MS. SULLIVAN-WISECUP: Yeah. I don't
20 think anybody really wants that.

21 MR. ANDERSON: Right. That's what
22 I'm saying, this is an opportunity in the letter
23 to say, hey, we're asking for help, and it is an
24 inconvenience, but they're doing this for you too.

25 MR. ABES: I'll put that in.

1 MR. ANDERSON: Do you have anything
2 else on the cover letter? It feels important to
3 me because subpoenas scare me. I saw that as work
4 product that came out and I was like, oh, my gosh.

5 MS. SULLIVAN-WISECUP: First, I
6 thought, oh, that's legal.

7 MR. ABES: So a question for you and
8 you might not know the answer. Council has
9 subpoena power.

10 MS. SULLIVAN-WISECUP: Yes.

11 MR. ABES: I don't know when council
12 has invoked that subpoena power or whether we have
13 forms that the City uses. I can certainly craft
14 the subpoena based on what I would use in court
15 and use the City's name, but I don't know if
16 there's a form that the City uses for that.

17 MS. SULLIVAN-WISECUP: Mayor Webster,
18 do you know if we've ever had to?

19 MAYOR WEBSTER: (Shaking head.)

20 MR. ANDERSON: Do a quick Lexis
21 search.

22 MR. ABES: Probably not. So I will
23 use a typical subpoena form and use the City's
24 name on it.

25 MR. ANDERSON: That's fine. Are you

1 good with that?

2 MS. SULLIVAN-WISECUP: I'm very good
3 with that.

4 MR. ANDERSON: Sorry. The City's
5 name, so just to be clear, when we're writing
6 these questions, it's from the City of Springdale
7 City Council, Council Investigative Committee, so
8 it's from the committee?

9 MR. ABES: The committee is issuing
10 the subpoena, yes.

11 MR. ANDERSON: Because the council
12 has the authority, right, to do the subpoena?

13 MS. SULLIVAN-WISECUP: Yes.

14 MR. ABES: So do committees.

15 MS. SULLIVAN-WISECUP: Yeah. Okay.

16 So on the cover --

17 MR. ABES: So the cover letter will
18 be appropriately explanatory and friendly.

19 MS. SULLIVAN-WISECUP: Okay.

20 MR. ANDERSON: I don't think I need
21 to review it.

22 MS. SULLIVAN-WISECUP: I don't think
23 I need to review it. I trust Dinsmore to do their
24 thing. Okay. Then, we will move on to old
25 business. Wait, actually, a question first. So

1 how long will it take realistically, when do you
2 think that those will go out?

3 MR. ABES: Probably the beginning of
4 next week.

5 MS. SULLIVAN-WISECUP: Okay.

6 MR. ANDERSON: The dates we put in,
7 if it goes out at the beginning of next week,
8 we're going to ask for responses by, we should
9 have those dates set.

10 MS. SULLIVAN-WISECUP: I don't have a
11 calendar in front of me. Hold on.

12 MR. ABES: The other logistical point
13 is, unlike when we're in court, there is no rule
14 that I have found in any of the Council documents
15 prescribing the manner in which the subpoenas must
16 be served. So sometimes if you're in litigation,
17 personal service is required, sometimes certified
18 mail service is appropriate. There's really no
19 rule that I've found that dictates what
20 constitutes effective service for a City of
21 Springdale Council Investigative Committee
22 subpoena.

23 So my thought is -- well, first, to
24 ask you whether you have a preference for serving
25 a hard copy and in what manner? I think except

1 for Mr. Higgins, we could deliver all of the
2 subpoenas by e-mail. We could follow it up with a
3 hard copy. I don't think that that's necessary
4 for people affiliated with the City. For
5 Mr. Higgins, we probably want to deliver it to his
6 home address, which I would need to get, if we
7 have it.

8 MR. ANDERSON: Yeah. There's
9 actually three of them that need to be done that
10 way, because Former Council Person Harlow and
11 Diehl would need home service as well.

12 MR. ABES: So for those, you know, it
13 can be an impediment to send them certified mail
14 because it requires a signature. Sometimes people
15 don't sign for their certified mail and there's a
16 delay in delivery. Sometimes they're just not
17 home to sign for certified mail. Sometimes the
18 post office leaves a card that says you have to
19 come to the post office to sign for it and that
20 never happens. So I would think regular mail
21 service would be sufficient in the absence of any
22 rule dictating otherwise.

