

IN THE CIRCUIT COURT OF THE 7TH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 2015-CF-000387

STATE OF FLORIDA,

Plaintiff,

vs.

KIMBERLE B. WEEKS,

Defendant.

MOTION TO DISMISS

COMES NOW, the Defendant, KIMBERLE B. WEEKS, by and through her undersigned attorney, and moves this Honorable Court to Dismiss Counts 1 – 6 and 10 -12 of the Indictment in the above styled cause, pursuant Rule 3.190(b), 3.190(c)(3) and 3.190(c)(4), Fla.R.Crim.P., and as grounds in support thereof the undersigned would show unto the Court as follows:

1. That as to Count 1, the following facts exist:

a) That on the 7th of April, 2014, and for the purposes of this motion, Kimberle Weeks called a Ms. Virginia Smith and recorded the conversation during the phone call.

b) That Weeks was making the phone call, which was received by Virginia Smith, to the City of Palm Coast offices in Palm Coast, Florida, Flagler County – a public and/or business office. (See attached hereto, "Interview of Virginia Smith, 1/21/15" as exhibit "A").

c) The phone call was made during hours of operation and answered by an administrative assistant. (See exhibit A, p. 1).

d) The conversation was pertaining to public business concerning an inter-local agreement that Weeks and Smith were negotiating. (A, p. 2).

2. That as to count 2, the following facts exist:

a) That on the 6th of May, 2014, and for the purposes of this motion, Kimberle Weeks spoke to a Ms. Shannon Decker Brown and recorded the in-person conversation.

b) Shannon Brown went to the home of Kimberle Weeks, and engaged in a recorded conversation with Kimberle Weeks. (See attached hereto Interview of Shannon Brown 1/20/15 as exhibit "B")

c) This conversation occurred outdoors, on the front lawn of Kimberle Weeks's home.

d) During this conversation, there were people in surrounding areas. Shannon Brown's mother was sitting in a vehicle in Weeks's driveway with the windows down. Miss Brown's mother spoke to Shannon briefly while the conversation was happening. Further, during the conversation Weeks's son and husband came home and walked by Brown and Weeks before entering the home.

3. That as to count 3, the following facts exist:

a) That on the 11th of July, 2014, and for the purposes of this motion, Kimberle Weeks called a Sergeant Michael Coomans of the Holly Hill Police Department and recorded the conversation during the phone call.

b) On the date in question Sergeant Coomans called Kimberle Weeks from a police department issued phone, as evidence by the telephone call being labeled on the CAD report. (See attached hereto "Interview of Michael Coomans, 1/21/15" as exhibit "C", page 2).

c) During that phone call, Sergeant Coomans was talking with Kimberle Weeks on speaker phone. Also present was Weeks's daughter and husband, who later contributed in on the conversation. (Exhibit C, p. 2).

d) The contents of the phone call to Sergeant Coomans was referencing a domestic incident that occurred on Hiawatha in Holly Hill. This incident involved police involvement.

4. That as to count 4, the following facts exist:

a) That on the 20th of August, 2014 and for the purposes of this motion, Kimberle Weeks recorded a conversation between Judge Melissa Moore-Stens and Pierre Tristam.

b) On the date in question, a canvassing board meeting took place at the Canvassing Board Room, a public and/or business venue. (See attached hereto "Interview with Judge Melissa Moore-Stens, 1/21/15" as exhibit "D"). This room is located within the Supervisor of Elections Office in the Government Services Building.

c) After the meeting, Judge Moore-Stens met with a Mr. Pierre Tristam, who met her in the Canvassing Board Room, a see through office that is surrounded by glass, inside the public venue. Pierre Tristam is a newspaper reporter who has an online news website he authors. (Exhibit D, p. 1-2)

d) Judge Moore-Stens does not have specific recollection as to whether Mr. Tristam was recording the interview for his website. (Exhibit D, p. 2)

e) The recording was taken by Kimberle Weeks's cell phone that was visible on the table of the board meeting room.

f) Upon entering the public Supervisor of Elections Office, there is a sign on the front door that says "NOTICE! THESE PREMISES MAY BE SUBJECT TO AUDIO AND VIDEO MONITORING AND RECORDING AT ANY TIME" (See exhibit "E" attached hereto).

5. As to count 5, the following facts exist:

a) That on the 12th of September, 2014 and for the purposes of this motion, Kimberle Weeks disclosed a recording to the canvassing board at a meeting. The recording contents included a conversation between Albert J. Hadeed and Commissioner Charles Ericksen that occurred on August 25, 2014 during a Canvassing Board Meeting.

b) Attorney Albert Hadeed is the Canvassing Board Attorney, he represents the County Commission as a body and Flagler County as a whole. Charles Ericksen is a County Commissioner.

c) The Canvassing Board Room where this took place is a glass office inside of the Supervisor of Elections Office. Upon entry of the public office there is a sign on the door that says "NOTICE! THESE PREMISES MAY BE SUBJECT TO AUDIO AND VIDEO MONITORING AND RECORDING AT ANY TIME" (Exhibit "E").

d) The August 25, 2014 meeting took place and had various members of the Canvassing Board present. The Canvassing Board Room meeting attendees then went to the adjacent tabulation room to continue business of counting absentee ballots.

e) Albert Hadeed did not leave the Canvassing Board Room and initiated a discussion with alternate canvassing board member Charles Ericksen who remained in the Canvassing Board Room when five duplicated ballots were being tabulated in the adjoining room. The door to the canvassing board room to the adjoining room was propped open. The discussion was recorded by a cell phone that had been placed on the table during the meeting by Kimberle Weeks.

f) Commissioner Ericksen and Albert Hadeed had a conversation that was being recorded. That conversation included Al Hadeed telling Charles Ericksen, Jr., another county commissioner at another Canvassing Board meeting who was doing the sampling of ballots seen, and then stepping out with his cell phone and reporting the results of the sampling to someone, which Al Hadeed stated was a third degree felony. Al Hadeed believed his

conversation to be confidential. Commissioner Ericksen did "not really" believe the conversation to be confidential. (See attached hereto "Interview of Charles F. Ericksen, Jr. 10/9/14" as exhibit "F", p. 12). Commissioner Ericksen also believed that Commissioner George Hans was present in the room for part of the time he was speaking with Al Hadeed. (Exhibit "F", p. 13). Commissioner Ericksen had previously suspected he was being recorded. (Exhibit "F", p. 5-6). Furthermore, Ericksen believed that "part of board business...was to stay in that general area," meaning the area where Hadeed and Ericksen were located along with the tabulation room. (Exhibit "F", p. 12). Commissioner Ericksen stated he was whispering the conversation to Hadeed because there was activity right at the door of the canvassing board room, and he did not want to be loud; however he did not whisper to prevent people from hearing the conversation. (Exhibit "F", p. 13).

g) On September 12, 2014, a Special Canvassing Board Meeting of The Flagler County Canvassing Board was held after having been properly advertised, open to the public and subject to the Sunshine Laws of Florida pursuant to Florida Statute §286.011 and Florida Constitution Article I, Section 24.

h) That the members present included the Supervisor of Elections, Ms. Kimberle Weeks, Canvassing Board Chair Judge Melissa Moore, Canvassing Board Member/County Commissioner George Hanns, the Board of County Commission Alternate, Charles Ericksen, Jr., the Canvassing Board

attorney, Al Hadeed, Roberto Walton and the press and many members of the public. (See attached hereto Exhibit "G" and "H", being the Canvassing Board Sign In Sheet for September 12, 2014 and Exhibit "I" the Canvassing Board Meeting Minutes of September 12, 2014).

i) At that meeting, Supervisor of Elections, Kimberle Weeks, disclosed and played an audio of the August 25, 2014, Canvassing Board meeting of a conversation between attorney Al Hadeed and Charles Ericksen, Jr., in which Al Hadeed was telling Charles Ericksen, Jr., of another County Commissioner at another Canvassing Board meeting who was doing a sampling of ballots seen, and then stepped out with his cell phone and reporting the results of the sampling to someone, which Al Hadeed stated was a third degree felony. (See Exhibit "J" attached hereto).

6. As to count 10, the following facts exist:

a) That for the purposes of this motion, on April 3, 2014, Kimberle Weeks recorded a conversation between herself, Assistant Director of Division of Elections Gary Holland, Secretary of State Kenneth Detzner, General Counsel of the Department of the State J. Andrew Atkinson, General Counsel of the Supervisor's Association Ronald Labasky. During this conversation former Flagler County Supervisor of Elections employee Darlene Walker was also present with Kimberle Weeks.

b) Kimberle Weeks and Darlene Walker had the telephone conversation on speaker phone at the Supervisor of Elections Office in the

Government Services Building. (See "Interview of Darlene Walker, 2/18/15" attached hereto as exhibit "K", p. 2-3) Weeks and Walker were speaking to four different public officials concerning official business and performing their duties as county employees. (See "Interview of John Andrew Atkinson, 1/8/15" attached hereto as exhibit "L", p. 4).

c) At the beginning of the conversation between multiple people, Kimberle Weeks stated she was going to record the call and Secretary of State Detzner objected, stating he did not feel comfortable with it being recorded. He did not follow up and ask whether Weeks was still recording. No other individual involved in the conversation objected to the phone call being recorded (See "Interview of Ron Labasky, 1/23/15" attached hereto as exhibit "M", p. 2).

d) During the call, Secretary Kenneth Detzner was in the Secretary of State's Office, in the R.A. Gray Building in Leon County, FL, a public office where state business is conducted. (See "Interview of Kenneth Detzner, 1/13/15" attached hereto as exhibit "N", p. 2). This conversation occurred during regular business hours for all individuals involved.

7. As to count 11, the following facts exist (facts from count 10 will be repeated due to involvement of the same recording):

a) That for the purposes of this motion, on April 3, 2014, Kimberle Weeks recorded a conversation between herself, Assistant Director of Division of Elections Gary Holland, Secretary of State Kenneth Detzner, General

Counsel of the Department of the State J. Andrew Atkinson, General Counsel of the Supervisor's Association Ronald Labasky. During this conversation former Flagler County Supervisor of Elections employee Darlene Walker was also present with Kimberle Weeks.

b) Kimberle Weeks and Darlene Walker had the telephone conversation on speaker phone at the Supervisor of Elections Office in the Government Services Building, a public office. (Exhibit K, p. 2-3) Weeks and Walker were speaking to four different public officials concerning official business and performing their duties as county employees. (Exhibit L, p. 4).

c) At the beginning of the conversation between multiple people, Kimberle Weeks stated she was going to record the call and Secretary of State Detzner objected, stating he did not feel comfortable with it being recorded. He did not follow up and ask whether Weeks was still recording. No other individual on the call objected to the phone call being recorded (Exhibit M, p. 2).

d) During the call, Secretary Kenneth Detzner was in the Secretary of State's Office, in the R.A. Gray Building in Leon County, FL, a public office where state business is conducted. (Exhibit N, p. 2). This conversation occurred during regular business hours for all individuals involved.

e) Kimberle Weeks, for the purposes of this motion, discussed this recording to her aunt and uncle.

8. As to count 12, the following facts exist:

a) For the purposes of this motion, on September 18, 2014, Kimberle Weeks recorded a conversation between Consumer Service Analyst of the Attorney General's Office Whitney Anderson, and Assistant Attorney General Gerry Hammond.

b) The conversation was initiated by Whitney Anderson, calling from the Attorney General Office in Tallahassee, Fl, returning a phone call to the Flagler County Supervisor of Elections office and speaking with Kimberle Weeks. She briefly spoke to Weeks and then directed the phone call to Assistant Attorney General Hammord. These phone calls were both at public offices in the State of Florida, during office hours.

c) Neither Anderson nor Hammond were personally aware the conversations were being recorded.

d) The contents of the conversation included but are not limited to Weeks's concern of other individuals violating the election process.

e) The conversation occurred on a hotline where individuals call the Attorney General to ask if illegal activity has occurred in any specific situation.

LEGAL ANALYSIS

Section 934.02(2), in defining oral communication, expressly provides:

Oral communication' means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under

circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting...”

Considering language that defines oral communication, for the purpose of security of communications statute, the legislature did not intend that every oral communication be free from interception without the prior consent of all parties to the communication; the statute protects only those “oral communications” uttered by a person exhibiting an expectation of privacy under circumstances reasonably justifying an expectation. State v. Inciarrano 473 So.2d 1272 (Fla. 1985) (Citing West’s F.S.A §934.03). The expectation of privacy does not contemplate merely a subjective expectation on the part of the person making the uttered oral communication but rather contemplates a reasonable expectation of privacy. Id. at 1275. A reasonable expectation of privacy under a given set of circumstances depends upon one’s actual subjective expectation of privacy as well as whether society is prepared to recognize this expectation as reasonable. Id. (Citing Shapiro v. State, 390 So.2d 344 (Fla. 1980), cert. denied, 450 U.S. 982, 101 S.Ct. 1519, 67 L.Ed.2d 818 (1981). The whether-society-is-prepared-to-recognize formulation has its genesis in the Fourth Amendment context. McDade v. State, 154 So.3d 292, 299 (Fla. 2014). It first appears in Justice Harlan’s concurrence in Katz v. United States, 389 U.S. 347, 361, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967) (Harlan, J., concurring), in his discussion of the objective expectation of privacy element of Fourth Amendment analysis. McDade, 154 So.3d 292 at 299.

Courts have furthered the analysis in Inciarrano and given more depth to the second part of the analysis as to whether society is prepared to recognize the expectation as reasonable. In determining whether the speaker's expectation of privacy is reasonable, courts examine the location of the conversation, the type of communication at issue, and the manner in which the communications were made. Abdo v. State, 144 So.3d 594, 596 (Fla. 2nd DCA 2014) (citing Stevenson v. State, 667 So.2d 410, 412 (Fla. 1st DCA 1996)).

There are various cases that have addressed the issue of what types of subjective expectations of privacy society is ready to recognize. In Jatar v. Lamaletto, 758 So.2d 1167, 1168 (Fla. 3rd DCA 2000), an employee alleged that the recording of his statements during a meeting with his employer violated section 934.10. The statements were made in the employer's office at a business in which the employer was a part-owner. Id. The Third District held that the employee did not have a reasonable expectation of privacy in the statements by stating:

Society is willing to recognize a reasonable expectation of privacy in conversations conducted in a private home. However, this recognition does not necessarily extend to conversations conducted in a business office. The reasonable expectation of privacy fails where, as here, the intent of the speaker does not justify such an expectation.

Id. at 1169. In furtherance of that, the Third District went on to state, in Avrich v. State, 936 So.2d 739, 742 (Fla. 3rd DCA 2006), that "Florida courts have consistently held that the constitutional protections of a reasonable expectation

of privacy do not extend to an individual's place of business." The Avrigh court furthered that there is no expectation of privacy on a business phone line. Id.

Additionally, the Second District went further by narrowing when individuals have an expectation of privacy in business situations. In recent opinion of State v. Caraballo, 2016 WL 886538 (Fla. 2nd DCA 2016), the Second District held that a defendant did not have an expectation of privacy in recorded statements pursuant to Florida Statute 934.06. In that case, Ms. Caraballo worked at a cellular telephone store and her employer suspected that she was taking money from the store. Id. at 1. Her employer discussed the missing funds with her while a camera located in the store recorded the conversation. The Second District ruled that no such expectation of privacy existed due to factors such as the business being open to the public, knowledge of prior recordings by the videos, and the fact that a sign was posted at the front of the store stating, "Notice. This business is under 24-hour video and audio surveillance." Id. at 1

ARGUMENT

As pertaining to count 1 of the indictment, the Defendant is charged with illegally recording a conversation she had with Virginia Smith, a public official for the City of Palm Coast. Ms. Smith was called and recorded by Weeks at a public office during business hours. In fact, the call was actually answered and transferred by Smith's administrative assistant and took place on a business phone. As stated in the Avrigh case, "Florida courts have consistently held that the constitutional protections of a reasonable expectation of privacy do not

extend to an individual's place of business." Avrich, 936 So.2d at 742. In this situation, Virginia Smith has no reasonable expectation of privacy while working for a governmental body, speaking to another government official concerning public business.

