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INTERVIEW OF:

ANN McFALL

DATE TAKEN: FEBRUARY 11, 2014

TIME: 10:09 A.M. - 11:02 A.M.

PLACE: HISTORIC VOLUSIA COUNTY COURTHOUSE
120 WEST INDIANA AVENUE
DELAND, FLORIDA 32720

1 APPEARANCES:

2 JONATHAN KANEY, ESQUIRE
3 Kaney & Olivari, P.L.
4 55 Seton Trail
5 Ormond Beach, Florida 32176

6 MICHAEL WOODS, ESQUIRE
7 Cobb, Cole
8 351 East New York Avenue
9 DeLand, Florida 32724

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1 THEREUPON,

2 ANN MCFALL,

3 was called as a witness and, having first been

4 duly sworn, testified as follows:

5 BY MR. KANEY:

6 Q. Good morning.

7 A. Good morning.

8 Q. We're here for the county council's investigation
9 of what they refer to as the Waverly matter. And this is
10 not a deposition or testimony. It is an interview in an
11 investigation. No evidentiary rules apply. If you know
12 something only by hearsay, if it's credible to you, you
13 should respond.

14 MR. KANEY: Now, you want to go ahead and put on
15 the record what your perimeter is?

16 MR. WOODS: I think so. And I don't know if you
17 want for the record, Michael Woods, Cobb Cole --

18 MR. KANEY: Sorry.

19 MR. WOODS: -- representing the --

20 MR. KANEY: I thought everybody knew Michael.

21 MR. WOODS: By reputation, right?

22 At this time our position is that there is an
23 ongoing criminal investigation by the State Attorney's
24 office. Documentation has been requested by the State
25 Attorney's office in relation to this matter.

1 Unfortunately, we think, at this time, as a custodian
2 of the records, we can't disclose the nature of those
3 requests or the investigation being requested by the
4 State Attorney's office for fear of running afoul of
5 their criminal investigation. I anticipate Mr. Kaney
6 has an objection to that. We may just have to iron
7 that out down the road. But at this time we don't want
8 this office to run afoul of that investigation and any
9 problems. So as a result, we ask that you limit the
10 questioning to the scope that doesn't get into the
11 nature of that investigation.

12 MR. KANEY: Well, I'm not going to limit my
13 investigation. There's no limit on it. And I've got a
14 charge from the council to investigate.

15 MR. WOODS: I understand.

16 MR. KANEY: What you're going to have to do is
17 instruct her not to answer when I ask one of those
18 questions, but I'm going to ask the question.

19 MR. WOODS: That's fine.

20 MR. KANEY: And I'm going to ask you to state the
21 basis, for the record, so we understand.

22 BY MR. KANEY:

23 Q. Okay. This is -- what I want to inquire into,
24 Ann, is the experience you had when you were running for
25 reelection. Congratulations.

1 A. Thank you.

2 Q. And your opponent was Andy Kelly?

3 A. Correct.

4 Q. And you've had some concerns about his use of bus
5 bench advertisers; is that right?

6 A. I did, but that wasn't when I first started
7 following the 2012 in-kind contributions. It was before his
8 report that was filed was filed in my office. There were
9 some other candidates that were showing in-kind
10 contributions from the Waverly Group earlier than Council
11 Member Kelly.

12 Q. Who were they?

13 A. Mr. Wagner -- I don't know right offhand. It's
14 been a while since I've looked at the -- there were five or
15 six. Mr. Wagner. Dennis Mulder, who was running for a
16 state seat and then dropped out. Then I started going back
17 into the 2010 and noticed Ms. Cusack, Mr. Trovato. Back to
18 2012 there was a council member in the New Smyrna area that
19 showed those real early, Kennedy.