23 The other option is to have somebody
24 from the City hand-deliver the subpoenas and place
25 them in the mailboxes, not chasing people down

1 and, you know, accosting them at the CVS, but just
2 placing them in the mailboxes.

3 MR. ANDERSON: If you have thoughts
4 or I can share mine.

5 MS. SULLIVAN-WISECUP: I have some
6 concerns about sending it in US mail because
7 people will say they didn't receive it. I like
8 something to have like a receipt or something.
9 I'm very big on receipts.

10 MR. ABES: We could send it FedEx.

11 MR. ANDERSON: I don't think it would
12 be appropriate for a city administration person to
13 deliver a council subpoena. I would be
14 comfortable hand-delivering to a mailbox so it
15 came from the council committee. I'm also fine
16 with FedEx or UPS, all of those are fine.

17 MS. SULLIVAN-WISECUP: I'm fine with
18 either one as long as I know it's been delivered
19 to their home.

20 MR. ABES: Let's send it FedEx.

21 MR. ANDERSON: I think FedEx is fine,
22 UPS, or whatever the lowest cost is.

23 MR. ABES: We usually use FedEx, but
24 whatever, sure.

25 MS. SULLIVAN-WISECUP: So if this

1 goes out --

2 MR. ANDERSON: If it went out on the
3 10th, that gives until July 31st, which is a nice
4 round date at the end of the month.

5 MR. ABES: Well, two weeks would be
6 sooner.

7 MR. ANDERSON: If it went out on the
8 10th -- oh, that would be three weeks, sorry.

9 MS. SULLIVAN-WISECUP: Okay.

10 MR. ANDERSON: If it went out on the
11 10th, 2-day or next-day service, they would
12 receive it on the 11th or 12th?

13 MR. ABES: I'll account for the
14 next-day service and have it due two weeks from
15 the date of the receipt as opposed to mailing.

16 MS. SULLIVAN-WISECUP: Looking like
17 the 26th or 27th, right around there.

18 MR. ANDERSON: That's at least a week
19 before our -- so that would be after the July
20 council meeting, which is fine, but before our
21 August CIC meeting, so that would give us an
22 opportunity the week of -- well, I guess it would
23 be the beginning of July, the 31st, and August to
24 have that informational meeting we discussed based
25 on responses.

1 MS. SULLIVAN-WISECUP: Right.

2 MR. ANDERSON: And in advance of our
3 August 2nd meeting.

4 MR. ABES: Right.

5 MS. SULLIVAN-WISECUP: Okay.

6 MR. ABES: What is the -- how would
7 you prefer I get the e-mail addresses for the
8 people I need?

9 MR. ANDERSON: On the council, the
10 people who are still with the City, we can provide
11 a list. Do you want to do that?

12 MS. SULLIVAN-WISECUP: Yeah, I will.

13 MR. ANDERSON: It's also on the City
14 web page. I know some people are looking to
15 change them. You feel e-mail service is
16 appropriate, you've never had a problem with that?
17 We don't need to do hard copies. I prefer
18 digital.

19 MR. ABES: Well, what I'll do is I
20 will include a PDF and a Word file so they can
21 type their responses directly into the Word file
22 and won't have to worry about running out of space
23 or anything of that nature. For the people who
24 receive service by FedEx, I will let them know
25 that if they e-mail me, I will be glad to send

1 them a Word file if they want it.

2 MR. ANDERSON: Okay. Then, maybe we
3 can do an announcement at the 11th meeting, we
4 have a council meeting on the 11th, maybe we can
5 do an announcement, too, to let people know that
6 questions have been issued, and if they have not
7 received them and feel they should have by the
8 12th or 13th, reach out to us.

9 MS. SULLIVAN-WISECUP: Come out of
10 the woodwork.

11 MR. ABES: Yeah. To answer your
12 question, there just is no prescribed method of
13 service for the City, and I would expect that upon
14 receipt, anybody who is affiliated with the City
15 would consider that sufficient service.

16 MR. ANDERSON: Okay. Great. I'm
17 good with that.

18 MS. SULLIVAN-WISECUP: My next
19 question is: Do we feel the need to still have
20 our July 19th meeting, since we're sending these
21 out? We won't have anything really to discuss
22 until we get everything back in. Do we have
23 anything -- can you think of anything potentially
24 that you want to discuss on the 19th?