Additionally, in count 2, the State indicted the Defendant concerning a recorded communication with Shannon Brown. This recording occurred in the front lawn area of the Defendant's home. While outside there were other people in the vicinity, including Miss Brown's mother, and Weeks's husband and son as passersby. Florida Courts have recognized that a person has an expectation of privacy in his/her own home. Jatar, 758 So.2d at 1168. However, in this situation the listed victim in the Indictment, Ms. Brown, was a guest of Kimberle Weeks on her property, outside where there are other people and other homes in the area. Certainly in this type of atmosphere and surrounding circumstances there is no expectation of privacy for Ms. Brown.

In count three, Officer Michael Coomans of the Holly Hill Police Department was subject to a recording by Kimberle Weeks. The critical facts above in this case involve an analysis of the prongs set out in the Stevenson case cited above. The place where the recording occurred was on a business cell phone within the city limits of Holly Hill. The type of communication was a telephone conversation concerning an incident of police business; a response to a domestic incident call that had occurred previously. The manner of the communication that is vital to note is that Sergeant Coomans was speaking with

a total of three people at one point. Kimberle Weeks, her husband, and her daughter were also involved in the conversation. They were unsure if law enforcement was also recording the call. Certainly society is not prepared to recognize there is an expectation of privacy when a conversation includes four people in a conversation and involves public business that can be discovered by a simple public records search.

Count four involves a recording of Judge Melissa Moore-Stens. At the time, Judge Moore-Stens was the board chair for the Canvassing Board Meeting at the Canvassing Board Room inside the Supervisor of Elections Office, a public venue. The location of the meeting took place in a glass, see through office inside of this venue where public business is routinely conducted. Once the meeting was over, a writer for an online blogging website entered the room to conduct an interview with Judge Moore-Stens that he was intending on publishing in his blog. Therefore, the type of recording that took place was a conversation that was intended to be used for publishing in the first place. The manner of the recording was taken was by a cellular telephone that was visible on the meeting table in the glass room. It is also important to note factually that Judge Moore-Stens did not have a specific recollection if the blogger stated he was recording the conversation, and that upon entry of the Office where these meetings are held there is a clearly visible sign that says the Office is subject to audio and video monitoring and recording at any time. This situation similarly resembles the Caraballo case cited above, in which the Second District refused

to accept there was reasonable expectation of privacy an individual had in a business, open to the public, where there was a visible sign stating that the premises were subject to 24 hour video and audio recording. Caraballo, 2016 WL 886538 at 1.

In count five and six the individuals subjected to recordings are Albert Hadeed and Charles Ericksen. As stated above the origin of the meeting was for public business. Once the board members moved in the tabulation room, the two individuals at question, Hadeen and Ericksen, remained in the room and discussed a topic that is subject of this section of the indictment. The location of the discussion was in a place where state/public business is conducted, that being the glass Canvassing Board Room in the Flagler County Supervisor of Elections office. There was activity a few feet away right at the door, and Ericksen stated he was not whispering to prevent others from hearing the conversation, but rather because he did not want to seem loud. The SOE Office also has an easily visible sign notifying people who enter that the premises is subject to video and audio recording at any time. The type of recording made is a conversation between Hadeed and Ericksen about a potential felony that took place with regard to another county commissioner. The manner of the recording was in a glass room in the public building, by a cell phone on top of the meeting table, the cell phone being in plain view. It is also important to note the rest of the board was in an adjacent room, and the doors were open as voices could be heard on the recording. Albert Hadeed, who is an attorney for the board of county

commissioners as a whole, and not any one individual stated that he was discussing things that included attorney-client privilege. However, that argument holds no merit since he does not represent Mr. Ericksen individually but the county commission as a whole. Further, attorney-client privilege does not extend to the attorney but only the client. State v. Rabin, 495 So.2d 257, 260 (Fla. 3rd DCA 1986). Even if Ericksen is seen to be his client, Ericksen did not believe the conversation was confidential, therefore eliminating any expectation of privacy in speaking to Hadeed. Regardless, since Hadeed was not speaking to the board of county commissioners as a whole there exists no privilege. Therefore, the only important factors to consider, similar to count four, is that this conversation happened in a public area where state/county business is conducted, with obvious notice of recording potential. The case law cited in count four can be similarly paralleled to this count. Florida Courts are not fully ready to recognize a reasonable expectation of privacy in a person's place of business, and certainly not ready to extend it to public official business offices that have signs posted alerting subjects to potential recordings. Count six alleges a disclosure of the recording in count five. Therefore, if there is no expectation of privacy in the count five recording, the allegations of count six cannot withstand dismissal.

Counts ten and eleven involve a recording of Kenneth Detzner, J. Andrew Atkinson, Ronald Labasky, and Gary Holland along with Kimberle Weeks and Darlene Walker as stated above. The location of the phone call occurred at each

individual's place of business. It is important to note that every individual at the time was a public official, therefore their places of business included being open to the public. The manner they were recorded was while each individual was on his/her business telephone. It is important to note the call was on speaker phone at the Flagler County Supervisor of Elections Office while being recorded. There were six people on the call, including Darlene Walker, Ms. Weeks's assistant at the time (who can be heard on the recording). Kenneth Detzner was the only individual who stated he was uncomfortable with the phone call being recorded despite the conversation consisting of public business. It cannot be said that he had a reasonable expectation of privacy since there were multiple people on a speaker phone conversation at a public office. Detzner, nor any other individual at any point asked if there were other people in the room. All they had knowledge of was that there were at least two people from a public/business office speaking to four other individuals on speaker phone, where anyone in surrounding areas could listen. This situation is directly in line with the holdings of Jatar and Caraballo. Society is not ready to recognize a reasonable expectation of privacy in this type of situation with these facts and circumstances.

Finally, count twelve concerns the recording of Gerry Hammond and Whitney Anderson. The location where the calls were made were at Kimberle Weeks public Office in Flagler County. The other side of the conversation occurred at the Attorney General Office in Tallahassee, FL, a public office where state business is conducted. The conversation started when Weeks called a

hotline that is used for questions for the Attorney General's Office to be answered in their official capacity. The type of recording was made when the Attorney General hotline assistant called Kimberle Weeks back, and Weeks began to record the conversation on her end of the line. The manner the recording was made included a hotline assistant, during work hours, in a public office of the Attorney General, transferring the phone call to an Assistant Attorney General in the Opinions division, Gerry Hammond. In Inciarrano, the Court held that a business, which was a "quasi-public" premises was not a place where a reasonable expectation of privacy could exist. Inciarrano, 473 So.2d at 1274. In this situation, there is nothing quasi-public about the Attorney General Office. It is a state building, open to the public, and the manner of the phone call was directly in line with the Attorney General acting in her official capacity.


Defense is seeking dismissal of all of these counts due to the lack of a reasonable expectation of privacy. Dismissal in this fashion is afforded and required in this type of situation where no expectation of privacy exists. This is not a question of fact for a jury, but strictly a question of law. The cases above require suppression when there is a recording illegally obtained that is being used by the state in prosecution. The above cases determine whether there is a reasonable expectation of privacy, and if the recording was illegally obtained and an expectation existed, suppression of the recording is required. In this situation, which is slightly backwards, the statute only survives criminal prosecution if an "oral communication" is intercepted. Oral communication by definition includes

what is cited above, but most importantly defines further that "an expectation that such communication is not subject to interception" must exist. Therefore, if there is no reasonable expectation of privacy in each separate instance, the charges must be dismissed since the definition of the crime set out by the legislature cannot stand.

WHEREFORE, the Defendant requests this Honorable Court to Dismiss Count's 1 – 6 and 10 – 12 of the Indictment due to the lack of a reasonable expectation of privacy

RESPECTFULLY SUBMITTED this 15th day of November, 2016.

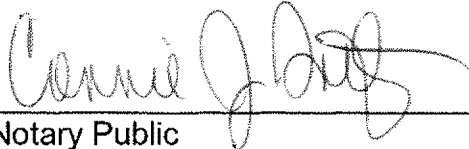
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BY: 
DEAN M. BARTZOKIS, ESQUIRE
Florida Bar No. 91311

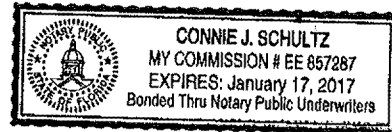
I, KIMBERLE B. WEEKS, do hereby swear or affirm that I have read the foregoing motion and that I have personal knowledge of the above-stated facts and that they are true and correct.


KIMBERLE B. WEEKS

Sworn to and subscribed before me this 15th day of November, 2016.
Produced W220 902616470, FLA for identification/is personally
known to me.




Notary Public
My Commission Expires:



CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has
been furnished by e-filing delivery this 15th day of November, 2016, to: Office
of the State Attorney, 1769 East Moody Blvd., Bldg. 1, 3rd Floor, Bunnell, FL
32110; and Clerk of the Circuit Court, 1769 East Moody Blvd., Bldg. 1, Bunnell,
FL 32110.

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BY: 
DEAN M. BARTZOKIS, Esquire
Florida Bar No. 91311

ct # 1 - 4/7- says 4/4/2014

1 (INTERVIEW OF VIRGINIA SMITH, #E1-26-0074, 1/21/15)

2

3 (The following may contain unintelligible or misunderstood
4 words due to the recording quality.)

5

6 PL = INSPECTOR PHIL LINDLEY

7 MT = INVESTIGATOR MIKE TAYLOR

8 VS = VIRGINIA SMITH

9

10 PL: Recorder is on and tracking. It is approximately 1:17
11 p.m. on the 21st of January 2015. Uh, present in the
12 room, Philip Lindley, Inspector, Florida Department of
13 Law Enforcement, Mike Taylor, Investigator, State
14 Attorney's Office, Seventh Judicial Circuit, and
15 Virginia Smith, who has previously been interviewed in
16 this investigation and still remains employed with the
17 City of Palm Coast. Um, Ms. Smith, would you please
18 raise your right hand? Do you swear that your
19 testimony you're about to give is the truth, the whole
20 truth and nothing but the truth?

21

22 VS: I do.

23

24 PL: Ms. Smith, we've just listened to a tape that's -- or
25 a recording that's in -- electronically recorded on
26 the 4th of April of 2014. Having listened to that
27 recording, can you identify the parties on the call?

28

29 VS: Uh, Kendra Ianati [phonetic], the City's Executive
30 Assistant, uh, Kimberly Weeks, Supervisor of
31 Elections, and myself.

32

33 PL: And the -- the Administrative Assistant merely
34 answered the call and transferred it to you.

35

36 VS: Correct.

37

38 PL: Okay. Ma'am, were you aware that that phone call was
39 -- was being recorded?

40

41 VS: No.

42

43 PL: Did you give your consent for that to be recorded?

44

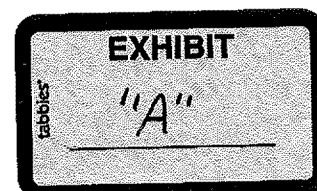
45 VS: No.

46

47 PL: Was there a tone or other device that made you aware
48 that your words were being recorded?

49

50 VS: No.



1
2 PL: Is it fair to say this was a non-consensual recording
3 of your voice?
4
5 VS: Yes.
6
7 PL: Okay. Ma'am, um, the -- the recording is encoded on
8 the, uh, 4th of April, 2014. Is -- is that about
9 right by your recollection April of 2014 when that
10 phone call took place?
11
12 VS: I know it was prior to the elections. Um, and I -- it
13 would have been around the time I was doing the inter-
14 local agreement with Ms. Weeks. Uh, for certain I
15 can't saw August 8th, but I'm pretty sure, yes.
16
17 PL: (Unintelligible). Okay. And -- and by the way, you
18 -- you expressed, while you listened to this, you have
19 independent recollection. You remember the call, do
20 you not?
21
22 VS: Yes. I do remember the call.
23
24 PL: Okay. And then --
25
26 VS: I was taken out of a meeting and I took the call to
27 try to negotiate one final time the inter-local
28 agreement for her to hold our elections.
29
30 PL: So again, in summation, um, you got a call from
31 Ms. Weeks. Ms. Weeks did not inform you that you were
32 being recorded and you did not give your consent to be
33 recorded.
34
35 VS: Correct.
36
37 PL: And at the time that you received that telephone call,
38 you were present in the City of Palm Coast offices
39 here in Palm Coast, Florida, Bunnell County.
40
41 VS: Correct.
42
43 PL: Okay. Mike, anything --
44
45 VS: Flagler County.
46
47 PL: I'm sorry. I -- Flagler County.
48
49 VS: Sorry.
50

1 PL: Uh, Mike, anything you can think of?

2

3 MT: No, sir.

4

5 PL: Okay. Ms. Smith, we promised to make it close quick.
6 It's 1:20 in the interview. We're going off record.
7 We're done.

8

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23 CONCLUSION OF INTERVIEW)

24

25

26

27

28 Transcribed by: hnm/ms

1 (INTERVIEW OF SHANNON BROWN, #E1-26-0074, 1/20/15)

2

3 (The following may contain unintelligible or misunderstood
4 words due to the recording quality.)

5

6 PL = INSPECTOR PHIL LINDLEY

7 GB = INVESTIGATOR GINA BAKER

8 SB = SHANNON BROWN

9

10 SB: What could possibly have been done -- are you
11 recording me?

12

13 PL: Well -- well, yeah, we're gonna do this here just now.
14 Okay. For purposes of the record, it's, um, 3:42
15 p.m., uh, on the 20th of January, 2014. Uh, this is
16 Inspector Phil Lindley, Office of Executive
17 Investigations, Florida Department of Law Enforcement.
18 Uh, present also is Gina Baker, an investigator with
19 the, uh, Seventh Circuit, uh, State Attorney's Office.
20 And ma'am, would you please state your full name,
21 spelling, um, and -- Brown is common spelling, but
22 also provide your maiden name, please.

23

24 SB: My name is Shannon Marie Decker Brown.

25

26 PL: Okay. And --

27

28 SB: D-E-C-K-E-R, B-R-O-W-N.

29

30 PL: And I've got your date of birth somewhere on --

31

32 SB: 8/23/76.

33

34 PL: And the address here where we are in Flagler County?

35

36 SB: 3368 Forest Park Street.

37

38 PL: Okay. Ma'am, would you please raise your right hand?
39 Ma'am, do you swear that the statement you're about to
40 give is the truth, the whole truth and nothing but the
41 truth so help you God?

42

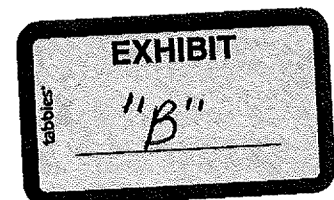
43 SB: Yes.

44

45 PL: Okay. Ma'am, we've, um, just listened to a recording
46 that purports to be made on the 6th of May of 2014 and
47 I would ask you, are you able to identify the voices
48 on that recording?