20 Q. Yes, ma'am.

21 A. Those are some of them. I think I can get a
22 fuller list later on.

23 Q. Now, these attracted your attention?

24 A. Well, the issue first came to my attention back in
25 January, 2011. A Mr. Tim Davis called me very upset, very,

1 very upset. He was almost crying. He said he lost his job
2 with Waverly, he and his wife, because he kept being asked
3 to give contributions in his name. And I suggested to him
4 that he file something with the Florida Elections
5 Commission, and -- and if he wants to come into my office, I
6 had set up an appointment, end of January of 2011 to come in
7 and I'll walk him through the process. But I found with the
8 Florida Elections Commission that if I call up and say
9 something or file a charge, it's hearsay and they don't --
10 they don't do hearsay. So he never came in. So I mailed
11 him the packet that I had prepared for him to use with a
12 blank form to fill out for the FEC, and I do not know if he
13 ever filed it. So that put my radar, if you will, up, to
14 watch for 2012. 2011 it wasn't an issue, some small city
15 elections. But 2012 is when it just multiplied, the issue
16 of in-kind contributions.

17 Q. Was -- was the -- was the quantity of the in-kind
18 contributions unusual in -- based on your past experience?

19 A. I would say it's very unusual.

20 Q. It's a lot more than usual?

21 A. Yes, and it was a lot more than 2010.

22 Q. Well, now, when -- what steps did you take after
23 you told, what, Tim Davis he should file a complaint?
24 Apparently he didn't.

25 A. The Department of Elections has a pretty good

1 relationship with the State's Attorney's office. So I
2 called the State's Attorney's office probably in July of
3 2012, maybe the end of June, when I noticed it and I started
4 collecting the information, if you will, the treasurer's
5 reports, the financial reports. I went over to Mr. Eckert,
6 who was my attorney at the time for Department of Elections,
7 and I said, this is what I have. I'm going to send it to
8 the State's Attorney's office. I've made contact with them.
9 Jack Bisland was the investigator, and I've worked with him
10 before. So he says, well, Ann, you have to do what you have
11 to do. And he really didn't -- I don't think he asked
12 who -- who was some of the candidates taking it. I may have
13 offered that. I don't know. I don't remember the
14 conversation with Mr. Eckert. So I did that day. And some
15 representatives from Mr. Larizza's office came in the very
16 next day, which was surprising.

17 Q. And haven't been heard from or seen since.

18 A. It's not fast.

19 Q. Okay. What -- what was your impression of what
20 the investigators from Larizza's office were looking at?

21 A. They were -- they were looking, basically, at the
22 financial statements that are online on my website. And
23 they were noticing the oddity after they came in and met
24 with me.

25 THE WITNESS: Can I say who I met with?

1 MR. WOODS: I would say so.

2 THE WITNESS: Okay.

3 A. Usually when this happens, the preliminary is
4 Mr. Bisland, Investigator Bisland will come in and go over
5 the basic stuff, or Noel --

6 BY MR. KANEY:

7 Q. Noel?

8 A. Yeah. I don't know his last name.

9 Q. I don't either, but I know him. I don't know
10 anybody's last name.

11 A. So one of them would come in. Well, Mr. Bisland
12 came in with a representative of the FDLE, which was a first
13 to get involved, and another person that was some sort of
14 investigator. I don't know if it was the FBI or something,
15 but I just felt like it was -- this was much bigger than
16 in-kind contributions given illegally.

17 Q. So in that interview, you told him what you had
18 found, what your concerns were?

19 A. Um-hum.

20 Q. Did they instruct you not to -- not to discuss the
21 investigation?

22 A. Yes, initially they did. And then the
23 News-Journal interviewed an investigator with the State's
24 Attorney and got some of that information. I don't know --
25 and she called me for my comments, and I said, no.

1 Q. After that meeting with the investigators, what
2 happened next in your experience with this?

3 A. It was typical. It was a lot of calling me over
4 the phone to ask for more information, and, basically,
5 providing documents.

6 Q. Those documents were public records, correct?

7 A. Not all.

8 Q. They were -- they were not documents that you held
9 as Supervisor of Elections?

10 A. Some of them.

11 Q. How could you have a non-public record? Just as a
12 matter of curiosity.

13 MR. WOODS: Yeah. Can you give us a second? Can
14 we go off the record just a second?

15 MR. KANEY: Sure. Sure.

16 (Thereupon, a brief recess was held, after
17 which the following proceedings occurred:)

18 MR. WOODS: Good to go, Jon.

19 MR. KANEY: Huh?

20 MR. WOODS: Good to go.

21 MR. KANEY: Good to go, okay.

22 BY MR. KANEY:

23 Q. I think the last question was I had asked you how
24 you could -- what the reason would be you had a document
25 that would not be public record.

