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**IN THE MATTER OF SPOKANE POLICE DEPARTMENT
RESIGNATION OF CHIEF FRANK STRAUB**

INTERVIEW OF

MIKE FAGAN

TAKEN ON

**WEDNESDAY, MARCH 23, 2016
12:49 P.M.**

SPOKANE COUNTY

**1116 WEST BROADWAY AVENUE
SPOKANE, WASHINGTON 99260**

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1 INTERVIEW OF

2 MIKE FAGAN

3 TAKEN ON

4 WEDNESDAY, MARCH 23, 2016

5 12:49 P.M.

6
7 THE REPORTER: The time is now 12:49 p.m., and we
8 are on record.

9 MS. CAPPEL: And today's date is March 23rd, 2016.
10 My name is Chris Cappel. I'm with the Seabold Group. And
11 we have been retained by the city of Spokane to conduct an
12 investigation about several issues related to the departure
13 of former Chief Frank Straub. Today's interview is with
14 Mike Fagan, a council member.

15 And, Mike, before we get started, I'll tell you
16 what I tell everyone about how I perceive my role in this.
17 I'm a lawyer, but I don't do this work as a lawyer, so I
18 haven't been hired by the city or retained to give legal
19 advice, which I won't be doing. My role will be just as a
20 factfinder to make findings on the issues that have been
21 authorized as within the scope of my work.

22 The other thing I make sure and tell everyone,
23 although I don't need to tell you this, but because of the
24 great public interest in the work I'm doing, it's a
25 certainty that the transcripts of the interviews that I'm

1 conducting are going to be requested either through a public
2 records request or through litigation that's already been
3 filed. So I want to make sure everybody is completely in
4 tune with that fact as well. Any questions of me before we
5 get started?

6 **MR. FAGAN:** No.

7 **MS. CAPPEL:** Okay.

8 **MR. FAGAN:** No questions at this point, and just
9 for the record you do have my permission to record and
10 transcribe and whatever you need to do.

11 **MS. CAPPEL:** Thank you for reminding that I --
12 that I said I would ask you for permission. So let me start
13 by asking how long have you been on the city council?

14 **MR. FAGAN:** I am in my -- the first year of my
15 second term.

16 **MS. CAPPEL:** Okay. And they're four-year terms;
17 right?

18 **MR. FAGAN:** Yes, ma'am.

19 **MS. CAPPEL:** What I've put in front of you is the
20 scope document, which lists the areas that I've been asked
21 to look into, and I'm just going to go down that document.

22 **MR. FAGAN:** Yes, ma'am.

23 **MS. CAPPEL:** The first one that I want to ask you
24 about is how you learned that Frank Straub would be leaving
25 the city of Spokane.

1 **MR. FAGAN:** Initially, it was through an executive
2 session, which obviously the city council majority voted to
3 remove or provide for a waiver. And it was during that
4 executive session that I learned that there was going to be
5 a request for resignation put forth to the former chief.

6 **MS. CAPPEL:** And before that executive session,
7 had you learned from any other source that the mayor was
8 going to ask the -- the chief for his resignation?

9 **MR. FAGAN:** You know, there was obviously rumors
10 floating around, et cetera, but until such time that you
11 actually are told face to face, you know how rumors are.

12 **MS. CAPPEL:** Right. And are you comfortable
13 discussing what was discussed in the executive session, or
14 would you --

15 **MR. FAGAN:** Well, sure.

16 **MS. CAPPEL:** Okay. So what did the mayor say to
17 the city council about his plans?

18 **MR. FAGAN:** Well, again, bear in mind that this
19 was some time ago, and to be real, real frank with you, for
20 any one of us that was in that room, aside from those that
21 were making the report to the council, for any one of us to
22 actually sit down and have solidified their mind, at least
23 in my opinion, that they remember things word for word is
24 full of it.

25 You know, a lot of the people that I deal with

1 have a rough time remembering what they had for breakfast
2 yesterday. So if you were to ask me specifically what was
3 said, I'm not going to be able to quote word for word
4 exactly what was said.