49

50 SB: Yes.



1
2 PL: And it's -- it's in four parts, but you've listened to
3 all four parts. Um, who is the participants in that
4 conversation?
5
6 SB: Kimberly Weeks and myself.
7
8 PL: Okay, ma'am. Now, to the best of your knowledge and
9 recollection, that conversation did occur in May of
10 2014?
11
12 SB: Yes, sir.
13
14 PL: Around or about the 6th of May?
15
16 SB: Yes, sir.
17
18 PL: And where did that conversation take place?
19
20 SB: In Ms. Weeks', uh, front yard.
21
22 PL: Okay. Ma'am, were you surprised to hear your
23 conversation was recorded?
24
25 SB: Yes.
26
27 PL: Did you give permission for Ms. Weeks to make that
28 recording?
29
30 SB: No, sir.
31
32 PL: Um, did, uh, Ms. Weeks, uh, display any sort of
33 recording device to you? Did she show you a recorder?
34
35 SB: No, sir.
36
37 PL: Okay. Would you please explain the circumstances how
38 you came to talk to Ms. Weeks?
39
40 SB: Um, Mrs. Weeks called me and asked if she could speak
41 to me in regards to her daughter dating my ex-husband.
42 Um, her daughter had had, um, some cosmetic surgery
43 and she wanted to talk to me about Ken's past.
44
45 PL: Okay. Um, again, you did not give consent for that
46 conversation. Um, did -- did you discuss private
47 details of your life that you would not --
48
49 SB: Very private.
50

1 PL: -- you wouldn't want shared with anyone else.
2
3 SB: No.
4
5 PL: And those matters as far as you were concerned was
6 private.
7
8 SB: Yes.
9
10 PL: Okay. Can you think of anything, Gina?
11
12 GB: No.
13
14 PL: Okay. Uh, again, we're looking at the facts and
15 circumstances of the statements that were recorded
16 and, uh, just in summation, uh, you -- you were
17 divorced from a man that was --
18
19 SB: We were.
20
21 PL: -- that was dating Ms. Weeks' daughter.
22
23 SB: Yes.
24
25 PL: Uh, she asked you to come, and her house is, as -- as
26 we're sitting here, adjacent to this house.
27
28 SB: Uh, it's about a mile away.
29
30 PL: Okay. And you went over to her house.
31
32 SB: Yes.
33
34 PL: And, uh, you -- you -- you met outside the house?
35
36 SB: Outside.
37
38 PL: Okay. And, uh, again, she -- she did not ask your
39 permission to record?
40
41 SB: No, she did not.
42
43 PL: And that was done without your consent?
44
45 SB: Yes.
46
47 PL: In a private conversation.
48
49 SB: Yes.
50

1 PL: Okay. Do you have anything further that you would
2 add, you know, concerning that conversation?
3
4 SB: Uh, she actually added myself and some other family
5 members on Facebook, um, to -- to again gain private
6 information.
7
8 PL: You've -- you -- have you given her any permission to
9 -- to play your recorded words to anyone else?
10
11 SB: No.
12
13 PL: In other words, expose your private conversation --
14
15 SB: No.
16
17 PL: -- to anyone.
18
19 SB: No.
20
21 PL: Thank you, ma'am. I have no further questions.
22
23
24
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26
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31 (CONCLUSION OF INTERVIEW)
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36 Transcribed by: hmm/ms

ct # 3

7/11/2014

3 way conversation

1 (INTERVIEW OF MICHAEL COOMANS, #E1-26-0074, 1/21/15)

2

3 (The following may contain unintelligible or misunderstood
4 words due to the recording quality.)

5

6 PL = INSPECTOR PHIL LINDLEY
7 GB = INVESTIGATOR GINA BAKER
8 MC = MICHAEL COOMANS

9

10 PL: Okay. Recording has started. Uh, good morning. It's
11 the 21st of January, 2015. It's 8:21 in the morning.
12 This is Inspector Phil Lindley from the Florida
13 Department of Law Enforcement, Office of Executive
14 Investigations. I'm in the Holly Hill Police
15 Department, in Holly Hill, Florida, accompanied by
16 Gina Baker, investigator for the State Attorney
17 Seventh Judicial Circuit. Sir, would you please raise
18 your right hand? Sir, do you swear that the testimony
19 you're about to give will be the truth, the whole
20 truth, and nothing but the truth?

21

22 MC: I do.

23

24 PL: Sir, would you please state your full name, spell your
25 last name for the record?

26

27 MC: Uh, Sergeant Michael Coomans, C-O-O-M-A-N-S.

28

29 PL: And, uh, Sergeant, you're currently employed with the
30 Holly Hill Police Department?

31

32 MC: Correct.

33

34 PL: And a law enforcement officer with the State of
35 Florida.

36

37 MC: Correct.

38

39 PL: Sir, were you so employed in, uh, July of 2014?

40

41 MC: I was.

42

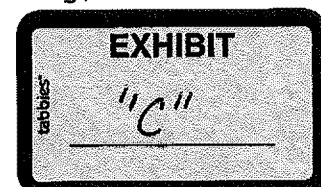
43 PL: Um, we've asked you to, um, review a recording that
44 was, uh, universal time indicated it was recorded on
45 the 11th of, uh, uh, July, 2014. Did you recognize
46 the voices on that recording?

47

48 MC: I did.

49

50 PL: And what voices were on that recording, sir?

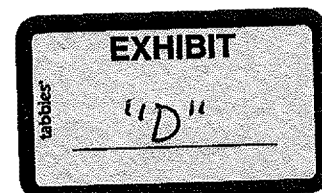


1
2 MC: Mine, along with, uh, Mrs. Weeks. Kimberly.
3
4 PL: And were there others that later joined in the
5 conversation?
6
7 MC: Yes. I also talked to, um, Mr. Weeks, being her
8 husband, and I believe their daughter.
9
10 PL: Okay. And sir, um, prior to that recording, um, did
11 you know you were being recorded?
12
13 MC: No, I didn't.
14
15 PL: Did you give your consent to being recorded?
16
17 MC: I did not.
18
19 PL: Um, do you consider the matters that you were
20 discussing to -- to be private between you and
21 Ms. Weeks?
22
23 MC: I do, or I thought.
24
25 PL: You thought. Uh, was there any audible signal or tone
26 or beep that would indicate to you that it was being
27 recorded?
28
29 MC: No.
30
31 PL: Uh, Sergeant, where were you, um, when you made -- you
32 called Ms. Weeks, correct?
33
34 MC: Correct.
35
36 PL: And you called Ms. Weeks at what number?
37
38 MC: Uh, the number that was on CAD which is listed as 386-
39 437-2815.
40
41 PL: Where did you believe Ms. Weeks to be located when you
42 called her?
43
44 MC: I do believe she stated that she was calling from Palm
45 Coast or Flagler County.
46
47 PL: Okay. Palm Coast or Flagler -- and you were
48 physically located where when this phone call took
49 place?
50

1 MC: Within the corporate city limits on Holly Oak.
2
3 PL: Uh, in Volusia County, Florida?
4
5 MC: Correct.
6
7 PL: Okay, sir. Um, what -- what prompted you to call
8 Ms. Weeks? Did you do that on your own volition or
9 was there a request that you call her?
10
11 MC: No. There was a -- a request that I call her in
12 reference to an earlier incident that happened on
13 Hiawatha.
14
15 PL: Okay. Hiawatha being in Holly Hill?
16
17 MC: Correct.
18
19 PL: Okay. And the -- the original incident, uh, involving
20 her son occurred on what date?
21
22 MC: Uh, July 10th of 2014.
23
24 PL: So it was earlier. There was an incident at -- at the
25 home and then you called her.
26
27 MC: That is correct.
28
29 PL: Okay. And, um, Gina, is -- is there anything else
30 that you think of?
31
32 GB: Well, I'm just looking to -- there's one from the 5th
33 as well, um --
34
35 PL: Incident at the home on the 5th?
36
37 GB: Yes, um --
38
39 PL: 'Cause the -- the phone call that we just listened to
40 said last Sunday and -- and there was a female officer
41 involved in it and then they were calling the sergeant
42 as the supervisor.
43
44 GB: Yes. And there's also another one on the 6th of July,
45 2014 and your name's listed in CAD as well.
46
47 MC: Correct.
48
49 GB: With --
50

1 PL: So there's -- there's been a series of -- of domestic
2 issues at the -- the address in -- what -- what's the
3 address on Hiawatha?
4
5 MC: 1355.
6
7 GB: Yeah.
8
9 PL: Okay. But -- but in any event, this -- this recording
10 that purports to be made on or about the 11th of July,
11 that was made without your consent, correct, sir?
12
13 MC: Correct.
14
15 PL: Anything else that you noticed, Gina?
16
17 GB: No.
18
19 PL: Okay. Um, that will conclude the interview and it's
20 approximately, uh, 8:24 a.m. Thank you, Sergeant.
21
22 MC: Thank you.
23
24
25
26
27
28
29 CONCLUSION OF INTERVIEW)
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34 Transcribed by: hmm/ms

1 (INTERVIEW OF MELISSA MOORE STENS, #EI-26-0074, 10/09/14)
 2
 3 (The following may contain unintelligible or misunderstood
 4 words due to the recording quality.)
 5
 6 PL = INSPECTOR PHIL LINDLEY
 7 MS = MELISSA MOORE STENS
 8 MT = MIKE TAYLOR
 9
 10 PL: For purposes of the record, this is Inspector Phil
 11 Lindley, Florida Department of Law Enforcement. It's
 12 approximately 9:35 in the morning, on the 19th [sic]
 13 of October 2014. Uh, I am before the Honorable
 14 Melissa Moore Stens -- County Law Judge, or are you
 15 Circuit Court Judge?
 16
 17 MS: County.
 18
 19 PL: County Judge for Flagler County. I'm in the judge's
 20 chamber and, uh, present with me is Mike Taylor, an
 21 investigator for the State Attorney's Office. And
 22 ma'am, I've got a recorder on right now. Um, would
 23 you -- this is probably the most uncomfortable thing
 24 I've ever said. Do you swear the testimony you're
 25 about to give is the truth, the whole truth, and
 26 nothing but the truth so help you God?
 27
 28 MS: Yes, sir.
 29
 30 PL: Thank you, Judge. Um, your Honor, uh, this concerns
 31 a matter with the, um, 25th of August 2014,
 32 canvassing board meeting that happened in -- over in
 33 building 2. And prior to this, you've listened to a
 34 -- a portion of -- of audio recording and that is
 35 your voice on the recording, correct, your Honor?
 36
 37 MS: Yes, sir.
 38
 39 PL: Okay. And, Judge, your position with the canvassing
 40 board?
 41
 42 MS: As the only county judge in Flagler County, I am the
 43 chair of the canvassing board.
 44
 45 PL: Okay. And, um, present at the meeting that day, um,
 46 were yourself and Commissioner Hanns, Commissioner
 47 Ericksen, Mr. Hadeed, um, Miss Weeks, the Supervisor
 48 of Election, and anyone else that you recall present
 49 at the meeting?
 50



1 MS: I'm reviewing the minutes that I have from August
2 25th and it reflects that, um, Dave Ferguson, who is
3 a Palm Coast city councilman was present; Virginia
4 Smith, who also works for the City of Palm Coast as
5 a clerk was present; Bill Maguire, who is also a
6 City of Palm Coast councilmen was present. And if I
7 recall, this specific meeting was the meeting where
8 Mr. Tristam was present, did not sign in. So that's
9 probably why he's not reflected on our minutes. Um,
10 but from reviewing the minutes, this is the meeting
11 where Mr. Tristam came back into the separate room
12 where we were actually opening the absentee ballots
13 and attempted to take some photographs and him and,
14 um, Miss Weeks went -- got into an exchange. I'm not
15 sure. I didn't listen to the whole recording, so I'm
16 not sure if that is reflected on here --

17
18 PL: That portion is not on there.

19
20 MS: Okay.

21
22 PL: The, uh -- the recording picks up where, um,
23 following the Pledge of Allegiance, you are
24 discussing the issue with, uh, parking spaces over
25 at the, um, uh -- uh, City provided building for
26 y'all. And the second issue that took a considerable
27 period of time was the, um -- um, the -- the issue
28 of the people getting incorrect ballots. There were
29 six people that had gotten -- but that was the
30 majority of the canvassing board and you're on the
31 record -- uh, you had some sort of event with your
32 daughter and you were going to have to leave. And
33 the Supervisor of Elections said, "I need one
34 canvassing board member to sign the results." And
35 that is the flow of events. It -- is that your
36 recollection of events, too?

37
38 MS: I remember being at the meeting when everything
39 happened with Mr. Tristam and the photographs and
40 all of that. So, I'm -- I don't know I'd have to
41 listen to all of that --

42
43 PL: Uh, well, we could --

44
45 MS: -- to be sure.

46
47 PL: -- we could -- we can -- we can get the thing up to
48 the point where -- where you had to go on there,
49 and it's about an hour into the recording. We can
50 fast forward it. But the -- the essence of why FDLE

1 is here is an allegation that conversations were
2 improperly recorded and improperly disseminated. Um,
3 focusing on the Supervisor of Elections. Do you
4 recall the Supervisor of Elections placing a cell
5 phone or a recording device on the table at the
6 beginning of the -- the meeting and telling everyone
7 she was about to record?
8
9 MS: She has never told us that she was going to record
10 any meetings. In fact, when we first started
11 meeting, in early August, um, she specifically
12 stated that she was not recording our meetings.
13
14 PL: Okay.
15
16 MS: She -- 'cause there was some conversation about
17 whether or not meetings were being recorded, and she
18 said she was not recording the meetings.
19
20 PL: So, she's given everyone an assurance that these are
21 not recorded; is that correct?
22
23 MS: She did.
24
25 PL: Okay.
26
27 MS: And -- and you can tell the difference between the
28 meeting minutes that are short and she had a note
29 pad next to her and she would write down the time of
30 when certain things were happening. So you can look
31 at our minutes from August 12th that are very
32 different from the minutes that started being
33 presented later.
34
35 PL: Became more comprehensive, the newer minutes?
36
37 MS: Correct.
38
39 PL: Did -- did any discussion come up about whether you
40 were being recorded at all?
41
42 MS: No, sir.
43
44 PL: Okay. So again, the best of your knowledge, she did
45 not ask permission of anyone to record this meeting
46 on the 25th of August?
47
48 MS: No, sir.
49
50 PL: Okay. Um, do you recall seeing her iPhone or -- or,

1 um, Galaxy up on the -- on the table at any time?
2
3 MS: All of us had our phones sitting on the table. Um,
4 maybe not George. George might have kept his in his
5 pocket but I mean, I know --
6
7 PL: George, being George --
8
9 MS: Hanns.
10
11 PL: Hanns.
12
13 MS: Uh, the other member of the board. I mean, I kept my
14 phone just like I am right now. My phone stays right
15 here and obviously, you know, I'm looking for
16 something from either of my children or my office.
17 So, I would have my phone on vibrate but it would
18 sit right there and, you know, if I've -- something
19 buzzed through, I would answer it and continue on
20 with business. So --
21
22 PL: So -- so again, there was no notice to anyone they
23 were being recorded and there were no lights or
24 other indicia within the room that -- that you all
25 were being recorded in? And -- and the judge is
26 shaking her head no. The witness is shaking her head
27 no.
28
29 MS: No, sir.
30
31 PL: And, uh, your -- your meeting in that glassed-in
32 office that says "Canvassing Board." Is that the
33 correct location?
34
35 MS: Yes.
36
37 PL: Um, your Honor --
38
39 MS: Most of the meetings were there.
40
41 PL: Your Honor, I can -- I can show them to you, but one
42 thing I -- I need to ask you, there are ADT Security
43 signs on all the doors of the Supervisor of
44 Elections Office that the area is subject to video
45 and audio recording. Have you ever noticed those
46 signs over there?
47
48 MS: Honestly, no. I have not.
49
50 PL: Okay. So -- so, in your estimation, you were unaware

1 that -- that the conversation was being recorded?
2
3 MS: I was unaware that the conversation was being
4 recorded.
5
6 PL: Okay.
7
8 MS: I can tell you, when she started presenting the
9 comprehensive minutes with detailed play-by-play,
10 you know, Supervisor Weeks said this -- County
11 Attorney Hadeed said that -- Judge Moore Stens said
12 this, it -- a little light bulb went off in my head
13 that she was not taking notes to that extent --
14
15 PL: Uh-huh.
16
17 MS: -- that we were probably being recorded, at that
18 point. Um --
19
20 PL: Did you admonish her --
21
22 MS: -- but it was never --
23
24 PL: -- did you admonish her as the -- the judge
25 presiding that you didn't want it recorded -- or did
26 you not express anything to her?
27
28 MS: I never expressed anything to her.
29
30 PL: So, you suspected but you never confirmed it?
31
32 MS: Correct.
33
34 PL: Okay. Um, and from a legal standpoint, they are a --
35 a public meeting that -- that --
36
37 MS: They are.
38
39 PL: -- can be recorded, uh, when the board is in
40 session. Your understanding of the board procedures,
41 when the -- when the last board member leaves, the
42 meeting is over, correct -- the business is
43 concluded?
44
45 MS: That would be my understanding.
46
47 PL: Okay. Um, Judge, there was a -- there was a
48 conversation that -- that has been broadcast on the
49 radio stations around town and, uh, has been the
50 subject of several newspaper articles. Uh, when