1 A. What had happened during the investigation was
2 that Mr. Bisland found the fact that Jim Brown had served a
3 20-year sentence in the state of Kentucky for murder, and
4 Mr. Brown, since coming to Volusia County -- Mr. Bisland had
5 asked for his voting record, and his registration
6 information, which, as you know, the signature that we have
7 on file is exempt, Social Security number is exempt, and
8 that was part of the record.

9 Q. Okay.

10 A. So Mr. Bisland sent me the charges from the state
11 of Kentucky that were shared with him, which I didn't know
12 if it was public record going police to police type thing.

13 Q. Um-hum.

14 A. And it ended up Mr. Brown had gotten his voter --
15 restoration of voting rights from Kentucky. So he did not
16 vote illegally, is what they were looking at at one time.

17 Q. All right. So what -- what happened next in your
18 experience with it?

19 A. At one point Investigator Bisland wanted to look
20 into the municipal candidates, particularly in the city of
21 Daytona and Deltona. It was prevalent, the bus bench issue.
22 So I tried to provide -- I could not give him certified
23 copies of the treasury reports or financial reports, because
24 I was not the filing officer, nor am I today, with the
25 cities. So I don't know what he did with that piece. I

1 have a great relationship with the city clerks. I asked
2 them if I could call the city clerks and give them a head's
3 up, and he said, sure. And then it seems like all of a
4 sudden the investigation stopped, and that's when
5 Mr. Bisland explained to me that the FBI is involved and the
6 articles started showing up in the newspaper about the
7 mortgage fraud situation.

8 Just prior to it stopping, though, a next series
9 of financial reports came, and that's when I saw Mr. Kelly's
10 report.

11 Q. Did that motivate you to take any particular
12 action?

13 A. I did not tell Mr. Bisland until after the August
14 election.

15 Q. Why not?

16 A. I was in the primary. There were four of us on
17 the ballot running for Supervisor of Elections.

18 Q. So you didn't want to seem to be arguing your own
19 case?

20 A. Well -- and I didn't want it to -- I didn't want
21 to be charged with trying to rule the election.

22 Q. Yeah. Well, Andy Kelly was the high man in the
23 bus bench advertising.

24 A. He was.

25 Q. Did he make the runoff?

1 A. No, I won in the primary.

2 Q. Oh, that's right.

3 Are you aware of any steps that Dan Eckert took
4 after your discussion with him regarding the bus bench
5 issue?

6 A. No. No. I didn't hear again about that meeting
7 with Dan until after the whole thing raised its head again
8 at the council level where they were charging Dan with not
9 telling him. And so I -- as a matter of fact, we monitor
10 the council meetings over our computers, so I ran over to
11 the meeting and spoke on behalf of Dan. Because if I have
12 investigations going on and he has to tell the council
13 everything, then we're in trouble. So that's when I asked
14 Dan for permission to get my own legal representation. It
15 didn't help that most of these in-kind contributions were
16 going to county council candidates, some incumbents.

17 Q. Is the county attorney's office ordinarily the
18 attorney for this department?

19 A. Yes. I meet with Dan, in a slow year, once a
20 month. Coming up to 2014 it will be weekly, then he serves
21 as the county attorney for the canvassing board. Since this
22 has happened, I've had Mr. Woods attend several staff
23 meetings to see what goes on in elections and things like
24 that. Dan hasn't really been a part of things.

25 Q. One of the questions I've heard mentioned, and

1 I'll ask you for your view on it, is whether the county
2 attorney really has -- is in a crossfire with conflicting
3 loyalties to his department head client and his council
4 client.

5 A. I feel strongly he is, which is unfortunate. Dan,
6 as you know, knows election law probably better than anyone
7 in the state. But there were some situations at the
8 canvassing board level, it comes up once or twice every
9 canvassing board cycle. Does he report to the canvassing
10 board? Does he report to me? Who represents me at the
11 canvassing board? As a matter of fact, I have quarterly
12 meetings with the top 13 largest county supervisors. We
13 meet over in Orlando every quarter. Most of them have their
14 independent attorney, independent of canvassing board,
15 independent of county government, independent of budget.
16 That attorney -- they either have a paralegal in their
17 office full time coupled with an outside attorney, or an
18 outside attorney, you know, on call. I'm probably the last
19 one that doesn't.