5 But to the best of my knowledge, what I do recall
6 being conveyed to the council at that point is that there
7 were some issues with the command staff, and the command
8 staff had basically, to summarize, had a problem with the
9 former chief's leadership style, so much so that it was
10 going to cause a request for resignation.

11 And that's pretty much the gist of what I do
12 recall. Now, was there anything specific said about Monique
13 Cotton? I do not specifically remember. What I can tell
14 you is that -- and again, I'm just reflecting on me and my
15 own personal feelings, my own personal worldview based on my
16 experiences also -- when we do tend to have these executive
17 sessions, one of the first reactions that I -- and I'm sure
18 that that sentiment may very well be shared amongst my
19 colleagues -- is, oh, God, what now?

20 The first thing that happens is you tend to
21 mentally recoil, getting ready for some kind of shock. And
22 believe me, over the course of the first four-year term that
23 I had, we were made privy to some pretty interesting, if not
24 borderline, shocking things that have occurred.

25 **MS. CAPPEL:** In the city?

1 **MR. FAGAN:** In the city. For fear of breaching
2 another executive session, apparently this is not -- I mean,
3 where we are at now at this point in time, knowing because
4 of the media coverage about Monique Cotton's involvement or
5 possible involvement, I would say that this is not the first
6 time that something like this has come up in the past.

7 **MS. CAPPEL:** Meaning the mayor's giving you
8 information as a council that is shocking to you and your
9 colleagues.

10 **MR. FAGAN:** Yes.

11 **MS. CAPPEL:** Who else besides the mayor was
12 present in that executive council meeting that we're talking
13 about?

14 **MR. FAGAN:** Again, just based on memory -- and
15 frankly, I couldn't tell you when specifically we had this
16 executive session. I'm thinking it was sometime in
17 September of last year. It could have been earlier. I
18 couldn't tell you. From what I recall, it was the mayor, it
19 was the city administrator Theresa Sanders, and I believe
20 that that may have been it. Now, Nancy Isserlis could have
21 been there, but I don't recall specifically.

22 **MS. CAPPEL:** Do you remember if all the council
23 members were present for that particular session?

24 **MR. FAGAN:** To my knowledge, they were. The
25 council as it was made up of at that time.

1 **MS. CAPPEL:** Right.

2 **MR. FAGAN:** That would have included Jon Snyder,
3 who's former, and Mike Allen, who's former.

4 **MS. CAPPEL:** And is it typical for the mayor to
5 discuss personnel matters in executive session with the
6 council?

7 **MR. FAGAN:** Again, without disclosing previous
8 experiences, I've heard more shocking information being
9 conveyed by the mayor to the council.

10 **MS. CAPPEL:** And how did he introduce the subject
11 of Chief Straub, to the best of your recollection, about
12 what he was planning to do?

13 **MR. FAGAN:** Well, again, based on what I recall,
14 it was a generalized briefing up front, you know, something
15 to the effect of, you know, information has come to the
16 mayor's office with regard to concerns by senior command
17 staff about leadership or lack of leadership capability and
18 a negative leadership style which, obviously, was going to
19 drive the request for resignation.

20 **MS. CAPPEL:** Do you recall whether he showed or
21 handed any documents out at that particular council session?

22 **MR. FAGAN:** To the best of my recollection, it was
23 a verbal briefing only. I do not recall seeing any
24 documents, although there are occasions in executive session
25 where documents are handed off for a quick glean and then

1 returned back to the presenter before we finish up with the
2 -- the session.

3 **MS. CAPPEL:** But in this particular executive
4 session, you don't have a recollection that he handed those
5 --

6 **MR. FAGAN:** No.

7 **MS. CAPPEL:** -- handed documents out and took them
8 back.

9 **MR. FAGAN:** No, I do not.

10 **MS. CAPPEL:** Do you recall if the mayor shared
11 what his plan was, what his next steps were going to be?

12 **MR. FAGAN:** From what I recall -- again, the best
13 of my recollection -- I believe that what the mayor stated
14 was that he was going to the very next day make the approach
15 first thing in the morning to the police chief.