1 listening to the tape, um, the -- the vote is taken
2 to accept the absentee ballots and then clearly
3 people have exited the canvassing board and gone
4 back into the tally area. But the door is open, the
5 conversations are still, um, going on at that point.
6 Uh, were -- do you recall being in the room when
7 this whispered conversation took place?
8
9 MS: No. I would've been in the tabulation room which is
10 --
11
12 PL: Adjacent?
13
14 MS: Correct. The larger room next door. I don't know how
15 it's set up now that you guys have been over there,
16 but there's large tables in there and we would sit
17 across from each other. And, you know, one person's
18 opening an absentee ballot, and pulling it out, and
19 handing it across the table to the person who's then
20 putting the ballot upside down. And when we're done
21 with our stack of this precinct, we have to count
22 the envelopes and then they have to count the
23 ballots, and assuming everything matches, then it
24 gets tabulated and we move on to the next, um,
25 precinct.
26
27 PL: Okay.
28
29 MS: So, in that room, all the canvassing board members
30 were in that room --
31
32 PL: In the big room --
33
34 MS: -- at that point.
35
36 PL: -- adjacent room?
37
38 MS: Correct. Once we've started opening absentees, all
39 of the canvassing board members have moved into that
40 other room and --
41
42 PL: That -- that's the adjacent room with a glass wall
43 between the two of you?
44
45 MS: Right.
46
47 PL: Do you recall if the door was still open?
48
49 MS: I -- I don't.
50

1 PL: Do you recall who may have remained in the room when
2 -- when you went into the adjacent room to begin
3 tabulating ballots?
4
5 MS: Mr. Hadeed usually stays in there. He does not
6 usually come in with us when we tabulate.
7
8 PL: Right.
9
10 MS: But, um, it -- me and Commissioner Hanns and
11 Supervisor Weeks always move into the tabulation
12 room. Most of the time, Commissioner Ericksen would
13 come with us as well -- he would just sit there and
14 observe because he can't touch ballots. Um, unless
15 he's there for George. And then, there were possibly
16 some volunteers or employees of Miss Weeks, you
17 know, to help us sort and tabulate --
18
19 PL: Yes, ma'am.
20
21 MS: -- in our tabulation room. So, from looking at the
22 minutes from that meeting, I feel like Mr. Ferguson,
23 Miss Smith and Mr. Maguire had left after we had the
24 conversation about the ballots and the --
25
26 PL: Parking?
27
28 MS: -- parking issues. That's why I did -- if I'm
29 remembering this meeting correctly -- that's why I
30 did all that activity first, because we did have so
31 many people in attendance. And I didn't want --
32 normally what we would do is just call the meeting
33 to order, verify advertising, and then start opening
34 ballots so they can be tabulated. But I knew we had
35 all these people present, so I wanted to just go
36 ahead and tackle all the business first rather than
37 making them wait for an hour-and-a-half or two hours
38 while we opened ballots.
39
40 PL: Yes, ma'am.
41
42 MS: I didn't want to do that to the -- all of the public
43 that was in attendance. So, we did all the -- all of
44 the business first and then moved into the other
45 room to do the tabulation.
46
47 PL: Okay.
48
49 MS: So, I don't think those individuals were still
50 there. I think it was just Mr. Hadeed. And then,

1 like I said, Mr. Ericksen isn't required to be with
2 us while we're doing our tabulating. So, I don't
3 necessarily pay attention to him because he's not
4 one of the ones that we're passing things back and
5 forth to.
6
7 PL: Okay. But you've -- you've -- with -- without the
8 minutes, you don't have an independent recollection
9 of how that happened. It's just the habit you're
10 testifying to.
11
12 MS: Even with the minutes, I don't have an independent
13 recollection of whether Mr. Ericksen was right there
14 with us or not.
15
16 PL: Or whether the door was open or not?
17
18 MS: Correct.
19
20 PL: Okay. Mike, have you got anything that you can think
21 of?
22
23 MT: When the board members moved to the tabulation area
24 --
25
26 MS: Yes.
27
28 MT: -- was the business of the board concluded, at that
29 point in time? Would the meeting have officially
30 ended or would the meeting have officially moved to
31 a new location?
32
33 MS: It whether -- it would have either recessed or
34 moved.
35
36 MT: Okay.
37
38 MS: In my opinion. Because there were no members of the
39 canvassing board remaining in that room. The
40 conversation that we were having in the larger,
41 tabulation room was nothing business related. I
42 mean, when we're sitting there for two hours opening
43 ballots, we're having personal conversation. We're
44 exchanging, you know, war stories and, you know,
45 when I grew up this happened to me. And, you know,
46 talking about our children and our parents and, you
47 know, we're not on the record, as far as I'm
48 concerned, when we are in the adjacent room
49 tabulating.
50

1 And moving forward at our meeting on September 12th,
2 when this recording was played for the first time, I
3 actually made a motion for us to get an official
4 digital recording device and change the way the
5 minutes were being done because of all of this that
6 had come out. And Supervisor Weeks voted against it,
7 Commissioner Hanns voted with me. So, moving forward
8 we will have a digital recording device in the
9 canvassing board room, where we will go on and off
10 the record.

11
12 So, had we had something like that on this date, as
13 soon as we would've left that room and gone to
14 tabulate, I would've stated, "It's --" whatever
15 time, "and we're going off the record to go
16 tabulate." I would've turned the recording off. We
17 would've gone in there. We would've had our, you
18 know, discussions amongst ourselves. Just keeping
19 ourselves busy while we're doing our business and
20 opening. And then when we would go back in to
21 announce how many absentees we had opened and
22 whether there were any anomalies that needed to be
23 addressed or whatever, I would've gone back on the
24 record at that point.

25
26 MT: Okay.

27
28 PL: Um, but the -- the, uh -- again, the meeting really
29 doesn't end until one of the commissioners has
30 signed the -- the tabulation that comes out of the
31 machine, correct? The board -- the canvassing board
32 exists to count absentee ballots and the -- the
33 board is still in session, if you will, until the
34 results are -- and then the business ends when the
35 tabulation is certified?

36
37 MS: Right. And that's why I'm saying I would've
38 considered ourselves either recessed or off the
39 record.

40
41 PL: Understand.

42
43 MS: 'Cause the meeting wasn't concluded, 'cause we were
44 still counting, but there were no members of the
45 board in that room at that time.

46
47 PL: Okay.

48
49 MT: When you say, "At that time," you're -- you're --
50 "At that time," is referencing the point when the

1 subject recording was made?
2
3 MS: Correct.
4
5 MT: Okay.
6
7 PL: Anything else, sir?
8
9 MT: No, sir.
10
11 PL: Um, Judge --
12
13 MT: And thank you.
14
15 PL: -- at this point, I'm going to terminate the
16 interview, if I could. Time is, um, 9:48.
17

18 (CONCLUSION OF INTERVIEW)
19
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"E"

1 (INTERVIEW OF CHARLES F. ERICKSEN, JR., #EI-26-0074,
2 10/09/14)
3

4 (The following may contain unintelligible or misunderstood
5 words due to the recording quality.)
6

7 PL = INSPECTOR PHIL LINDLEY
8 CE = CHARLES F. ERICKSEN, JR.
9 MT = MIKE TAYLOR
10

11 PL: Okay. Good morning. It is about, uh, 10:58 a.m. in
12 the morning of the 8th -- or excuse me -- the 9th of
13 October 2014. I'm at the, uh, Flagler County, um,
14 administrative building, uh, within the government
15 complex, uh, at the office of the county
16 administrator. Uh, this is Inspector Phil Lindley
17 with the Florida Department of Law Enforcement.
18 Present with me is Mike Taylor. And I've got, uh,
19 Commissioner Charles Ericksen --
20

21 CE: Charles.
22

23 PL: -- of the -- the --
24

25 CE: Charles F. Ericksen, E-R-I-C-K-S-E-N, Jr.
26

27 PL: Okay. And, uh, Mr. Ericksen, the, uh -- the purpose
28 of interviewing you today concerns some activities
29 of the canvassing board for Flagler County which
30 you're a member of. Before we commence this, the
31 tape recorder is on.
32

33 Sir, would you please raise your right hand? Do you
34 swear that the testimony you're about to give is the
35 truth, the whole truth, and nothing but the truth,
36 so help you God?
37

38 CE: Yes, sir.
39

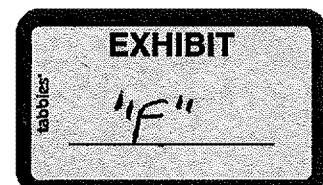
40 PL: Thank you, Mr. Ericksen. How long have you been an
41 elected official here in --
42

43 CE: Uh, it's coming up on two years.
44

45 PL: Uh-huh.
46

47 CE: I was elected, uh, November, uh, two years ago.
48

49 PL: Okay.
50



1 CE: So I'm halfway through the term.
2
3 PL: And you are a county commissioner.
4
5 CE: Yes, sir, I am.
6
7 PL: And as part of your duties as the county
8 commissioner, you're a member of the canvassing
9 board to count ballots?
10
11 CE: Uh, any one of the, uh -- uh, first of all, the
12 chairman of the commission is automatically on the
13 canvassing board, and then it's up to the Board to
14 nominate one other person as the alternate. And I --
15 - and I have been the alternate for the, uh -- for
16 this year.
17
18 PL: Okay. Uh, how many times have you been in the, uh -
19 - in the canvassing board office, sir? How many
20 times have you visited that facility?
21
22 CE: The canvassing board office or -- or just the
23 supervisor of elections?
24
25 PL: Well, the supervisor of --
26
27 CE: Well, I -- uh, when I was a candidate if -- I, uh,
28 visited it quite regularly to turn in my, uh -- uh,
29 signatures to -- to be able to, uh, run for office.
30 Uh, I've gone in there to meet with the supervisor
31 of elections on her request, uh -- um, when -- when
32 -- when she had some concern with the way things --
33 she -- she needed something, she wanted to point it
34 out, uh, I -- I was one of the people that she
35 would, uh, call. And I -- and I would talk to her
36 either on the phone or we've had conversations in --
37 in the, uh, supervisor of elections' office.
38
39 PL: Okay. So you -- you have been in that building
40 numerous --
41
42 CE: Oh, yes, sir. Yes, sir.
43
44 PL: Um --
45
46 CE: To vote, also. It's also a voting precinct.
47
48 PL: The, uh -- the -- the -- the focus of the FDLE
49 investigation concerns, uh, recording of
50 conversations. Have you -- and I'm making

1 representation to ya. Um, have you noted the --
2 the, um, ADT signs on the door of the
3 (unintelligible) --
4
5 CE: Yes, sir, I did.
6
7 PL: -- that -- that say this area is (unintelligible)
8 subject to video and -- and audio recording?
9
10 CE: I -- well, I -- I saw it because somebody sent me a,
11 uh, copy of it yesterday, uh -- well, sent it to me
12 secondhand from the -- the local Tea Party.
13
14 PL: Do you -- are -- are you on -- have -- prior to
15 receiving that -- that picture, were you ever on
16 notice that you were being recorded within the
17 supervisor of elections' office?
18
19 CE: Can I go back to the first --
20
21 PL: Yes, sir.
22
23 CE: -- meeting? Okay.
24
25 PL: Yes, sir.
26
27 CE: The -- the -- the first meeting, uh, we had, uh, the
28 supervisor of election was there; the chairman was
29 there; uh -- uh, the judge was there and I was there
30 and I believe there were two or three other
31 individuals there.
32
33 PL: The judge being Judge Stens?
34
35 CE: Yes.
36
37 PL: And the supervisor of elections being --
38
39 CE: Yes. Right. They --
40
41 PL: -- Miss Weeks.
42
43 CE: Miss Week --
44
45 PL: And -
46
47 CE: Miss Weeks, the -- the judge, George Hanns, and
48 myself, uh, composed the total canvassing board.
49
50 PL: That's what I was trying to get at --

1
2 CE: Right.
3
4 PL: -- the names of the people. Please --
5
6 CE: Right.
7
8 PL: -- go ahead, sir.
9
10 CE: And -- and, um -- uh, the supervisor of elections
11 started out by saying that she wanted to keep the
12 notes short, uh, so she wanted, uh, authorization to
13 go ahead and keep 'em by -- on pad. And then, uh,
14 she said she would transcribe it from the pad and
15 give it to us.
16
17 PL: Okay. And that was the first meeting on when?
18
19 CE: Uh, boy. Uh, what -- what meeting did you say that
20 we're talking about?
21
22 PL: Well --
23
24 CE: The 5th or --
25
26 PL: The -- the 25th of August is the one --
27
28 CE: Right.
29
30 PL: -- that's in dispute.
31
32 CE: Well --
33
34 PL: But it was prior to that.
35
36 CE: The -- right. The first -- the first meeting of the
37 canvassing board is typically when you test the
38 equipment.
39
40 PL: Right.
41
42 CE: Uh, we -- we hold a short meeting and then we, uh,
43 go out to the tabulation area and run, uh, some of
44 the AccuVote machines through a particular test, and
45 that was in the presence from somebody from the, uh,
46 state elections office. Um, but the meeting started
47 out by -- by, uh, saying that, um, the supervisor of
48 elections wanted to keep, uh, hand notes as opposed
49 to recording anything and that, um -- and -- and
50 that she would take her notes and produce minutes

1 for us. Uh, a -- probably two or three meetings
2 later, uh, we asked for -- we -- we hadn't had any
3 minutes to -- to approve, and, uh -- and she said
4 she -- she was working on 'em. And then the next
5 meeting, she brought 'em in. And I -- I don't know,
6 really, what meeting that was, but she came in with,
7 uh, packets probably a quarter inch thick, single-
8 spaced.
9
10 PL: Detailed notes.
11
12 CE: Detailed notes. And -- and -- and my comment and,
13 uh, as -- as an alternate I can talk but I can't
14 vote on any of the decisions that the -- that the
15 Board makes as long as I'm acting as the alternate.
16 And what I -- what I did is I said, "Well, did --
17 did you get all of this from your hand notes?" She
18 says, "No. I've been recording the meetings." And
19 -- and they said, "Why?" And she said, "Well, I
20 started recording 'em to" -- I -- I don't -- I think
21 the word was she -- she was recording 'em to protect
22 herself. And -- and from that point on, we then
23 understood that the -- the meetings may be -- uh,
24 that -- that the -- that -- well, there was a
25 discussion as to why did you change and not tell us.
26 But, uh, whatever -- I -- I cannot remember what --
27 which meeting that was that that occurred.
28
29 PL: But it was prior to the 25th of August. There -- you
30 -- you -- there was a suspicion then, and she had
31 confirmed the suspicion that you're being recorded?
32
33 CE: On -- on that meeting that she produced the first
34 hard copies of the notes was when we, um -- when she
35 admitted the fact that she was now recording the
36 meetings.
37
38 PL: Okay. Now, coming -- coming to the 25th of August,
39 she -- the -- it's -- it's public business, the
40 board meeting --
41
42 CE: Yes, sir.
43
44 PL: -- so -- so --
45
46 CE: Right.
47
48 PL: So you -- you suspected that you're being recorded.
49 She has confirmed that you're being recorded.
50

1 CE: Yes, sir.
2
3 PL: The 25th of August you came in to deal with, uh, 824
4 absentee ballots --
5
6 CE: Okay. Okay.
7
8 PL: -- and -- and approve those to be counted.
9
10 CE: Okay.
11
12 PL: Okay. Um, as you enter the supervisor of elections
13 office proper, um, you come around the corner,
14 there's the canvassing board room, the glass --
15
16 CE: That's correct.
17
18 PL: -- the glass office.
19
20 CE: Every meeting started there.
21
22 PL: And then the tabulation room --
23
24 CE: Yes, sir.
25
26 PL: -- is adjacent to it. Now, you have heard the
27 recordings, the -- the whispered recording between
28 Hadeed and yourself that has been --
29
30 CE: Yes, sir.
31
32 PL: -- played on the radio.
33
34 CE: Uh-huh.
35
36 PL: And you know what's being said.
37
38 CE: Uh-huh.
39
40 PL: So you recall the incident that we're getting into.
41
42 CE: Well, yes -- yes, I do.
43
44 PL: Okay. That's -- as the -- the meeting progresses,
45 you do the Pledge of Allegiance. There is some
46 discussion about the -- the parking, handicapped
47 parking over at the, uh -- the city facility that
48 goes --
49
50 CE: Yes.