20 Q. Do you know why that is?

21 A. Financial, probably. Or charter.

22 Q. Have you discussed the bus bench issue, the
23 Waverly issue, with any of the council members?

24 A. Mrs. Northey came in and reported an issue. She
25 was on the ballot in 2012. She -- she knew. I think a

1 couple of articles had come out and she says, Ann, she says,
2 something's been eating at --

3 THE WITNESS: Can I -- this is just hearsay or can
4 I --

5 MR. WOODS: Well, it's hearsay under the rules
6 that --

7 BY MR. KANEY:

8 Q. It's an interview.

9 A. Okay. She came in and she says, Ann, I've been
10 reading these articles and something's really bothering me.
11 She says -- we both live in Deltona. And she says, do you
12 know the corner of such and such? There's a bus bench
13 there, and it's a perfect bus bench site. And her husband
14 called to rent the bus bench. And he talked to Mr. Kiepert,
15 which I think is one of the people involved in these
16 contributions. And Mr. Kiepert said to her, well, you
17 haven't supported us, Pat, in the past, we aren't going to
18 give you that bench. She says, no, I want to rent the bench
19 through November, and he refused to rent it to her.

20 So I had called Mr. Bisland up after that and gave
21 him that. But I think that's about the time Jack left the
22 State's Attorney to go to Flagler. He was over in Flagler,
23 Palm Coast, and -- so nothing was done.

24 Noel called me up about it. I don't know if they
25 took her deposition about it, or testimony. I don't know.

1 Doug Daniels came over to me one time. I had said in an
2 article -- my response was I -- I don't know if the
3 candidates knew they were taking illegal contributions. And
4 Doug came to me specifically to tell me they knew. And I
5 said, well, don't tell me this. I've given everything I
6 have to the State's Attorney. And I gave him Mr. Bisland's
7 number, so I don't know what he did with that. And that's
8 about it.

9 Q. Did you talk to any of these candidates, other
10 than these council members we've discussed, about this
11 issue?

12 A. No. No.

13 Q. Do you believe that Mr. Kelly knew he was
14 receiving illegal contributions?

15 A. Yes. He was running for Supervisor of Elections.

16 Q. He should know the rules?

17 A. He's a little higher up there.

18 Q. But could it be that he was being hoodwinked by
19 the Waverly people?

20 A. I couldn't say that one way or another.

21 Q. Are the campaign finance reports sworn statements?

22 A. At one time -- I think the oath that you sign on
23 the back -- I could get a copy. I'm not sure right offhand.

24 Q. I think there's a statute that says that that
25 statement is under oath.

1 A. I think it is, too.

2 Q. Yeah.

3 A. I think it is, too.

4 Q. Assuming that we're right about that statute --

5 A. Um-hum.

6 Q. -- what do you think the candidate's
7 responsibility is in reporting that information?

8 A. Well, you know, it's interesting. The two forms
9 in order to be a candidate, right up front you have to file
10 where you're going to open your campaign account and who
11 your treasurer is. And then within 10 days of filing that
12 form, you have to sign -- and this might be the oath you're
13 referring to. You have to sign a form that says you have
14 read and understand Florida Statute Chapter 106, which is
15 campaign finance and running for office, qualifying. So --
16 and dealing with the Florida Elections Commission and the
17 Commission on Ethics, that's the first thing they ask from
18 me when they put in a records request for anything that's
19 filed against a candidate.

20 Q. They want a copy of the oath?

21 A. Yes.

22 Q. What do you think the responsibility of the
23 candidate is to be -- to verify the accuracy of the content
24 of his campaign finance report?

25 A. Well, I mean, he's the one -- he or she is the one

1 that's held responsible. And another question that the
2 Florida Elections Commission asks when they have charges
3 filed against someone is did they attend the candidate
4 information session, which we have 100, 150 people attending
5 that every other year. Mr. Kelly was there at the -- and we
6 covered that in the PowerPoint.

7 Q. If -- if the basis on which the candidate filled
8 out the report was an e-mail listing contributors and
9 amounts from somebody at Waverly, and he just took that
10 information and put it on the report and filed it, do you
11 think he's done his duty there?