16 **MS. CAPPEL:** Do you remember learning that he had
17 already talked to the police chief before he met with the
18 council? Do you have any recollection of that discussion?

19 **MR. FAGAN:** Not specifically, but if I was in the
20 mayor's position, I probably would have had a conversation
21 with the former chief.

22 **MS. CAPPEL:** What was your take-away from the
23 option that the mayor was presenting Chief Straub?

24 **MR. FAGAN:** Well, again, based upon the leadership
25 issues that the mayor ended up citing predominantly

1 throughout that executive session, that the resignation was
2 going to be requested based upon the negative leadership
3 styles, the big concerns that the senior staff had at the
4 time.

5 And, you know, funny thing, because it's, like,
6 the very next day, if not the day after -- again, if memory
7 serves me correct -- media coverage splashed all over the
8 front page about now we're inserting Monique Cotton into
9 this, and we're talking about potential for sexual
10 harassment, et cetera.

11 **MS. CAPPEL:** And I think you mentioned you don't
12 have any recollection that Monique Cotton came up as a topic
13 when the mayor was saying he was going to ask for the
14 chief's resignation during that executive session?

15 **MR. FAGAN:** I do not specifically recall. Now,
16 there could have been some mention of it, but again, from
17 what I remember, the statements were predominantly geared
18 towards the negative leadership style and leadership
19 concerns by the senior command staff.

20 **MS. CAPPEL:** And do you recall whether the mayor
21 said he had done any kind of investigation of those concerns
22 raised by his senior -- by the chief's senior command staff?

23 **MR. FAGAN:** I do believe that there may have been
24 some comments provided with regard to the possibility of an
25 HR investigation. To what extent I do not recall the

1 detail.

2 **MS. CAPPEL:** Okay.

3 **MR. FAGAN:** But again, putting myself in the shoes
4 of the mayor, I think that it would have been appropriate to
5 have HR or some other organization investigate allegations
6 before, you know, coming before the council and making the
7 statement, specifically, we are going to be asking him for
8 his resignation. So I'm sure that there may have been
9 mention of that. I mean, there had to have been.

10 **MS. CAPPEL:** Mention of the fact the mayor had
11 done something.

12 **MR. FAGAN:** Had done some type of -- yeah, that
13 there had been some type of a background inquiry that was
14 done, because I -- I surely wouldn't think that he'd be
15 shooting from the hip.

16 **MS. CAPPEL:** And do you recall any discussion at
17 this executive session about what the mayor would do if
18 Straub refused to resign?

19 **MR. FAGAN:** You know, I do believe that a question
20 was raised, but I do not recall what his specific response
21 was. You know how us politicians can get sometimes. I
22 mean, we can talk -- talk about nothing forever. And I'm
23 not saying that that is what happened, but what I am saying
24 is if it was significant or remarkable enough, it probably
25 would have stuck.

1 **MS. CAPPEL:** Okay. And so what is the next thing
2 you learn about the mayor's decision to ask Chief Straub to
3 resign?

4 **MR. FAGAN:** Well, the next thing that I recall,
5 again, when this thing got splashed out all over the media,
6 and, you know, that would include the likes of talk radio
7 and things like this, again, I -- I don't recall anything
8 that was extraordinary, you know, very, very significant,
9 remarkable.

10 You know, I think that when -- when we went into
11 the executive session -- and again, I'm just speaking on
12 behalf of myself, you know, there is a part of you that --
13 that gets a little guarded, you know. It's like I said,
14 that little -- that psychological recoil that one ends up
15 developing when you're just getting ready to hear some nasty
16 news.

17 And because this was an executive session that was
18 being briefed by the mayor, then, you know, automatically
19 you know it's going to be something pretty significant. You
20 know, we've been through many, many executive sessions in
21 the past, and when we've got city legal briefing it, some
22 other staff member briefing it, it's, you know,
23 psychologically and physically, you're a little bit more
24 settled, a little bit more relaxed.