1
2 PL: -- on for a period of time.
3
4 CE: Yes, sir.
5
6 PL: The second issue that -- that is discussed is, uh,
7 the six ballots where people had voted city and
8 gotten county and a discussion --
9
10 CE: Right.
11
12 PL: -- that does --
13
14 CE: Correct.
15
16 PL: -- about that. And, um, sometime around 6:00 in the
17 evening, um, it's -- it -- it's hard to determine
18 exactly what time it was -- uh, the -- the
19 canvassing board itself goes into the big tabulation
20 room where the long tables are --
21
22 CE: Uh-huh.
23
24 PL: -- to begin tabulating the ballots --
25
26 CE: Right.
27
28 PL: -- that are out there. Okay. Um, prior to that
29 time, there had been discussion that, uh, Judge
30 Stens had some affair with her daughter that
31 evening, a function to attend, and she would be
32 leaving. And the supervisor --
33
34 CE: Yes. Okay.
35
36 PL: -- supervisor of elections had -- had indicated that
37 as long as one board member was there to sign the --
38 the final counts of the tabulation that that would
39 be adequate. So we're -- we're -- we're at that
40 point --
41
42 CE: Yes, sir. Okay.
43
44 PL: -- in the meeting. Um, the -- the Board itself has
45 moved into the tabulation area. You were -- you let
46 -- stayed behind with -- with the county attorney,
47 Mr. Hadeed? Getting to that recorded conversation
48 that has been --
49
50 CE: Well, I -- see, I -- my recollection is that I went

1 over to the tabulating office and then -- and then
2 came back into the room.
3
4 PL: Yes, sir.
5
6 CE: Right.
7
8 PL: Okay. So you're -- you're in that glassed-in
9 canvassing board office with Mr. Hadeed.
10
11 CE: The -- the conference room. Yes, sir.
12
13 PL: The -- the -- the conference room --
14
15 CE: Right.
16
17 PL: -- itself. Anyone else was present in there at the
18 time?
19
20 CE: No.
21
22 PL: No one else was present?
23
24 CE: No.
25
26 PL: Was there any indications that -- that your
27 conversation was being recorded? You had --
28 understanding the suspicions and understanding what
29 Miss Weeks said, had -- were you advised that you
30 were being recorded when you were talking to Mr. --
31
32 CE: No, sir.
33
34 PL: Okay. Did you believe yourself to be recorded?
35
36 CE: Uh, no.
37
38 PL: Did you believe yourself to be counting -- doing
39 canvassing board business at that time?
40
41 CE: Um, no. I -- see, that -- that's -- that's where,
42 uh -- uh, I know I spoke to Al twice. I spoke to
43 him once on a media person who was trying to take,
44 uh, pictures in the tabulation room, and, uh, the
45 supervisor of elections, uh -- uh, was looking to
46 have him, uh, expelled from -- from the location.
47 And, uh, I -- I went in there to -- to, uh,
48 communicate that to Al, but then I hear on the tape
49 something else.
50

1 PL: All right. Would -- would it help if we just paused
2 and took --
3
4 CE: Sure. Please.
5
6 PL: -- five minutes and listened to the recording and
7 then we resume --
8
9 CE: Okay.
10
11 PL: -- the, uh -- the interview? Hold on just a second.
12
13 (END OF AUDIO ONE)
14
15 PL: Resuming recording. This is Inspector Lindley.
16 It's 11:24 a.m. on the 9th of October. Still present
17 in the room are, uh -- uh, Mike Taylor and, uh,
18 Commissioner Ericksen. Uh, we've taken a break to
19 listen to the tape recording -- or excuse me -- the
20 CD recording of the, uh, 25th of August 2014
21 canvassing board meeting particularly concentrating
22 on the portion between 55 minutes indicated on the
23 counter and one minute -- uh, or 01:02:30 or so on
24 the counter.
25
26 Uh, Mr. Ericksen, having listened to the recording,
27 that's -- that's an accurate recording of what --
28
29 CE: Yes, sir.
30
31 PL: -- took place?
32
33 CE: Yes, sir.
34
35 PL: And that took place in the canvassing boardroom.
36
37 CE: In -- in the small conference room.
38
39 PL: Conference room.
40
41 CE: Yes, sir.
42
43 PL: Now, the doors open into the -- the main area where
44 they tabulate, correct?
45
46 CE: Yes, sir. Yes, sir.
47
48 PL: You're in the canvassing board or did you go into
49 the tabulation area? What -- what was -- describe
50 what --

1
2 CE: At -- at -- at the time of that conversation, I was
3 sitting at the table.
4
5 PL: And who was present at the table at the time?
6
7 CE: Uh, Mr. Hadeed, myself, and, uh, I -- I believe, uh
8 -- uh -- uh, Commissioner, uh, Hanns --
9
10 PL: Okay.
11
12 CE: -- joined us.
13
14 PL: Now, the discussion that was going on in the room
15 concerned what?
16
17 CE: Between myself and Mr. Hadeed?
18
19 PL: Yes, sir.
20
21 CE: It -- it -- it concerned, uh, two things, one, um --
22 uh, we -- I -- I was talking about some of the
23 things that we learned, I learned, that when we were
24 in the tabulation room that, one, uh -- uh, the
25 supervisor of elections cautioned us that any of the
26 information that was seen in the room would stay in
27 the room and that if -- if it got out of the room it
28 was some sort of a crime.
29
30 PL: Yes, sir.
31
32 CE: And -- and -- and I -- I understood that. Uh -- uh,
33 I under -- that -- and that's why I went to the
34 earlier meetings, to make sure I understood what --
35 what the responsibilities of the canvassing board
36 was.
37
38 The second, uh, subject that we talked about was one
39 of the media people had tried to take pictures of
40 the process in the tabulating area. And the
41 supervisor of elections got upset and, uh,
42 threatened to throw the person out. And -- and she
43 did call the security from the front desk of the
44 government services building there. The person left
45 the tabulating area and went outside. Um, and I was
46 -- I was telling Al that that had occurred today or
47 -- or -- I -- I don't know if it was -- I think it
48 was more the second meeting that the incident
49 occurred.
50

1 PL: Okay. Now -- now, the -- the board proper, the --
2 the duly-constituted members of the board are in the
3 large tabulating area out there counting votes.
4
5 CE: I as the alternate have no function when I'm the
6 alternate. And I was in -- I was in the tabulating
7 area for a brief period of time every time to -- to
8 make sure I understood how they opened 'em, counted
9 'em, uh, confirmed the count, how they put 'em
10 through the, uh, AccuCount, uh, machines.
11
12 PL: Okay. And then after seeing that process and
13 assuring yourself, you -- you left the board proper.
14
15 CE: I -- I -- I saw Al sitting in there and I thought I
16 would tell him about the, um -- the incident with,
17 uh -- uh, the -- the media person.
18
19 PL: Okay. So -- so, again, the -- the board proper is
20 in the large tabulating room, and so you're going
21 off -- may I phrase it this way -- to have a
22 conversation with Al Hadeed separate from the -- the
23 count?
24
25 CE: Yes, sir. Yes, sir.
26
27 PL: Okay. When -- when you were in that room -- and --
28 and it's about at the 58 minute point on the, uh --
29 on the CD of the -- the recording, you recognized
30 your voice on that -- that tape? Do you not?
31
32 CE: Yes, sir, I did.
33
34 PL: And that conversation that you were having with Mr.
35 Hadeed, was that -- was that part of the vote count
36 at the time or was this a private conversation?
37
38 CE: That was a private conversation. Yes, sir.
39
40 PL: And -- and Mr. Hadeed is your attorney as the, uh --
41 as the county attorney, correct?
42
43 CE: He -- he's the county attorney but he's also the
44 attorney to the canvassing board.
45
46 PL: Right. And -- but -- but as a county commissioner,
47 he's your legal advice, is he not?
48
49 CE: Yes, sir. Yes, sir.
50

1 PL: Okay. Now, when you went in and had that private
2 conversation with him, or what I've termed private
3 conversation and you've agreed, um, were you on
4 notice that you were being recorded?
5
6 CE: Uh, no.
7
8 PL: Were there any lights on in there or any other sign
9 that in the -- in that facility proper --
10
11 CE: No, sir.
12
13 PL: -- that's -- did you believe your conversation to be
14 confidential?
15
16 CE: Not -- not really. I -- I --
17
18 PL: Well, how did you take that conversation, then, that
19 you were having?
20
21 CE: How did I take it? Uh --
22
23 PL: Then what -- what were -- what were you intentions
24 as -- as you were having that conversation?
25
26 CE: Well, at first it was just to -- to say hello to Al
27 'cause he -- he was not there -- I don't believe --
28 at the original, uh, start of the meeting. And I --
29 and, uh -- uh, I just saw him sitting in there and I
30 had nothing else to do and I just came into the
31 room.
32
33 PL: That -- was that part of board business?
34
35 CE: Well, part of board business was to -- was to stay
36 in that general area.
37
38 PL: Yes.
39
40 CE: Yes, sir.
41
42 PL: Um, again, this is my term and I'm asking if you
43 agree. The -- the voices seem to go to a whisper.
44 Did -- did you have that same impression --
45
46 CE: Yes, sir.
47
48 PL: -- it was -- and -- and why were you and Mr. Hadeed
49 whispering?
50

1 CE: Well, because there was -- there was activity right
2 at that door, too. And I -- I guess I just didn't
3 wanna -- didn't wanna seem to be loud.
4
5 PL: Okay. Um, did you whisper so others would not hear
6 -- overhear that conversation?
7
8 CE: Um, I -- no, no. Well, you know, again -- again,
9 there were people over there talk -- talking, etc.,
10 and I guess I just talked to Al 'cause I thought we
11 were the -- the two of us were in the room.
12
13 PL: Okay. And I -- I notice as the conversation -- or a
14 -- a segment in there at about the 1 -- 01:02:00
15 thing, "She's not taping anyway." What was the
16 context of that remark that was on there, "She's not
17 tape" -- first of all, who said that remark and what
18 was the context?
19
20 CE: Well, that -- the -- the person that said that was,
21 uh, Commissioner Hanns; and he was, um, sitting next
22 to me at the time. I -- I -- I can't recall when he
23 came in. I -- I believe he was even there for part
24 of the time that I was talking to Al.
25
26 PL: That you were whispering with Mr. --
27
28 CE: Yes, sir.
29
30 PL: -- Hadeed?
31
32 CE: Yes.
33
34 PL: Okay. So -- so he's joined the conversation or he's
35 joined in. And the three of you are in the
36 canvassing office, the -- the -- the proper little
37 office with the conference table.
38
39 CE: Yes, sir.
40
41 PL: You're in there alone.
42
43 CE: Yes, sir.
44
45 PL: Uh, Miss Weeks is in the adjacent room; the door is
46 open; and you can overhear her voice entering the
47 room as you are whispering.
48
49 CE: Um, I -- I guess I didn't hear that but --
50

1 PL: Well -- well --
2
3 CE: -- well --
4
5 PL: -- would -- would you like to go back and listen to
6 it? But, uh, obviously there's -- there's ambient
7 noise that's carrying --
8
9 CE: Okay. Well --
10
11 PL: -- into the room.
12
13 CE: She -- she was out right by that door there.
14
15 PL: Okay.
16
17 CE: Right.
18
19 PL: There was -- there was someone talking, and you were
20 trying to keep your conversation low --
21
22 CE: Yes, sir.
23
24 PL: -- so as not to interfere with that --
25
26 CE: Yes, sir.
27
28 PL: -- conversation. Okay. Um, to summary, um, you --
29 you were never told that you were being recorded.
30 Uh, the notes from the -- or the minutes from the
31 canvassing board meeting got much more thorough.
32 Uh, the question came up. Uh, Supervisor Weeks
33 indicated that she was recording on the 25th of
34 August. You had a notion she was recording but you
35 didn't give consent for her to record. There'd
36 never been a vote taken --
37
38 CE: No.
39
40 PL: -- or anything like that.
41
42 CE: No, sir, there never was.
43
44 PL: And, um -- and your purpose in -- in reducing your
45 voice or whispering -- what it -- whatever -- was to
46 not disturb the people that were talking --
47
48 CE: Yeah, I --
49
50 PL: -- in proximity.

1
2 CE: I -- I -- I -- I don't even remember the -- the, uh
3 -- the recording machine --
4
5 PL: Okay.
6
7 CE: -- that -- you know. I --
8
9 PL: Do you -- do you carry a cell phone?
10
11 CE: Yes, sir.
12
13 PL: What do you do with your cell phone when you're at
14 the canvassing board meetings?
15
16 CE: I put it on, uh, vibrate.
17
18 PL: Okay. Do you -- do you keep it on your person or do
19 you put it on the table?
20
21 CE: Um, usually I kept it in my pocket.
22
23 PL: Okay. Do others put their cell phones on the table?
24
25 CE: Um, I -- I found out later that that's how, uh, the
26 supervisor of elections recorded the meeting. She
27 had her cell phone on the table.
28
29 PL: She did have it on the table.
30
31 CE: Oh, yes, sir.
32
33 PL: It was on the table. Okay. Sir --
34
35 CE: There -- there -- there are pictures of that. I've
36 seen that.
37
38 PL: Okay. Mike, have you got any questions?
39
40 MT: Uh, just a couple, uh, briefly. The Board began its
41 meeting in the canvassing board --
42
43 CE: Uh, we always --
44
45 MT: -- room.
46
47 CE: We always began the meeting in the canvassing board
48 because, uh, the supervisor of elections kept, uh,
49 attendance records, uh, and, uh, the Pledge of
50 Allegiance -- the flag was in there, and George

1 insisted that we do that which is -- which is, uh,
2 fine.
3
4 MT: Okay.
5
6 CE: And that was in that room. Yes, sir.
7
8 MT: When the board members moved to the tabulation area,
9 did the board meeting in your opinion stand
10 adjourned or had the board meeting in your opinion
11 relocated to another part of the building for the
12 tabulation purposes?
13
14 CE: Well, all -- all -- all three of the -- of the
15 voting members of the canvassing board, to include
16 myself, moved out to the tabulating area,
17
18 MT: Okay.
19
20 CE: And, uh --
21
22 MT: So the -- would -- in your opinion had the meeting
23 relocated to another --
24
25 CE: Yes, sir.
26
27 MT: -- room at that time?
28
29 CE: Yes, sir. Right.
30
31 MT: I mean --
32
33 CE: All -- all of -- all of the activity was out there
34 where they're -- they're sliced open, sorted,
35 counted, co-counted, and then run through the
36 tabulating machines.
37
38 MT: When you observed what it was that you wanted to
39 observe for learning purposes and then went back
40 into the canvassing boardroom where Mr. Hadeed was
41 located --
42
43 CE: Yes, sir.
44
45 MT: -- in your opinion was that part of the meeting that
46 was going on in the other room?
47
48 CE: No, sir. Had nothing -- had nothing to do with
49 tabulating.
50

1 MT: And who was in that canvassing boardroom when you
2 were there with Mr. Hadeed in your private meeting
3 that had nothing to do with the canvassing board
4 meeting?
5
6 CE: Well, it could -- it couldn't have been George Hanns
7 'cause he was counting votes, uh, out on the, uh --
8 out in the -- uh, tabulating in other words. The
9 two -- two, uh -- uh, board members were teamed up
10 with two, uh, civilian people, for lack of a better
11 word, and Miss Weeks ran the, uh -- uh, the ballots
12 through the, uh, tabulating machines.
13
14 MT: And the board members out there would've been Judge,
15 uh --
16
17 CE: Stens.
18
19 MT: -- the judge -- Stens and -- and, uh, George,
20 would've been out there --
21
22 CE: That's correct.
23
24 MT: -- uh -- okay.
25
26 CE: Right, right.
27
28 MT: So -- so you and, uh, Hadeed are alone in the room.
29
30 CE: Yes, sir.
31
32 MT: And then -- I'm sorry.
33
34 CE: No, no, no. That's right.
35
36 MT: Uh, did Miss Weeks ever walk back into the room
37 while you were with --
38
39 CE: No.
40
41 MT: -- Mr. Hadeed?
42
43 CE: No.
44
45 MT: Okay. All right. That's all.
46
47 PL: And then -- and then Commissioner Hanns
48 (unintelligible) and --
49
50 CE: Yes. And then --