12 A. No. No, I think he needed to check into that.
13 And he's run for office before. If this were a first-time
14 city candidate, 21-years-old, I would think, you know, he
15 could get a pass. But Mr. Kelly has run for office quite a
16 few times. And I pulled up his past records. We keep the
17 records for 10 years, per public record stuff, and he never
18 took that many in-kind contributions ever. And I pulled up
19 everyone that Investigator Bisland asked about, pulled up
20 all of their files going back 10 years, if they've ever run
21 before, and it just wasn't at this level as it was in 2012.

22 Q. Are you familiar with the names of Jimmy
23 Sotolongo?

24 A. Yes.

25 Q. And Ramara Garrett?

1 A. Yes. I've never met these people, but I'm
2 familiar with the names.

3 Q. Have you -- have you -- you never encountered
4 Jimmy Sotolongo?

5 A. No.

6 Q. Have you ever heard that he said he was going to
7 get you for some issue that he disagreed with you on?

8 A. No. But, you know, I remember Sheriff Johnson
9 coming into my office in the summer of 2012, after this
10 first hit the News-Journal, and he said -- he said to me, do
11 you need anything from me? And I said, well, what's that
12 mean? He says, do you need anything from me? And I -- I
13 didn't go -- I said, no, we're good. But I didn't know if
14 it was for extra protection of some sort, because
15 election -- the week before election he assigns about 20
16 deputies to the Department of Elections. So I didn't know
17 if he was talking about the election specific, or to me,
18 because he kept saying, do you need anything from me? So I
19 didn't hear directly, but I assumed maybe he had heard
20 something.

21 Q. Can you think of anything that you've done in your
22 official capacity that would have caused someone like
23 Mr. Sotolongo to want to, quote, get you?

24 A. Well, there's been a couple items. I had an
25 intern a few years ago. I try to do college recruitment

1 type thing and bring interns on. And there was a young man
2 from Embry-Riddle that I brought on. Very nice, clean-cut,
3 smart, math whiz, who did not like to sharpen pencils, he
4 did not like to put labels on envelopes, he didn't -- well,
5 all of a sudden to get his three credits at school he needed
6 a letter from me, and I said, I'm not going to give you a
7 letter because you fell asleep on top of the absentee
8 ballots. He was putting ballots in envelopes and just put
9 his head down and just went to sleep. You know, I will have
10 a staff assistant give you a letter on my stationary, but I
11 will not sign a letter. And I had to file a police report
12 against him.

13 As a matter of fact, he -- he called me and he was
14 talking in Farsi, and he left voice mails, which is not
15 really bright on his part. And for a solid weekend -- since
16 I live in Deltona, that's the sheriff's department that
17 patrols there. They patrolled my neighborhood. I had
18 someone out here meeting me. I never -- I could not come in
19 the building without one of my staff members already being
20 here type stuff. So that was the most serious one. But it
21 brings to mind someone that was connected to Waverly, Manny
22 Borneo, who did threaten me.

23 Q. Tell me about that episode.

24 A. He -- he called Dave Byron's office the day before
25 he showed up. He was something with the Floridian magazine.

1 And he wanted to do some photo shoots in the historic
2 courthouse before 8 o'clock, which is when we opened. So
3 Dave said, okay. And it was a last minute thing. Dave
4 didn't call me. But all of a sudden, 9 o'clock I heard all
5 this ruckus in the rotunda. It must have been 20, 30
6 models. They had taken over the public restrooms, the
7 lady's public restrooms, and the men's public restrooms, so
8 the public could not use the restrooms in here. And it
9 was -- well, you know the sound magnifies in this building,
10 and it was awful. So I went out and I said, are you in
11 charge? Yes. To Mr. Borneo. I didn't know who he was. I
12 had never met him. I said, we've got to get a handle on
13 this because we're operating a business here. There was a
14 tour getting ready to come in, school tour. Both bathrooms
15 had dresses, and men were in the women's, and women were in
16 the men's, and it was just chaos.