25 But I'll tell you it was kind of shocking as well

1 as surprising to, like I say, 24, 48 hours later, everything
2 was splashed out on the paper. Here comes allegations of
3 sexual harassment. Here comes the allegations of multiple
4 affairs and things to that effect that -- that were, you
5 know, ongoing.

6 **MS. CAPPEL:** And before it got splashed in the
7 media, had you been informed in any way, shape or form that
8 Monique had made any kind of harassment claim against Frank
9 Straub?

10 **MR. FAGAN:** I do not specifically recall.

11 **MS. CAPPEL:** That that came up?

12 **MR. FAGAN:** Yeah. You know, there was obvious
13 speculation out there in the media world, speculation on
14 talk radio, but up to that particular point, I don't think
15 that there was anything official in a release from the city
16 that mentioned anything like that. So again, it was all
17 speculation.

18 **MS. CAPPEL:** So there was speculation about
19 Monique filing a sexual harassment claim even before the
20 mayor asked Straub to resign?

21 **MR. FAGAN:** You know, again, I don't even remember
22 what we had for breakfast the other day. I would tend to
23 think that, yes, there could very well have been some
24 speculation several days prior. But again, you know, that's
25 -- that's the media taking possession of rumors.

1 **MS. CAPPEL:** Had you been approached by the media
2 before you learned that Straub was --

3 **MR. FAGAN:** -- going to be asked to resign? No.

4 **MS. CAPPEL:** There was a press conference and a
5 press release on September 22nd, 2015.

6 **MR. FAGAN:** Okay.

7 **MS. CAPPEL:** And the mayor and Ben Stuckart
8 attended the press conference. Were you told in advance
9 that those two things were going to happen?

10 **MR. FAGAN:** I do believe, yes, there was at least
11 an email notification. There may have -- I may have seen a
12 press release that came out of Coddington's office making
13 the announcement.

14 But, you know, on the flip side, let's also
15 understand that considering the fact that I'm the lone
16 conservative on the council, and I'm not by any means making
17 the claim that I am in a hostile work environment, but if
18 you can just imagine, we're not as cordial as I think we
19 should probably be.

20 You know, I'd be lucky to get a "good morning,
21 Mike", "see you tomorrow, Mike". But it just so happens
22 that, you know, that's the nature of the environment right
23 now. So unless council members specifically want something
24 from me, I'm not part of the club.

25 **MS. CAPPEL:** So safe to say you had no role in

1 drafting the press release --

2 **MR. FAGAN:** No.

3 **MS. CAPPEL:** -- or negotiating whatever kind of
4 terms the mayor reached with Frank Straub.

5 **MR. FAGAN:** No. Although I did take an active
6 role through commentary to my colleagues, as well as
7 comments in the media, with regard to several things that
8 occurred well after -- i.e., the original scope of
9 investigation letter.

10 There were three issues I had with that scope of
11 investigation. First and foremost, the letter, when it
12 initially was issued and the council was voting on -- that
13 would be the first scope letter -- the letter characterized
14 --

15 **MS. CAPPEL:** This one? Or was it -- was it
16 different?

17 **MR. FAGAN:** No. It was different.

18 **MS. CAPPEL:** Okay.

19 **MR. FAGAN:** Yeah. That would be -- that would be
20 the -- the final scope of investigation. First scope of
21 investigation characterized former Chief Straub's leaving as
22 termination, and used that specific word. And I said, no,
23 no, no, no. At no time have we seen the word "termination"
24 or "fired". It was always either a resignation or a forced
25 resignation.

1 Now, you know, when we're talking about the latter
2 of the two words, okay. Forced resignation -- some people
3 would just automatically associate that to a firing. But
4 those are the two words that were utilized prior to that
5 letter, yet the latter characterized termination, as it
6 were.

7 The other thing that really kind of grabbed my
8 attention there was we were now characterizing the activity
9 between the former chief and Monique Cotton as a sexual
10 assault. No, no, no, no, no, no. At no time in the media
11 that I had seen, at no time in any discussion that I was
12 involved in, were we characterizing this as an assault. It
13 was a harassment, up to that particular point.