1
2 PL: -- (unintelligible).
3
4 CE: Well, they -- yeah, they -- I mean, there was only -
5 - only 840, uh, I think or something at that time.
6 The, uh, prior time there were over 2,000. So it
7 wasn't very long for them to count 'em.
8
9 PL: On the -- on the earlier portion of the CD that
10 you've -- you've taken the opportunity to -- to
11 listen to a -- a snippet of it, for lack of a better
12 term, um, there's reference to the -- one board
13 member must stay, at least one board member, and
14 sign the tally sheets, the zero --
15
16 CE: Yes.
17
18 PL: -- sheet and the tally sheet. Did -- were you the
19 member that stayed that night or --
20
21 CE: No.
22
23 PL: -- was Commissioner Hanns? The judge had left for a
24 function with her daughter.
25
26 CE: Well, no, it wasn't me. It was not me. I can say -
27 -
28
29 PL: Okay. So -- so --
30
31 CE: -- that --
32
33 PL: -- the judge had left with the function with her
34 daughter and you --
35
36 CE: Yes.
37
38 PL: -- didn't stay around for that.
39
40 CE: I did not stay.
41
42 PL: So -- okay. That -- that answered my last question.
43 Do you have anything further, sir?
44
45 MT: No -- no, sir.
46
47 A: Well, uh --
48
49 PL: Sir, is there anything --
50

1 CE: Uh, wait. Wait, wait.
2
3 PL: -- that I didn't ask you that you wanna clarify?
4 Yes, sir. Go ahead.
5
6 CE: No. I'm -- I'm just trying to think 'cause there --
7 'cause there was one time we had a -- uh, I think it
8 was at an earlier meeting. We had a tabulation
9 problem. The judge had to leave because, uh, she
10 had, uh, court, uh, over at the other building here.
11 And, um -- but it was not this meeting. And, uh,
12 George left and I left. And, uh, the supervisor of
13 elections, uh, stayed there to -- to -- to final out
14 the count.
15
16 PL: Okay. I can -- I can speed the tape up if you wanna
17 satisfy yourself. But at about the 02:13:00 point
18 there's the, um -- the sign of the sheet. And they
19 said it was 6:55 p.m. Would you like to listen to
20 that?
21
22 CE: Sure.
23
24 PL: If -- if -- if you remember doing this, it's fine.
25 If not, uh -- and I don't know your voices. Uh,
26 what was the time on --
27
28 CE: Well, the sign -- the sign-up sheet was usually out
29 at the, uh, desk.
30
31 PL: 2:13. Pardon me, Commissioner. I'm sorry to reach
32 across you and be so impolite. Uh, where are we
33 now? 2:15? Let's see if we can get this back to
34 2:13 and then play it. 2:12. And -- stay with me
35 here for a minute.
36
37 (Audio played).
38
39 PL: For purpose of the transcript, we're playing the CD
40 at the present time for the Commissioner to refresh
41 his memory.
42
43 (Audio played).
44
45 PL: That's Commissioner Hanns' voice. Yes.
46
47 CE: Uh, I don't recognize that voice. That must've been
48 one of Kim's workers.
49
50 PL: Workers, yeah.

1
2 (Audio played).
3
4 PL: That's still Commissioner Hanns?
5
6 CE: Uh-huh.
7
8 PL: The witness indicated yes by shaking his head.
9
10 Okay. Uh, we've just shut the CD off and we've been
11 listening to the portion from about 02:14:00 to
12 02:17:00. And that -- at 6:55 p.m., which was
13 stated on the CD, that was, uh, Commissioner Hanns.
14
15 CE: Hanns. Yes, sir.
16
17 PL: And he would've been the last commissioner leaving
18 the meeting at that time.
19
20 CE: Yes.
21
22 PL: Okay. So the -- the -- the business was over then
23 when the last commissioner left. Uh, supervisor of
24 elections no longer conducting a canvassing board
25 meeting (unintelligible).
26
27 CE: That's correct.
28
29 PL: That's correct. Okay. Okay, sir. Now, uh, again,
30 I'm sorry to do that refresh -- you -- you had left,
31 were not there to sign the final tab. And you
32 could've been --
33
34 CE: Well, I -- I -- I couldn't. I -- well, I -- I guess
35 I could have if -- if, uh -- uh, the judge has left
36 as -- as -- uh, well, no, no. I'm the alternate for
37 George and for the supervisor of elections. The
38 alternate for the judge is Judge Craig.
39
40 PL: Okay. So -- so, um, Commissioner Hanns has
41 concluded the board session, the canvassing board --
42
43 CE: Yes.
44
45 PL: -- when he signs out at 6:55, and she logs it onto
46 the tape at 6:55. Okay. Yeah. Mr. Ericksen's
47 nodding his head in the --
48
49 CE: Yes.
50

1 PL: -- affirmative.
2
3 CE: Yes, uh --
4
5 PL: Okay.
6
7 CE: That -- that's -- uh --
8
9 PL: Okay.
10
11 CE: That's what I did here.
12
13 PL: Okay. Based on that, anything else that you can --
14
15 MT: No, sir.
16
17 PL: Oh. Commissioner, have I missed anything during
18 this interview that you think is relevant to -- to
19 the taping of conversations that were going on on
20 the 25th of August?
21
22 CE: I -- I -- I don't believe so. I think I've --
23
24 PL: Okay. That will --
25
26 CE: I -- I understood your questions and I understood
27 what -- what I heard on the tape. So --
28
29 PL: And -- and listening to that, that is an authentic
30 recording of what happened. You being party to the
31 conversations, the --
32
33 CE: Well, yes. Well, I -- I mean, I -- I do recognize
34 my voice when -- when it appeared.
35
36 PL: Yes, sir.
37
38 CE: I mean, it --
39
40 PL: Yes, sir.
41
42 CE: -- didn't appear at the last --
43
44 PL: Okay.
45
46 CE: -- uh, the last part of it there.
47
48 PL: For purposes of the record, it's 11:44, and I thank
49 you, Commissioner.
50

(CONCLUSION OF INTERVIEW)

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Transcribed by: jah/jah/alw



Kimberle B. Weeks
Flagler County Supervisor of Elections



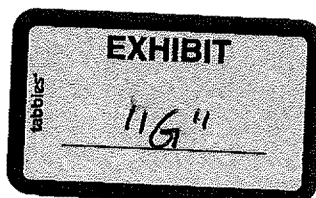
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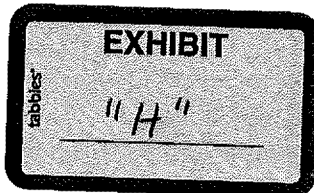
September 12, 2014

Canvassing Board Sign-In

Election: August 26, 2014 Primary

Kimberle B. Weeks
[Signature]
[Signature]
[Signature]
Robert Walter
Al Harold





Notice of Special Canvassing Board Meeting

A special meeting of the Flagler County Canvassing Board is scheduled for September 12, 2014 at 2:30 p.m. This meeting was not previously advertised and the public is hereby noticed of this meeting to be held at the office of the Flagler County Supervisor of Elections, 1769 E. Moody Blvd., Bldg. 2, Ste. 101, Bunnell, Florida. In accordance with the Sunshine Law, all canvassing board meetings will be open to the public.

This meeting agenda will include the following topics:

- Review first amended meeting minutes from 08/20/2014 and 8/25/2014 and minutes from 08/28/2014
- Building maintenance and ADA compliance
- Sunshine Law compliance information from Barbara Petersen, from the First Amendment Foundation
- Discussions with the County Attorney from communications with Palm Coast City Manager, Jim Landon, regarding the compliance with 2014 Election Interlocal Agreement, Florida Statutes and Resolution 2000-96



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Canvassing Board Meeting Minutes

Flagler County Supervisor of Elections

****SPECIAL CANVASSING BOARD MEETING****

Meeting Minutes: September 12, 2014 @ 2:30 p.m.

2014 August 26, 2014 Primary Election

Present

1. Melissa Moore-Stens-County Judge, Canvassing Board Chair
2. Charles Ericksen Jr, Board of County Commission Alternate
3. Kimberle B. Weeks, Supervisor of Elections
4. Al Hadeed, County Attorney
5. Roberta Walton, Canvassing Board Attorney
6. The press and many members of the public

Proceedings

The meeting was called to order at 2:34 p.m.

The sign-in sheet and proof of advertising was passed around.

Draft meeting and minutes and any necessary corrections from August 20, 25, 28th were discussed. Judge Stens stated based on her research with other canvassing board meeting minutes are not done at all, or they are recorded, and in other areas meeting minutes only contain motions, who made it and their position. Judge Stens stated she doesn't record the meetings and never has and in order to go back and recall what happened, and who said what she is not in a position to comment on the minutes as to if they are accurate. Her understanding Supervisor Weeks tapes the minutes and types them verbatim from the tape, and she is not in that position to say that is accurate because she doesn't record anything and doesn't have a specific recall as to who said what at a meeting three weeks ago. Judge Stens stated she would like to propose that our meeting minutes are concise and simply state the topic that was discussed, and indicate any motions and if they were anonymous, and how the votes were rendered and that there be a digital recording to be the official record or full minutes so we don't have the issue of having to review lengthy minutes and try to recollect the details. Supervisor Weeks stated that the amendments are to reflect in detail a particular part of prior meeting minutes and that she did not record all the meetings, and didn't begin taping meetings until the issues were brought up with the Palm Coast and early voting.



Supervisor Weeks then presented a document she had from 2010 from Gary Holland with the Division of Elections stating that meeting minutes do not have to be verbatim, but it is required that meeting minutes be in writing. Supervisor Weeks then pointed out that she didn't have such detail in previous meeting minutes, and recordings are available for those that wanted to verify the audio to the written minutes and both records would be preserved. Supervisor Weeks stated that it was important to her to have as much information in the written minutes for those who may not have the time or means to review the audio. Judge Stens made a motion to return the meeting minutes to be returned to being short, and audio being preserved. Commissioner George Hanns seconded the motion. Judge Stens and Commissioner Hanns were in favor, and Supervisor Weeks was opposed.

Supervisor Weeks stated that she agreed the minutes shouldn't be as long as they have been the past few meetings but didn't believe the minutes should be so vague that the public wouldn't know what transpired without reviewing the audio and believed by minutes being so vague that we weren't being as transparent as we could and should be.

Supervisor Weeks brought to the board's attention that audio appeared on FlaglerLive following the 9/2/14 meeting and admitted she taped the meeting and did not release any audio and believed she was the only one recording the meeting. Dennis McDonald who was at the meeting stated in a written correspondence confirming he had not record the meeting, Judge Stens stated she did not record the meeting, George Hanns stated he did not record the meeting, and Supervisor Weeks reminded him he wasn't present for that meeting, Commissioner Ericksen Jr. was asked if he taped the 9/2/14 meeting and he stated yes. County Attorney Al Hadeed was asked if he recorded the meeting on 9/2/14 and he stated no. Commissioner Ericksen was asked if he released the audio to FlaglerLive and he responded no. Flagler Live refused to release who provided him with the audio. Supervisor Weeks then explained if only two of the 5 people taped the meeting did not release the audio to FlaglerLive there she was concerned about the security in the building, and questioned as to how else would he have acquired the audio.

Supervisor Weeks played audio from 8/25/14 canvassing board meeting of a whispering conversation between County Attorney Al Hadeed and Charles Ericksen Jr. in which Al Hadeed was telling Charles of another county commissioner at another canvassing board meeting who was doing a sampling of ballots seen, and then stepping out with his cell phone and reporting the results of the sampling to someone, which Al Hadeed stated was a third degree felony. Supervisor Weeks stated she was upset to learn this and the fact that it was not reported to her or the canvassing board. Supervisor Weeks stated she worked very hard to preserve the integrity of the elections process.

County Attorney, Al Hadeed stated he met at the Palm Coast Community Center with "them" and a member from the Sheriff's Office for several hours and tried to mediate. Al Hadeed stated he was not an operations person, and felt the best person to handle these kinds of issues are operational kinds of people who understand the nature of events and how competing events demands are met. He stated the city manager has a commitment that voter access is a priority during this period of time, and that was his instructions to his people. Some issues were identified that could be potential problems. Al Hadeed

provided and used access data collected by city staff and Supervisor Weeks provided the actual early voting numbers at that site from the SOE's website. Al Hadeed stated that he visited the center on Thursday, September 11th and at 2:30 p.m. he witnessed all the parking spaces filled with the exception of two spaces during the time "game day" was being held. He stated community center staff and election staff could back behind the building to free up spaces. He stated that they (city staff) would direct people going to the over flow parking area that were there for game day. He identified that there were 6 disabled parking spaces at the center and stated that number has not been a problem, unless there is a big event. The city agreed that they would take a look at creating temporary ADA spaces. The recreation staff pledged they would do a curb side service they would assist people coming up to the entry ramp to disembark and for pickup. Al Hadeed stated that is already known there are two Thursday's during the early voting period that are going to be jammed up, so what needs to be done is logistically that "you need to plan around that thing", around that event".

Al Hadeed shared a "draft" protocol that no one has been seen and passed copies out that was only for the 2014 General Election and explained the protocol.

Supervisor Weeks stated she did not need outside interference by the city or anyone else to carry out the duties and responsibilities that she was elected to do.

Canvassing board attorney Roberta Walton suggested that the canvassing board put something in writing outlining what we need and attach a copy of the Interlocal agreement and basically let them know we won't move forward at that center without, and copy of the Secretary of State. Roberta asked if the county attorney Al Hadeed had a meeting with the city council, and he stated they are a collegiate body and he wouldn't be talking to them, he talked to the city manager and city staff.

Roberta Walton stated the Interlocal Agreement states that the city election shall be conducted in the same manner as a county election without interference therefore whatever is taking place at locations should take place at this location. Supervisor of Elections stated that the school board accommodates as does, church's, VFW and if the city would do the same we could have good elections. She further explained that we have more voters assigned to polling locations than ever before, and we have more voters than ever before, therefore we need to use this as a guide to build upon because it is only going to get worse, not better.

City Clerk Virginia Smith stated which rooms at the community center were provided for early voting and election day, and that functions take place at the facility and made the statement that the library doesn't close to the public.

Carolyn Hawkins stated she agreed with Commissioner Hanns about not having issues in other facilities and stated she worked with the SOE office for approximately 11 years and she has never worked in such a hostile environment as she did when she worked at the community center by city staff and she is offended as a tax payer, voter, and citizen of the city to have been treated in such a hostile manner. Carolyn also

stated based on what she has been reading the Board of County Commissioners have not been supportive of the Supervisor of Elections and it filters down.

Supervisor Weeks spoke of the 2 disabled parking spaces that were removed in front of the SOE office after she furnished pictures showing the county was in non compliance, and they had marked the ADA parking "visitor" and done the same thing she had done by marking spaces "voter parking" yet she was tag teamed by the county administrator and city manager and accused of violating the law, yet no statute was provided to confirm what law she had violated, and the disabled parking was removed the following day and replaced several feet away making it more difficult for disabled persons to access the elections office.

Judge Stens asked if we were going to finish up with B, the discussion regarding the city of Palm Coast issues or move on to ADA, Supervisor Weeks stated return to the city discussion and asked what was going to be done if we were involved in an election and the two sides didn't not agree and asked why the Supervisor and her hundred plus poll workers and other workers could not just carry out an election in the fashion that deem necessary. It was stated that the voters would suffer and the ballot box would be controlled.

Supervisor Weeks stated how Holly from the library communicated with the elections office and how the city did not communicate and took it upon themselves involve themselves and do what they wanted to interfere.