17 And he says, who the hell are you? And I
18 introduced myself. And he never told me who he was. So I
19 said, I'll tell you what -- I opened up this conference room
20 for him. Because, apparently, it was going to be an all day
21 event. Dave Byron gave him permission. So I opened up this
22 conference room to get the people out of the restrooms. And
23 then I opened up the second conference room across the hall
24 from us, and it still wasn't enough. So I said, Mr. Borneo,
25 at noon you have to finish this up. And he says, I'm going

1 to call -- I'm going to call -- someone. Oh, George
2 Rectenwald. I said, George Rectenwald's office is here, he
3 probably wants you out, too. And he says, I'm going to go
4 call someone else. And he got on the phone and he says, I'm
5 going to raise a million, excuse my language, fucking
6 dollars so you could beat her, and he hung up.

7 Q. You don't know who he called?

8 A. My staff member was standing there with me, and he
9 said it was Andy Kelly. So then I asked them all to leave.

10 Q. Did you ever hear anything more from Manny about
11 that?

12 A. No. He did an article that showed me his Napoleon
13 in the magazine the next month. I took that as an honor.

14 Q. Napoleon?

15 A. Yeah.

16 Q. No other encounters with Manny?

17 A. No. No. Shortly thereafter, about two months
18 later, I heard he lost his job.

19 Q. Do you -- I may have asked you this, if so,
20 forgive me. Do you have any reason to believe that those
21 candidates that were receiving the bus bench in-kind
22 contributions realized that those were not being made by the
23 people they were being credited to?

24 A. You know, I've been in elected office for 25
25 years. Maybe I take extra precautions, but they had to have

1 known, thinking back. You know, if there were one or two,
2 that's fine. But when -- if there's three or more, they had
3 to have known. And I don't know why they wanted -- I can't
4 imagine how -- why they would want to take so many in-kind
5 contributions, because it really doesn't bump up your cash.
6 It doesn't -- I just don't understand why you would take
7 in-kind contributions, so --

8 Q. Well, they give you some nice signs.

9 Of course you know Josh Wagner?

10 A. Yes.

11 Q. You know Josh Wagner says that he's very close to
12 Jim Sotolongo and Ramara Garrett?

13 A. I understand that.

14 Q. Do you have reason to believe that Josh had a role
15 in this in-kind contribution matter?

16 A. Just my personal opinion?

17 Q. Yeah.

18 THE WITNESS: Can I?

19 A. I think he did.

20 BY MR. KANEY:

21 Q. What do you base that on?

22 A. Well, I understand after all this came out and
23 everything, there was one situation, I don't know who told
24 it to me, the democratic executive committee regular meeting
25 one night, Mrs. Northey was there, I understand, Ms. Cusack

1 was there, Mr. Wagner was there, and Mr. Wagner started a
2 cheer. My choice is Joyce, my choice is Joyce, and got the
3 whole room saying this. And Joyce was -- Joyce received a
4 lot of those in-kind. And as I say, Pat didn't get one, or
5 wasn't even allowed to rent a bench from Waverly, so I think
6 there was a little of that going on.

7 Q. Josh was a major beneficiary of the bench in-kind
8 contributions?

9 A. Yes, he was. He and -- he's dying. What is she
10 going to say next?

11 Q. It's an interview.

12 A. Yeah. Josh called me up. It was after the
13 November, 2012, elections. And he got a call from Margarite
14 Campbell, who -- she and I go way back. Probably not in the
15 best of terms. She's a Daytona native. When I was on the
16 school board, I think we had to fire her as a teacher. But
17 he called me, he says, do you know anything about Margarite
18 Campbell? I said, I know Margarite very well. And she had
19 called me the night before and was calling me a racist and
20 all this stuff. And he said, well, how do I know her,
21 because she called me up and called me a racist? And I
22 don't know why she came to that conclusion.

23 And I said -- well, she mentioned Jim Brown, the
24 article about Jim Brown, and his picture was in the
25 News-Journal, and she mentioned because of the Jim Brown

1 thing, you're a racist. And she said the same thing to
2 Josh. And I said, Josh, she's talking about Jim Brown. He
3 says, well, who's Jim Brown? And I said, Jim Brown with
4 Waverly. And he goes, oh, yeah, he's a good friend of mine.
5 And I said, well, that's exactly what she's talking about.
6 So he says, okay, I'll call her back. And that's the last
7 time I've talked to Josh.