14 **MS. CAPPEL:** An allegation of harassment.

15 **MR. FAGAN:** That is correct. And that's the way
16 the media portrayed it up to that particular point, and I I
17 agreed. Now, obviously, where there is contact, that's
18 battery. And battery in my mind is assault. But in the
19 employment world, it's a little bit different. And it -- it
20 basically boils down to harassment, again, in my mind, my --
21 my worldview.

22 The third thing and third reason why I didn't
23 support that original scope is the minute I got a copy of
24 that letter, I had walked it over to the mayor's office and
25 put it under the mayor's nose and said, look, did you agree

1 on this? Because everything that I'm seeing says this is
2 mutually agreed upon. And he obviously didn't -- wasn't
3 part of that mutual agreement, at least for that initial
4 letter.

5 So, you know, I was the lone vote against the
6 scope of the investigation at that point, from what I
7 recall. Of course, the subsequent letter came out and, you
8 know, based upon that, I was feeling a little bit more
9 comfortable, a little bit more aligned with what, you now, I
10 think -- I thought the council was -- was after. And -- and
11 I do believe that I supported the second iteration of that.

12 **MS. CAPPEL:** Okay. So on the -- the leadership
13 issues that Mayor Condon was addressing, in whatever detail
14 he was addressing them with the council during that
15 executive session, before that session, had those types of
16 issues come to your attention, where senior command staff
17 had the -- the concerns they were sharing with the mayor
18 about Chief Straub?

19 **MR. FAGAN:** As it pertained specific to former
20 Chief Straub, I do not recall specifically anything being
21 discussed prior to the executive session, i.e., we got
22 problems with the chief, and we're getting complaints from
23 senior staff. They've got issues with his leadership style.

24 There very well may have been some additional
25 statements made or commentary made by the mayor or maybe

1 even Theresa Sanders to the -- you know, some specific
2 things like, you know, berating a junior staff member, a
3 junior command staff member, cussing during meetings, things
4 like this.

5 **MS. CAPPEL:** I'll tell you the date of that
6 executive session. It was -- it was September 21st --

7 **MR. FAGAN:** All right.

8 **MS. CAPPEL:** -- just to eliminate the mystery.
9 But before September 21st, you don't recall hearing that
10 people were complaining about Chief Straub's leadership.

11 **MR. FAGAN:** No.

12 **MS. CAPPEL:** Or that there were serious issues in
13 the department among his senior staff.

14 **MR. FAGAN:** Not from city officials. No. You
15 know, but again, I mean, considering the media circus that
16 surrounds this whole thing, it is possible that -- and I'm
17 talking about KXLY, a show specifically; that'll be Rick
18 Rydell's show from 2 to 4 --

19 **MS. CAPPEL:** Is that television or radio?

20 **MR. FAGAN:** That's radio. It's KXLY radio.

21 You know, I may have been traveling through the
22 district. I happened to be listening to the show, and I do
23 believe that there was a caller that may have thrown the
24 Monique Cotton allegation out there on the air. But that
25 was being verbally resisted by the talk show host, because

1 it was just nothing but innuendo at that time.

2 And I think the -- the comment specifically was
3 that the chief and Monique were having an affair, and that
4 led to Monique's subsequent divorce from Dave Cotton. Okay?

5 **MS. CAPPEL:** Okay.

6 **MR. FAGAN:** And again, the way the talk show host
7 kind of played off -- played that off was, look, that's what
8 you may know and that's what you may feel, but, you know,
9 until something a little bit more concrete than your word on
10 the air happens to rear its ugly head, then we'll just have
11 to consider rumor control at this point.

12 **MS. CAPPEL:** Okay. So Chief Straub took over in
13 October of 2012. And within a year, I think, he had
14 promoted several people to new director positions. And I'll
15 throw the names out. He promoted Craig Meidl. He promoted
16 Brad Arleth. He promoted Joe Walker. He also promoted
17 Monique.

18 **MR. FAGAN:** Correct. And what ended up happening,
19 aside from Monique, as I understand, that those senior
20 police officers, and again, what we were told, and I
21 specifically remember this, is due to lack of time spent
22 with family and private life.