Judge Stens asked Supervisor Weeks if she was in favor of the protocol, and the response was absolutely not. She further stated that the protocol was established to allow communication. Supervisor Weeks stated to come to an agreement with the city is going to be next to impossible, that is why we are where we are at today, and we came to an agreement when we entered into the Interlocal Agreement, and the agreement, resolution and laws needs to be honored.

AL Hadeed asked Supervisor Weeks if the city was in violation because of the Resolution of holding civic functions, and the Supervisor's response was "could be". He stated he apprised the Supervisor of his interpretation of the resolution and stated it was not a predicate, and there is a special status that comes with ownership of the property. Supervisor Weeks stated she has a responsibility to do a job for the people that elected her reputation on the line and she has an obligation to do her job the best way she can. The voters are going to see her name on a ballot when she runs for public office, not the city's name.

Judge Stens stated the parking issues is not as clear to her as it may be to the Supervisor, but she would like to see the SOE and the City work together. She further stated she wants our voters to have as many opportunities as possible but there is nothing stating we have to have three early voting sites or that we have to have early voting at the community center. The purpose of the protocol is to get through the general election smoothly but quite frankly she doesn't believe that is possible. If the SOE doesn't feel like the protocol comports with agreement and statutes and everything else she completely understands.

Joe Kubusky stated he was trying to put it all together, and he asked what happens if the SOE sees that more parking spaces are needed and the SOE and the City doesn't agree. Judge Stens stated a range was projected, and based on the numbers in the document provided by Al Hadeed the range suggested by the canvassing board was sufficient to start with, and we were trying to moderate the situation and get everyone on the same page so the SOE wouldn't have to take any action in her capacity, or a voter would not have to take any action.

Supervisor Weeks stated the numbers from the 2014 primary may be higher for the general and future elections. Joe Kubusky stated, "It's going to be a zoo out there".

Janet McDonald asked how many elections has Al Hadeed conducted, supervised, interacted with and at the very least he should have take his work product to the SOE and ask "how much of this is workable" and discuss it. Having a good idea doesn't mean it is going to work in the field. The fact is the SOE is our expert, and she has conducted many successful elections. Supervisor Weeks stated we started with calling this mediation and what it turned out to be is Al Hadeed went to the city and came back and said this is it. Janet McDonald stated "that is not mediation". Al Hadeed stated "that is not correct". Janet further stated that "the SOE has been kept out of the loop".

When George Hanns asked what he thought about the protocol he stated someone with a legal background to mediate. He then stated that the SOE has the ability to be argumentative, and rightfully so in many areas.

Kim Olson spoke and stated that Mr. Hadeed stated that the property was owned by the city, when it is owned by us, the tax payers and if the city is going to dictate how to vote at one of our buildings, and she finds it appalling that the city is going to tell us to vote, at our building. She resents the fact that city has made it hell for her. The audience applauded. George Hanns stated he didn't disagree with that. Joe Kubusky stated yes you did, you just attacked her. George Hanns disputed that. Others in the audience then supported Joe Kubusky and stated "yes you did". Joe Kubusky stated "don't fluff it over; you told us she was wrong".

Dennis McDonald stated what we are doing is mixing things here. We have two uses that are overlapping. What is going on here is this building was given for government services so we know exactly what the BOCC meant in 2000. Mr. Hadeed is trying to muddy things up by saying that using it for birthday parties etc. He suggested that we don't over the commercial application to overlap on government services. With government services you don't have to pay as you do when you rent and pay to use the building. Dennis then stated that the day all the handicapped parking spaces were filled and the picture was taken it was verified that there were no voters voting early that were utilizing disabled parking spaces.

Linda Hansen stated there is nothing more important than voting and it blows her mind that the city won't postpone an event for elections. She said when you have voting you accommodate the voters, and asked why the bickering for minutia.

Supervisor Weeks stated that when an election is called, the library cancels scheduled events to accommodate voting.

Linda Hansen reported "as a poll watcher the 2014 primary election was very smooth from inside the polling place, and the poll workers were very professional and voters expressed thankfulness for the signs because they didn't know there was an election". The audience applauded.

Joe Kubusky stated he was a poll watcher and agreed with everything Linda Hansen said.

Al Hadeed stated that one of the points that the voter access would dominate. Supervisor Weeks asked "then why is he scheduling events that fill the parking lot for four (4) hour duration?" Al Hadeed stated he thought he had explained that. Supervisor Weeks stated "then he apparently states one thing and does another". Al Hadeed stated "he did not schedule those". Supervisor Weeks stated, "He has control over the scheduling". Al said "let me rephrase that, those social events have been standing gatherings, they are major social events that have been on-going for many years".

Linda Hansen stated "they reschedule events all the time", and she doesn't understand why the city is fighting with a duly elected supervisor of elections over the most precious day that we have, "who is more important than the voter's"?

Commission Ericksen Jr. stated that if he were in charge he would cancel all events, leave the lights on and give the supervisor the keys and next year ask you to find another place to do the voting.

Joe Kubusky stated he was here as a poll worker at 10 am and parked in the courthouse parking lot and there was no one voting in this office, "there was no parking".

Judge Stens pointed out the numerous opportunities to vote and she commended the SOE for trying to look out for the voters. She stated "at times you are going to have to wait in line or come back. That is the reality, it isn't always going to be that you walk in and vote and be out in 5 minutes". She didn't feel it is our function as a canvassing board to resolve this issue at the community center, and maybe after the 2014 general election it will need to be re-evaluated as to whether early voting is held at the community center. She stated that is how she feels; she doesn't know how anyone else feels.

Supervisor Weeks stated she is willing to talk and work with the city but doesn't know where we go during the election when we run into a disagreement. She also stated she puts her heart and soul into what she does, and tries to do what is best for the voters and hopes the city will come to its senses, but she doesn't support the protocol.

Commissioner Hanns asked what about if the county attorney and the SOE go together. The Supervisor stated she felt that would have been done during Al Hadeed's mediation—input should have been

provided from both sides. Al Hadeed stated he listened to the SOE in previous canvassing board meetings and doesn't know what more he could have had, and he doesn't know if what was done would make any progress. Supervisor Weeks stated she would work with Roberta Walton and the city and see what they can do to make it better, and if not, we will do the best we can and hope for the best, and the voters can express themselves at the ballot box. George Hanns asked if Roberta was with the state canvassing board and she responded she was private counsel retained by the SOE. Al Hadeed stated "she represents the Supervisor". Roberta was asked if she had any objection to that, and she responded no. Commissioner George Hanns then asked County Attorney Al Hadeed if he had any objection. Supervisor Weeks stated "he (Al Hadeed) is the attorney for the board of county commissioners". Commissioner George Hanns stated he was asking as a member of the Canvassing Board. Al Hadeed stated he was going to do what the canvassing board asks him to do. Supervisor Weeks stated we need someone who is unbiased and neutral. George Hanns stated he wanted Al Hadeed to accompany attorney Walton and Supervisor Weeks to Palm Coast. Supervisor Weeks stated she believed that would be her call as Supervisor of Elections to determine how we were going to move forward with conducting the election. Judge Stens stated then we will show that the protocol was rejected. It was confirmed that Al Hadeed didn't need to do anything more.

Information from Barbara Peterson with the First Amendment Foundation was provided and discussed. It is OK for one board member to send one way communications to other board members as long as they don't solicit a response, and the email doesn't exchange communications between board members. Judge Stens then stated that rather than her learning something from the News Journal she had the understanding that a communication would have been appropriate, and that is what this document is confirming. Supervisor Weeks then pointed out highlighted areas. Supervisor Week stated she was not going to communicate outside the scheduled canvassing board meetings other than the canvassing board schedule. Supervisor Weeks then reminded Judge Stens that she changed the canvassing board schedule to accommodate her schedule, and Judge Stens thanked the Supervisor Weeks. Judge Stens then stated she believes the correspondence from Ms Peterson confirms that it would have been OK for Supervisor Weeks to have sent a one way communication to let the board members know Candidate McElroy waived the need for a recount. Supervisor Weeks stated she didn't have this response at that time. Judge Stens stated she believed where it gets muddy is when there are responses.

Supervisor Weeks then reminded the board again of the revised canvassing board schedule. She also stated that she didn't change the procedure of when provisional ballots would be opened. Roberta Walton will do research on the matter. Supervisor Weeks stated she didn't feel comfortable to make a change at this time, and reminded the board that we need to be sensitive to staff as they need to have the appropriate time to verify and process provisional ballots. Roberta stated it was legal to process provisional's that don't require additional documentation before the 48 hour period following the election.

Supervisor Weeks shared a correspondence that took place between Dennis McDonald and Al Hadeed regarding the replacement of the ADA ramp and parking. She also stated she had an Interlocal Agreement

between the county and the city of Bunnell, the permit application, an aerial shot of the facility, and Florida Statue 553.5041. She further explained that the new ADA parking by the SOE office was not implemented before the old was removed, and stated that the old, that was in place for 7 years was removed the following day after the last canvassing board meeting. Al Hadeed stated in the document that he was not involved, and Supervisor Weeks stated that Al Hadeed was involved in the canvassing board meetings, and pictures were provided. Al Hadeed stated the only issue was the expansion joint. Dennis McDonald stated at a former canvassing board meeting Al Hadeed stated he would take the matter back to County Administrator Craig Coffey. Al Hadeed stated he forwarded Dennis McDonald's email to Craig Coffey. Alternate canvassing board member for commissioner Hanns, Charles Ericksen stated he took the concerns from the canvassing board meeting to Craig Coffey and he believes they were working on the issue within 24 hours. Supervisor Weeks stated they came in right away and caulked the expansion compound that was missing. Al Hadeed stated he too talked to Craig Coffey and didn't know if he got to him before or after commissioner Ericksen.

Ms. Logan asked why the handicapped spaces at the GSB building by the SOE office were moved. Commissioner Ericksen stated that the law basically states that the access to the sidewalk has to come in at a 90 degree angle.

Supervisor Weeks told of the complaint Carolyn Hawkins put in writing to county attorney Al Hadeed. She also told of an email she received from poll worker Juan Tehume who wrote an editorial in the Palm Coast Observer, and an email she received from REC (Republican Executive Committee) complimenting the SOE/SOE office. She went on to read the email from the REC that stated that the poll watchers verified that the election was conducted in a professional manner and the number of issues of voters being issued the wrong ballot were small, and identified and corrected before the voter cast their ballot. It was further stated that it was amazing that only a few such incidents occurred with the high number of ballot styles that existed.

Supervisor Weeks referenced a comment made by commissioner Hanns in the News Journal in a story released by Julie Murphy is what generated interest. Mr. Hanns asked what the comment was and Supervisor Weeks stated she couldn't remember exactly at this time. Mr. Hanns asked if we could talk about the comment now since it has been brought up. Mr. Hanns stated that several people complained that they had gotten the wrong ballot, and asked how a voter could get the wrong ballot. Supervisor Weeks pointed out on the display board that is each polling location that it is the voter's responsibility to confirm their ballot is correct before leaving the polling station. Commissioner Hanns stated he knew it was the voter's responsibility. Poll Worker Carolyn Hawkins explained that the average person is not ignorant, and human error sometimes happens. Mr. Greene stated in the three days he was a poll watcher at the library one person got the wrong ballot, and whoever is telling you this is full of crap and asked who was in charge of elections. Mr. Hanns shouted at Mr. Greene. Mr. Greene stated "let the Supervisor of Elections do her job, follow the damn laws, and stay out of it". Mr. Hanns stated we are protecting the right of the voters, and accused Mr. Greene of show boating.

Judge Stens asked if there was anyone else who would like to make a public comment.

Commissioner Ericksen asked if it would be identified who wrote the letter from the REC, and he was told it is Dave Sullivan.

Linda Hansen stated that she also poll watched and one time each day a wrong ballot was issued, and it was realized before the ballot was issued to the voter. She then explained what takes place when the voter comes to vote and how the ballot is pulled. She stated that Mr. Sullivan asked the poll watchers to attend the meeting to explain what they observed because it seems that more was made out of this than what actually occurred.

Kim Olson stated it was required by Supervisor Weeks that two poll workers look at the ballot before the ballot was issued and stated she worked as a poll watcher for 3 days of early voting and on election day, and there were no issues. Kim Olson also stated that poll workers are trained prior to each election, and she was very impressed.

Linda Hansen stated that it was a good election inside the polls.

Judge Stens stated that when the problem was brought to the canvassing board's attention she suggested that 2 people look at the ballot and the Supervisor stated that was already in place.

Palm Coat City Clerk Virginia Smith asked the Supervisor to confirm that it is not only the voter's responsibility, but also the poll worker is responsible to issue the proper ballot. The Supervisor stated that no poll worker would intentionally issue the improper ballot, and she believes every ballot that was issued was believed to have been the correct ballot. Supervisor Weeks then stated that there were 3 incidents that were reported and confirmed, and the issues that were confirmed were indicated on the conduct of election report that is submitted to the state. Supervisor Weeks also stated that when the issues were raised she brought the issues to the canvassing board's attention.

Ms. Logan asked how many ballot styles there were and Supervisor Weeks stated there were 90 ballot styles in the 2014 primary election and confirmed that every effort is made to issue the proper ballot. Supervisor Weeks further stated that the poll workers would never intentionally issue the improper ballot and confirmed that the poll workers are very dedicated.

Supervisor Weeks stated we hope we have a nice smooth General Election, and reminded everyone to mark their calendars for the revised general election canvassing board schedule. Al Hadeed stated it was not emailed to him. Supervisor Weeks stated it was on the Supervisors website.

City Clerk, Virginia Smith asked if the revised canvassing board schedule would be emailed to her and the supervisor stated yes.

Commissioner Hanns said he would like to thank the Supervisor of Elections, Kimberle B. Weeks for defending the integrity of the canvassing board, and she said thank you. Commissioner Hanns stated he went along with the opinion that the Supervisor go and negotiate with her attorney, and that we could not be paying two attorneys.

Next meeting is scheduled for October 17th, 2014 at 9 a.m..

Meeting adjourned at 5:07 p.m.

(AL) Well you know, we actually had a problem here. Um, maybe I shouldn't tell you this. (CHARLES) Well, no don't. (AL) No, with a prior prior county commissioner, I had to caution him, cause he was reading the frickin ballots. I said you cannot do that. (CHARLES) Right, that's her instructions. Well, that's the law, that's the frickin law. (CHARLES) Yea, right. (AL) I think it's like a third degree felony or something like that. (CHARLES) Well yea she explained that, that if you said anything about what went on in the room, other than the procedures, in other words if you said I saws Al's ballot, he voted for so and so. (AL) No, this commissioner was actually studying the ballots. (CHARLES) Oh wow. (AL) And I said you can't do that. And the problem was after that session he ran out and made a call. And so I talked to him later, I said look, you just got my note, I am sure that call you made was to report to somebody what you've seen. It was like he was doing like a, a sample, a _____ sample of what he's seen ...he didn't' do it again. (CHARLES) Oh, she would have called security on him. The remaining session is a conversation between Commissioner Charles Ericksen Jr and County Attorney Al Hadeed regarding Pierre Tristam taking pictures as absentee ballots were being opened and security being called on him due to the strict security policy the supervisor of elections enforces. At the end of the tape Commissioner George Hanns is heard entering the conversation. Apparently some body language is being presented to George by Commissioner Charles Ericksen Jr and/or County Attorney Al Hadeed as Commission Chair George Hanns makes the comment "Next meeting, oh, she's not taping it anyway".



1 (INTERVIEW OF DARLENE WALKER, #EI-26-0074, 02/18/15)

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3 (The following may contain unintelligible or misunderstood
4 words due to the recording quality.)

5

6 PL = INSPECTOR PHIL LINDLEY

7 MT = INVESTIGATOR MIKE TAYLOR

8 DW = DARLENE WALKER

9

10 PL: And it's recording. Today's what? The 18th?

11

12 MT: Eighteenth.

13

14 PL: Okay. For purposes of the record, it's the 18th of
15 February 2015. We're in a parking lot in Glen
16 Cloves, um --

17

18 MT: Green --

19

20 PL: What?

21

22 MT: Green --

23

24 PL: Green --

25

26 MT: -- Cove Springs.

27

28 PL: Green Cove Springs, Florida. And present are Mike
29 Taylor, investigator with the State Attorney's
30 Office, Inspector Phil Lindley with the Department
31 of Law Enforcement, and Darlene Walker, formerly of
32 the Flagler County Supervisor of Elections.
33 Darlene, would you please state your full name?