8 Q. Have you talked to Joyce about this subject?

9 A. I have not. As a matter of fact, it was very,
10 very awkward at the canvassing board of 2012 because she was
11 on it as the council, county council member. And I knew
12 there was an investigation on. It hadn't broken yet. It
13 was very awkward sitting next to her in this room for 15
14 days knowing what was getting ready to happen. But, no, to
15 this day I've not talked to Joyce about it.

16 Q. When Doug Daniels talked to you about what the
17 candidates knew, did he tell you why he thought that?

18 A. No. Well, the conversation -- it was a
19 five-minute conversation in my office, and he said something
20 about -- it was right after an article came out listing the
21 candidates and who took what. And it showed his name for
22 250 dollars. And apparently he felt the need to come in and
23 tell me what that 250 was, and it was liquor from a party
24 from the week before. And he said he and Ramara decided it
25 was worth 250 dollars, but that isn't a bus bench, so I

1 don't consider that to be bad. So, I said, okay, don't tell
2 me, and I gave him Jack Bisland's number. That was some
3 time -- I think the end of 2013 he came in.

4 Q. But I thought I heard you say, or understood you
5 to say that he told you that the candidates knew --

6 A. Well, that's when he told me.

7 Q. Did he tell you why he said that?

8 A. No. I just assumed it was because he took some,
9 too, and he knew what he was taking, so I don't know if that
10 was related or not.

11 Q. You know, Mr. Larizza has had this investigation
12 going for a long time.

13 A. Yes.

14 Q. Without giving away any of his trade secrets, do
15 you have any idea why it's taking him so long?

16 A. Just a conversation, again with Mr. Bisland.
17 Everything stopped because a lot of documents were taken out
18 of Waverly by the FBI, and they did not give those up to the
19 State's attorney. Jack said it held it up for about a year,
20 as I recall. And he and I have been meeting frequently
21 since they got the documents released.

22 Q. They did get them back; is that right?

23 A. That's what he said. I don't know if they got all
24 of them back. I don't know. He said it's reactivated.
25 That's all I know.

1 Q. Are you -- are you familiar, at least by newspaper
2 accounts, with the issue of the e-mail that Josh wrote to
3 Ken Fischer regarding his -- the county's draft RFP for the
4 bus bench contract?

5 A. Not until I pulled it up on the E and N website,
6 the Volusia.org website, where it's posted. I heard about
7 the talk at one of the council meetings when all of this
8 started council level. And it was posted out there, so I
9 pulled it from there.

10 Q. You were on the county council for what period of
11 time?

12 A. Six years. From 1996 to 2002. I was term limited
13 out.

14 Q. From you at -- did you ever see a situation, or an
15 instance, where a council member had that sort of
16 interaction with a department head?

17 A. No.

18 Q. Do you consider that a proper role for a council
19 member?

20 A. No.

21 Q. Why not?

22 A. There is a -- there is a divide that you shall
23 never cross that line, is basically what it is. I mean,
24 there's a separation of powers, as there should be. You
25 have -- at the school board level, I had two -- when I

1 served on the school board, I had two people that answered
2 to the board. You don't go out and talk to principals
3 unless you say, I'm going to go out and talk to principals.

4 At the county council level, you dealt with the
5 county manager and the county attorney on issues. You sent
6 any requests to a department through the county manager, and
7 most of that, on my time, was Cindy Koto. And it worked
8 well. If I wanted to see why this sidewalk wasn't built yet
9 in an unincorporated area, I would go through her. I
10 would -- she was good to work with. You cc'd her at least.
11 I have never, never gone past the county manager. Now, that
12 doesn't mean there weren't council members I served with
13 that did.

14 Q. Did that happen commonly, often, with the other
15 council members?

16 A. Yes.

17 Q. That was before Josh's time, right?

18 A. Yes. And you probably know the council member
19 well.

20 Q. Who was it?

21 A. Big John. He bragged about it.

22 Q. Well, I believe Josh was quoted in the paper
23 saying that this was something he often did. Have you ever
24 seen her telling him, doing that kind of thing, directly to
25 a department head?

1 A. No. No. If a council member asks something of a
2 department head, Miss Koto had a really good system to where
3 every council member would get the report back, which
4 worked. So that's why I don't think Mr. John got in trouble
5 like he should have, because we got copies of everything he
6 asked for.