25 MR. ANDERSON: So I would want to

1 hold off making a call there until maybe the 16th
2 or 17th, because it's certainly possible we could
3 have responses back that we may want that meeting
4 in order to have an additional set of questions go
5 out. And if we -- let me ask this question, then,
6 first. Would we ever consider reviewing any of
7 the responses before we have all of the responses?

8 MR. ABES: Sure. If we have a
9 critical mass that's worth looking at, yes. We're
10 not going to hold up the process if one or two
11 people delay getting us their responses.

12 MR. ANDERSON: So it's certainly
13 possible that we could have a critical mass
14 certainly of the elected officials who might
15 respond fast enough that we might use that
16 meeting, if there's additional questions. I'm not
17 opposed to it.

18 MS. SULLIVAN-WISECUP: No. I just
19 wanted to make sure.

20 MR. ANDERSON: Hate to cancel it and
21 want it.

22 MS. SULLIVAN-WISECUP: We have until
23 the 17th to cancel and that's our choice. I just
24 want to let everybody know that we do have quite a
25 few people that come out, and we want everybody to

1 have advance notice, and that's why I asked that
2 question. I don't want anybody to show up and not
3 know that we canceled it. If we cancel it, it
4 will go out with the same notice. I will ask that
5 they put it on the Facebook page and on the
6 website.

7 MR. ANDERSON: If it's canceled, it
8 will be canceled by the 17th, close of business
9 the 17th.

10 MS. SULLIVAN-WISECUP: Yes.

11 MR. ANDERSON: It would show up as a
12 Facebook announcement, and also on the Calendar of
13 Events on the Springdale front page calendar, it
14 would say CIC Meeting and it would say in
15 parentheses Canceled?

16 MS. SULLIVAN-WISECUP: That's what
17 I'm asking for, yes, yes. Okay. So I can kind of
18 leave that and let us know preferably by the 16th
19 if we have enough to really --

20 MR. ANDERSON: Maybe we can have a
21 communication plan today for that, right? So
22 maybe we can -- what would be reasonable for us to
23 at least get notice that you've received responses
24 when they come in, I've received response from and
25 nothing more as an e-mail; is that okay? I would

1 like to know when they're coming in.

2 MR. ABES: I'll let you know as I
3 receive responses.

4 MS. SULLIVAN-WISECUP: So we'll know
5 if we have a decent enough amount.

6 MR. ANDERSON: Right. Because I
7 think we would make the determination if it's a
8 critical mass and having that second meeting.

9 MS. SULLIVAN-WISECUP: I'm saying to
10 you that we will know.

11 MR. ANDERSON: So we'll know as they
12 come in.

13 MS. SULLIVAN-WISECUP: Yes. One is a
14 not a critical mass or depends on who it is.

15 MR. ANDERSON: Okay.

16 MS. SULLIVAN-WISECUP: Okay. That's
17 that, cool. Do we have any -- do you have any old
18 business that you want to bring up?

19 MR. ANDERSON: No, thank you.

20 MS. SULLIVAN-WISECUP: I have
21 nothing. We have not received any communications.
22 Have you received any communications?

23 MR. ANDERSON: (Shaking head.)

24 MS. SULLIVAN-WISECUP: Any
25 communications from the audience? State your name

1 and your address.

2 MAYOR WEBSTER: My name is Doyle
3 Webster, 1424 Peak Drive, Springdale, Ohio.
4 Little hard to follow the questions without having
5 a document, and I understand the process there,
6 but if you could clarify this for me. On the
7 allegation in Mr. Higgins' letter that we went
8 into executive session to discipline an elected
9 official, now, is that going to be a question? I
10 sort of got the impression sitting there -- and
11 maybe that was being a little glossed over, the
12 disciplinary thing, and I would hope that that's
13 not the case.

14 MR. ABES: It's not specifically a
15 question because his lawsuit covered whether there
16 was an appropriate reason to go into executive
17 session, and that lawsuit has been resolved
18 pursuant to an agreed entry. The allegation from
19 Council Person Emerson was that Mr. Higgins told
20 her certain things that were discussed in the
21 executive session, but at least in the minutes,
22 those are limited to certain things that were said
23 to Council Person Shroyer and certain comments
24 that were made by Council Person Hawkins. The
25 whole discussion of whether an employee was being

1 disciplined seemed to stem from Mr. Higgins'
2 belief that --

3 MAYOR WEBSTER: Well, he didn't say
4 employees. He said that an elected official was
5 being disciplined.

6 MR. ABES: Okay. Either way, it
7 seemed to stem from his belief that that's one of
8 the reasons in the statute for going into
9 executive session, and he seemed to have some idea
10 that that must have been the reason why the
11 executive session was called, but the stated
12 purpose for the executive session in the motion
13 was to discuss imminent litigation. So I know
14 there was an extended discussion about that in the
15 council minutes, but I don't see how it's related
16 to the allegation of whether there was a breach of
17 confidentiality. Those seem to me to be two
18 different questions.