34

35 DW: Darlene Lynn Walker.

36

37 PL: And, Ms. Walker, your date of birth?

38

39 DW: April 16, 1958.

40

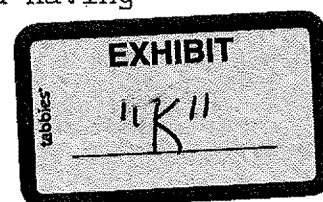
41 PL: Okay. Ms. Walker, um, would you please swear that
42 the testimony that you're about to give is the
43 truth, the whole truth, and nothing but the truth?

44

45 DW: Yes.

46

47 PL: Okay. Ma'am, we've, uh, reviewed a tape that was
48 made on or about the 3rd of April of 2014, a
49 telephone call between the Supervisor of Elections
50 and the Florida Secretary of State. And having



1 reviewed that tape, were you present when that was
2 made?
3
4 DW: Yes, I was.
5
6 PL: And it was, uh, on or about the 3rd of April of this
7 year?
8
9 DW: Yes.
10
11 PL: Where were you and Ms. Weeks at the time that that
12 tape was made?
13
14 DW: In her office.
15
16 PL: In, uh, Flagler County administrative building?
17
18 DW: Yes.
19
20 PL: Okay. And, uh, ma'am, that on -- there's one
21 portion in there where the words are something to
22 the effect, "They want to come down here." Whose
23 voice was that?
24
25 DW: Mine.
26
27 PL: Okay. Anything else that you can think of that
28 might be relevant to that tape?
29
30 DW: No.
31
32 PL: You do recall the -- the conversation independently.
33
34 DW: Yes.
35
36 PL: Mike, anything?
37
38 MT: Uh, who -- uh, if you know, who started the
39 recording device and ended the recording device on
40 that particular recording?
41
42 DW: Kim Weeks.
43
44 MT: And do you know what she used to record it?
45
46 DW: Her telephone.
47
48 MT: Okay. Uh, she put it on speakerphone?
49
50 DW: Not the recording. No.

1 MT: Okay.

2

3 DW: Oh, yes. Her -- her office phone was on
4 speakerphone so I could hear, but she taped it on
5 her personal cell phone.

6

7 MT: Okay. All right. Thank you.

8

9 PL: Thank you. Nothing further, then.

10

11 (CONCLUSION OF INTERVIEW)

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50 Transcribed by: mxp/mxp/clk

(INTERVIEW OF JOHN ANDREW ATKINSON, #EI-26-0074,
01/08/15)

(The following may contain unintelligible or misunderstood words due to the recording quality.)

PL = INSPECTOR PHILLIP LINDLEY

BL = INSPECTOR BRETT LYCETT

JA = JOHN ANDREW ATKINSON

PL: It is January 8th at 4 -- or excuse me -- at 2:15 p.m. Uh, present in the Secretary of State Office of General Counsel Office are Phillip Lindley, inspector with the Florida Department of Law Enforcement; Brett Lycett, inspector with Florida Department of Law Enforcement, and -- sir, would you please state your full name for me?

JA: John Andrew Atkinson.

PL: Mr. Atkinson, where are you employed?

JA: The Department of State.

PL: In what capacity, sir?

JA: General Counsel.

PL: Okay. Sir, before we go any further, would you please raise your right hand? Do you swear that the testimony you're about to give in this investigation is the truth, the whole truth, and nothing but the truth?

JA: I do.

PL: Thank you, sir. Um, sir, um, just prior to, um, this interview, I've asked you to check your calendar for the 3rd of April of 2014. Uh, what were you engaged in in that morning?

JA: A, uh, phone conference with the Secretary of State --

PL: And --

JA: -- and, uh -- and other individuals.

PL: Okay. Uh --



- 1 JA: But my calendar -- my calendar indicates that there
2 was a scheduled phone conference.
3
- 4 PL: Okay. And you were in Tallahassee, Leon County,
5 Florida, to the best of your knowledge on that date?
6
- 7 JA: Yes, sir.
8
- 9 PL: Okay. Um, the, uh -- the recording that we've just
10 listened to, uh, purports to involve the Secretary
11 of State and the supervisor of elections in Flagler
12 County, Kimberle Weeks. Do you recall that
13 conversation independently?
14
- 15 JA: I do.
16
- 17 PL: Okay. And to the best of your knowledge and belief,
18 where was Kimberle Weeks when that conversation took
19 place?
20
- 21 JA: Uh, I don't know but I can say that, um, I don't --
22 she was not in the room and was on the phone.
23
- 24 PL: Teleconference?
25
- 26 JA: So -- but -- but it would be an assumption, but I
27 would assume it's Flagler County 'cause she's the
28 supervisor of Flagler County.
29
- 30 PL: Okay. Thank you, sir. There were a number of
31 voices that were on that tape. Um, could you
32 identify the -- the voices that -- that you recall?
33
- 34 JA: I recall hearing Secretary Detzner's voice, um, Gary
35 Holland's voice, and Ron Labasky's voice.
36
- 37 PL: Okay. Um, an issue has come up in our investigation
38 concerning the nonconsensual recording, electronic
39 recording of conversations. Um, during that --
40 that, uh, telephonic session, did the discussion of
41 recording come up and, if so, what was the position
42 of the Secretary of State?
43
- 44 JA: Uh, from the recording that I just heard, uh, the
45 discussion of Supervisor Weeks recording the
46 conversation came up, and Secretary Detzner refused
47 to give his consent to the conversation being
48 recorded.
49
- 50 PL: He objected to the --

1
2 JA: He objected to her recording the conversation.
3
4 PL: Okay. Um, based on what you heard that conversation
5 was recorded without, um, consent?
6
7 JA: Based on what I had just heard, the -- the, uh,
8 conversation was recorded without Secretary
9 Detzner's consent -- or actually over his objection
10 to it being recorded.
11
12 PL: Okay. So -- so just basically in summation on the,
13 um -- on the 3rd of April of last year, uh, your
14 official duties took you to a telephone conference
15 with the supervisor of elections in, uh, Flagler
16 County. And you are the legal representative to the
17 Secretary of State. He engaged in that conversation
18 with her. She sought his permission to, um -- to
19 record the conversation, and he objected to the
20 recording being made.
21
22 JA: Yes, I agree with that.
23
24 PL: And the other two persons' voices that you
25 identified was Mr. Holland -- and he is employed
26 with your office?
27
28 JA: Yes.
29
30 PL: And the other individual is employed where, Mr. --
31
32 JA: Uh, my -- he is counsel to the Florida State
33 Association of Supervisors of Elections.
34
35 PL: And his name again is Mr. --
36
37 JA: Ron Labasky.
38
39 PL: Okay, sir. Um, is there anything else that -- that,
40 uh, you know about this investigation or would care
41 to offer to us?
42
43 JA: No, nothing more than that it is -- the alleged
44 crime's recording someone without their consent.
45
46 PL: Okay. And for purpose -- I'm sorry.
47
48 BL: Uh, just one question. And -- and just to add to
49 that last point. Is there anything that you know,
50 uh, as a -- an attorney that would have, uh, allowed

1 Mrs. Weeks to record the conversation even though it
2 was objected to? In other words, official -- is
3 there a reason for official business? Would this be
4 considered official business? Or in your capacity
5 would you -- would you have any knowledge of
6 something that would, uh, allow Miss Weeks to record
7 this particular conversation even though it was
8 objected to?
9
10 JA: Well, I'm not familiar with the criminal prohibition
11 --
12
13 BL: Okay.
14
15 JA: -- any -- except for what you've just -- uh, I just
16 described, that it's illegal to record someone
17 without their consent. But I'm familiar with, uh,
18 the Florida Sunshine Law, and, uh, that was not a
19 meeting of collegial body that was required by, uh,
20 the open government law to be noticed and -- and
21 open. That --
22
23 BL: Okay.
24
25 JA: So that -- that -- that wouldn't apply. But other
26 than that, I don't have any knowledge.
27
28 BL: So to -- so to summarize as it relates to Florida
29 Sunshine Law regarding the recording of official
30 business, uh, this in your opinion and your
31 professional, uh, opinion was not official business
32 or fell under the rules of the Florida Sunshine Law;
33 is that correct?
34
35 JA: Well, I -- I would -- to clarify, I think everyone
36 was performing their duties as State employees so it
37 was official business but it was not a meeting of a
38 collegial body that was required to be, um, an open-
39 noticed meeting.
40
41 BL: Or minutes taken or --
42
43 JA: Or minutes taken or any --
44
45 BL: -- anything to that effect.
46
47 JA: Right.
48
49 PL: Okay.
50

1 JA: That would be my opinion.

2

3 PL: Anything else, sir?

4

5 JA: I -- I can't think of anything.

6

7 PL: Okay. Thank you. We'll terminate the interview now
8 at, uh, about, uh, 4:21 -- or excuse me -- 2:21.
9 Thank you.

10

11 (CONCLUSION OF INTERVIEW)

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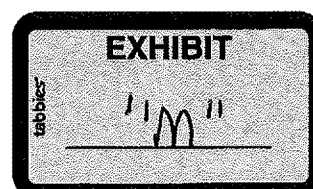
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50 Transcribed by: jah/jah/amb

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1 (INTERVIEW OF RON LABASKY, #EI-26-0074, 01/23/15)
2
3 (The following may contain unintelligible or misunderstood
4 words due to the recording quality.)
5
6 PL = INSPECTOR PHIL LINDLEY
7 RL = RON LABASKY
8
9 PL: Okay. Going on tape, um, it's 23rd of January, 2015.
10 It's approximately 1:50 -- or excuse me, yeah, 1:57
11 p.m. Um, I'm present with, uh, Ron Labasky and, uh,
12 we'll take a recorded interview. Mr. Labasky, would
13 you please raise your right hand?
14
15 RL: Yes, sir.
16
17 PL: Do you swear that the statement you're about to give
18 is the truth, the whole truth and nothing but the
19 truth?
20
21 RL: It's in fact the case.
22
23 PL: Okay, sir. Um, prior to this interview, you've
24 listened to a recording, um, made on or about the 3rd
25 of April of 2014, that involved the Secretary of
26 State, um, talking to the Flagler County Supervisor
27 of Elections, and your name is identified on that
28 recording. Having listened to that recording, was
29 that your voice that was recorded?
30
31 RL: Uh, yes. I believe it was my voice. Uh, it sounded
32 like my voice, uh, I do recollect being on a
33 telephone call with the Secretary and several of the
34 other individuals who were identified on the tape.
35 Um, and I don't necessarily know the exact date that
36 that occurred, at this point, but, uh --
37
38 PL: It was in 2014.
39
40 RL: Sure. Certainly.
41
42 PL: Do you agree with that?
43
44 RL: It was in early 2014, dealing with some Flagler
45 County issues and the city --
46
47 PL: With the City of --
48
49 RL: -- of Palm Coast.
50



1 PL: -- Palm Coast.
2
3 RL: Yes, sir.
4
5 PL: Okay, sir. Um, prior to that -- or at the -- the
6 initiation of the phone call, Miss Weeks asked for
7 permission to record that telephone call and the,
8 uh, Secretary of State objected. Were -- as -- as a
9 party to that phone call, were you, uh, on notice
10 that you were being recorded?
11
12 RL: No. Um, obviously, uh, Miss Weeks asked, uh, could
13 she record the -- record the conversation and the
14 Secretary, I believe, uh, indicated "no", he didn't
15 want that to occur, and then we proceeded with the
16 conversation.
17
18 PL: And, uh, were you recorded without your consent?
19
20 RL: Uh, I never consented to have anything recorded, on
21 that day.
22
23 PL: Okay. Um, as a -- as a practicing attorney, are you
24 aware of any provisions in the law that would --
25 would make that recording proper under Florida
26 Statute, which requires to party consent to the
27 recording.
28
29 RL: Well, I'm only generally aware, I don't do any
30 criminal law so --
31
32 PL: Yes, sir.
33
34 RL: -- I'm not familiar with the -- those provisions,
35 but I'm -- I am aware that there are provisions that
36 provide for some level of consent to -- to record a
37 conversation.
38
39 PL: And based on your recollection, listening to the --
40 the recording, that consent was not given?
41
42 RL: Well, I -- I never gave it and I did hear the
43 Secretary indicate that he did not want it recorded.
44
45 PL: Okay, sir. So -- so basically, uh, in summation, uh,
46 on or about the 3rd of April, you do recall it being
47 in 2014, you were party to a conversation that was
48 recorded and you were not asked for and -- and
49 affirmatively, did not give consent to the
50 recording?

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RL: Yes, sir. I was on the -- I was on that conversation, based upon my role as general counsel to the Supervisors Association, at the request of Laurie Edwards, who was our president, at the time, who was unable to attend. So --

PL: Thanks for coming, Mr. Labasky. Uh, that terminates the interview and we're at, approximately, 2:00. Thank you.

(CONCLUSION OF INTERVIEW)

Transcribed by: jao/jao/eam

1 (INTERVIEW OF KENNETH DETZNER, #EI-26-0074, 1/13/15)

2

3 (The following may contain unintelligible or misunderstood
4 words due to the recording quality.)

5

6 PL = INSPECTOR PHIL LINDLEY

7

KD = KENNETH DETZNER

8

9 PL: Okay. For purposes of the record, it's
10 approximately 3:42 p.m. on January 13th of 2015. I'm
11 present at the Florida Secretary of State's Office.
12 And sir, would you please state your full name for
13 the recording?

14

15 KD: My name is Kenneth William Detzner.

16

17 PL: And your position is the Secretary of State.

18

19 KD: I'm the Secretary of State of the State of Florida.

20

21 PL: And Mr. Secretary, were you the Secretary of State
22 on the 3rd of April, last year, 2014?

23

24 KD: Yes, I was.

25

26 PL: On or about, uh, the 3rd of April, 2014, uh, FDLE has
27 -- has determined a recording was made which
28 purports to be your voice on the recording, uh, in
29 addition with Kimberle Weeks, the Flagler County
30 Supervisor of Election; um, Mr. Atkinson, your
31 General Counsel; uh, Gary Holland, who's the, uh,
32 Assistant Director of the, uh -- uh, Division of
33 Elections; and Ron Labasky, who's an attorney for
34 the Florida Association of Supervisor of Elections.
35 Independently, do you recall that telephone call?

36

37 KD: Yes, I do.

38

39 PL: And, sir, was that your voice on the recording that
40 you just heard?

41

42 KD: Yes, it was.

43

44 PL: Along with Miss Weeks?

45

46 KD: Yes, it was.

47

48 PL: Sir, you were, uh, present in Leon County, Florida,
49 when that call was made?

50



1 KD: Correct. I was here in this office, at the
2 Secretary of State's Office, in the R.A. Gray
3 Building.
4
5 PL: And to the best of your knowledge and belief, Miss,
6 uh, Weeks was in Flagler County, Florida?
7
8 KD: Yes.
9
10 PL: Okay. Uh, sir, uh, did you give consent for your --
11 your words to be recorded?
12
13 KD: I did not.
14
15 PL: Okay. Uh, did you know that the call was being
16 recorded after you told her you wouldn't have
17 consent?
18
19 KD: I did not.
20
21 PL: Uh, in any shape, matter or form, did you consent to
22 her disseminating or releasing that conversation to
23 anyone else?
24
25 KD: No, I did not.
26
27 PL: Okay. And the, uh -- the person's whose voices were
28 identified as being on that call, you believed to be
29 then present at the time.
30
31 KD: Yes, I did.
32
33 PL: Mr. Secretary, is there anything I haven't asked you
34 that -- that you think is necessary for our
35 investigation?
36
37 KD: No, sir. You've been very thorough.
38
39 PL: Okay, sir. Thank you, kindly. And I'm turning off
40 the recorder and it's only about two minutes later.
41 Thank you, Mr. Secretary.
42
43 KD: Yes, sir.
44
45 (CONCLUSION OF INTERVIEW)
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47
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50 Transcribed by: hzr/amb