7 Q. Do you know where Tim Davis is now?

8 A. I do not. Last time I think -- in 2011 he was in
9 Port Orange, but I do not know now. It's public record. I
10 could look it up and see if he's still registered, but that
11 doesn't mean he hasn't moved.

12 Q. Do you remember if he was in a business or what
13 his --

14 A. Apparently he -- he was an outside contractor with
15 Waverly, and I don't know what his exact title was. He and
16 his wife both worked there.

17 Q. When -- when was it -- when did he contact you?

18 A. It was about the 2010 election, so it was probably
19 the second week in January of 2011. Because I remember the
20 meeting we set up was for January 24th when he didn't show.

21 Q. Do you know whether or not he was rehired?

22 A. I do not know.

23 Q. Got his job back?

24 A. I do not know. His wife's name is Laura, by the
25 way. Tim and Laura Davis.

1 Q. Kiepert?

2 A. Um-hum.

3 Q. What do you know about Mr. Kiepert?

4 A. I don't know too much about him. He moved to
5 Deltona a few years ago, I understand. He -- he wanted to
6 become involved in politics. He befriended Dennis Mulder,
7 who was mayor of Deltona, and Dennis, in turn, put him on
8 quite a few advisory committees, zoning, economic
9 development. And he served on economic development
10 committee locally with my son-in-law, Nick Conte. So he and
11 Nick became casual buddies. I mean, I never met him. So
12 from there, when Dennis Mulder decided to run for the house,
13 Kiepert signed up to be his campaign manager.

14 Q. How do you spell his name?

15 A. I think it's K-i-e-p-e-r-t. It's either K-i-e or
16 K-e-i.

17 Q. And what's his first name?

18 A. Mike.

19 THE WITNESS: Did I say Mike?

20 A. Mike doesn't sound right.

21 BY MR. KANEY:

22 Q. It sounds really wrong.

23 MR. WOODS: I don't know is okay.

24 A. I can look it up.

25

1 BY MR. KANEY:

2 Q. I'll have to follow through with him.

3 A. Okay.

4 Q. And he -- apparently he was the person to contact
5 in Deltona regarding the bus signs?

6 A. Yes. Well, as I understand it, Ed Northey took
7 the number off the bench and Kiepert answered that phone.

8 Q. What am I leaving out?

9 MR. WOODS: That's a good question.

10 A. He told me you were going to ask that.

11 BY MR. KANEY:

12 Q. Have I covered it?

13 A. I think so.

14 Q. Have I drained all of your knowledge of this
15 situation that you're going to share --

16 A. I've lost a little bit.

17 Q. Okay. Well, I appreciate it. Apparently my
18 curiosity didn't need to get into your forbidden territory.

19 MR. WOODS: You asked very good questions very
20 well, as I expected.

21 (WHEREUPON, the interview was concluded.)

22

23

24

25

CERTIFICATE OF REPORTER OATH

STATE OF FLORIDA)

COUNTY OF VOLUSIA)

I, Shannon Green, Registered Professional
Reporter, the undersigned authority certify that Ann
McFall named herein personally appeared before me
and was duly sworn on the 11th day of February,
2014.

WITNESS my hand and official seal this
16th day of February, 2014.

Shannon Green
Registered Professional Reporter
Notary Public - State of Florida
My Commission No. EE852120
My Commission Expires 1-8-2017

1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA)4 COUNTY OF VOLUSIA)
5

6 I, Shannon Green, Registered Professional
7 Reporter, certify that I was authorized to and did
8 stenographically report the foregoing proceedings;
9 that a review of the transcript was requested, and
10 that the transcript is a true and complete record of
11 my stenographic notes.

12 I FURTHER CERTIFY that I am not a
13 relative, employee, attorney or counsel of any of
14 the parties, nor am I a relative or employee of any
15 of the parties' attorney or counsel connected with
16 the action, nor am I financially interested in this
17 action.

18 Dated this 16th day of February, 2014.
19
20
21

22 _____
23 Shannon Green
24 Registered Professional Reporter
25

ERRATA SHEET

INTERVIEW OF: ANN MCFALL

ERRATA

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Under penalties of perjury, I declare that I have
read the foregoing document and that the facts
in it are true.

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