19 MAYOR WEBSTER: Yeah, I think that
20 that has a direct bearing. I think if we knew
21 everybody's answer to that, we would know who the
22 leader was.

23 MS. SULLIVAN-WISECUP: It is a part
24 of the question.

25 MR. ABES: Do you mean the answer to

1 why the executive session was called or whether it
2 was for the purpose of discipline?

3 MAYOR WEBSTER: No. It's a simple
4 question to all of the elected officials, was the
5 disciplinary action taken in that executive
6 session, that's all you have to ask. It's a
7 simple yes or no.

8 MR. ANDERSON: So, Meghan, you were
9 going to say something?

10 MS. SULLIVAN-WISECUP: Yeah. I was
11 going to say when we were going over some of these
12 questions, it asks about the raised voices or if
13 anyone was being yelled at or expressed agreement
14 or opposed any statement or question. It goes
15 over things like that, but it doesn't use the word
16 discipline, but it has other verbiage that
17 basically expresses discipline.

18 MR. ANDERSON: If I can add to that.

19 MS. SULLIVAN-WISECUP: Yes.

20 MR. ANDERSON: I think if Mr. Higgins
21 responds back and states that the things that he
22 heard about were related to discipline or not,
23 then, that would be something that we would want
24 to investigate further. Black-and-white question
25 of did we discipline an official, we're not

1 adjudicating the legality of the executive session
2 at all, that's not in our scope. So I agree that
3 the questions we're asking are related to that,
4 but they're only related to determine whether or
5 not there's a breach of executive session
6 confidentiality, not whether or not somebody was
7 disciplined or felt disciplined or may have been.
8 The reason all of that -- some of that will come
9 out when people give their recollection, but I
10 think that the questions we have get to the facts
11 that are related to our scope. I don't think an
12 additional question to elected officials to that
13 is necessary, do you?

14 MS. SULLIVAN-WISECUP: No, because
15 like I said, with the questions that he did or
16 that are listed here, it's asking them
17 specifically to say what had happened. So when
18 they say specifically what happened, you'll see if
19 there was or was not discipline or if people said
20 certain things or didn't say certain things. That
21 is specifically asked in here as to what was said,
22 so that will be answered.

23 MAYOR WEBSTER: Okay. Just for the
24 record, in my opinion, you're missing a golden
25 opportunity.

1 MS. SULLIVAN-WISECUP: And that could
2 very well be a follow-up thing once we get the
3 initial. We don't know until we get the answers.

4 Anyone else? Second call. Third and
5 final call. Okay. I will close the
6 communications.

7 MR. ANDERSON: Move to adjourn.

8 MS. SULLIVAN-WISECUP: Okay. Thank
9 you. You guys have a great night.

10 (Thereupon, the proceedings were
11 concluded at 8:32 p.m.)

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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Lisa M. Conley Yungblut, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

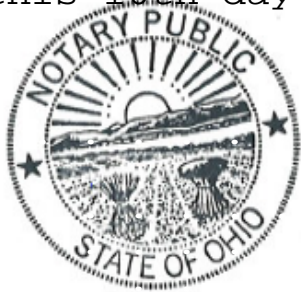
6 DO HEREBY CERTIFY that the above-named
7 proceeding was reduced to writing by me
8 stenographically in the presence of the parties
9 and thereafter reduced to typewriting.

10 I FURTHER CERTIFY that I am not a
11 relative or Attorney of either party, in any
12 manner interested in the event of this action,
13 nor am I, or the court reporting firm with which
14 I am affiliated, under a contract as defined in
15 Civil Rule 28(D).

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IN WITNESS WHEREOF, I have hereunto set
my hand and seal of office at Dayton, Ohio, on
this 16th day of July 2018.



Lisa M Conley Yungblut

LISA M. CONLEY YUNGBLUT, RMR, CRR
NOTARY PUBLIC, STATE OF OHIO
My commission expires 7-28-2019