23 The likes of Arleth and Meidl and whomever else in
24 the command staff that did get promoted to senior command
25 staff ended up not resigning, but resigned their command

1 staff position due to lack of time with family and stuff
2 like that.

3 **MS. CAPPEL:** And who's delivering that message?
4 Who's saying it was a lack of time with family?

5 **MR. FAGAN:** Oh, boy. You know, I heard it from
6 from several different sources, and who specifically they
7 were I -- I couldn't -- couldn't tell you off the top of my
8 head.

9 **MS. CAPPEL:** Do you remember ever hearing it
10 directly from the individuals who were self-demoting?

11 **MR. FAGAN:** No.

12 **MS. CAPPEL:** For instance, Meidl, Walker?

13 **MR. FAGAN:** You know, aside from the media
14 coverage that was there, I do believe that I may have
15 gleaned an article where, you know, Assistant Chief Meidl
16 may have made that statement.

17 **MS. CAPPEL:** But not to you personally.

18 **MR. FAGAN:** Not to me personally. So, you know,
19 as far as I know, whoever it was that the chief originally
20 brought on or initially brought on his command staff ended
21 up changing their minds due to the time commitment that was
22 going to be involved, the lack of, you know, opportunity to
23 be with family, et cetera. That's the narrative that --
24 that -- that we got. And, you know, that perfectly --
25 perfectly justified, in my mind.

1 **MS. CAPPEL:** So it didn't raise any red flags for
2 you, because it made sense.

3 **MR. FAGAN:** No. It made sense. And then, you
4 know, a little bit later on, we brought on a couple of
5 civilians. That would have been Tim Schwering, you know,
6 again, bringing guys in from outside of the department to
7 fill those particular roles that Arleth and Meidl and maybe
8 a couple of others had held that, you know, ended up
9 declining after a while, that they couldn't deal with the
10 time commitment.

11 So there was no red flags. I mean, it just looked
12 as though -- it looked as though the chief may have scoured
13 the rest of the department first and then made the decision
14 that, you know, there wasn't going to be a uniform that
15 would be able to assist him in the assistant chief's spot,
16 so he undershot that square.

17 **MS. CAPPEL:** And one of the other things that's
18 come to my attention is that there was quite a bit of
19 organizational change and shifting, that the chief became
20 notorious for redoing his org charts on a fairly regular
21 basis.

22 **MR. FAGAN:** Yeah. Well, you know --

23 **MS. CAPPEL:** Did that come to the council's
24 attention? And did that raise any red flags, if yes?

25 **MR. FAGAN:** It didn't raise any red flags. We --

1 well, I was of the impression since, you know, I'm the only
2 one on the council that's a veteran, so I've had, you know,
3 a whole life and part of my adult professional life in
4 military regimentation, been involved in change agent
5 actions in the past, so, you know, I was -- I looked at it
6 from the standpoint that, you know, the -- the chief -- the
7 mayor puts responsibility and expectations on the chief.

8 You know, back then there were several
9 longstanding issues that I'm sure the chief was brought into
10 the organization to try to address. That would be, you
11 know, our issue with the lack of response on property
12 crimes.

13 We are now wanting to seriously get into the
14 neighborhood level of the COPS program, where we actually
15 had police officers that were out, in essence, walking the
16 beat in the neighborhoods, maybe -- definitely, in the
17 business corridors that we had.

18 We had a culture, a culture with the Police
19 Department, a longstanding negative culture with the Police
20 Department, that needed to be addressed. You know, I've
21 known about this culture. I have seen this culture myself,
22 going all the way back to the mid '70s.

23 My father happened to be a police officer in
24 Spokane, but was with General Service Administration and,
25 you know, the feds. Yeah. Him and his associates used to

1 go down to the guild and try to, you know, become associates
2 of police back then -- that was mid '70s through the '80s --
3 and, you know, to no avail.

4 **MS. CAPPEL:** So this change, moving the pieces in
5 the org chart, didn't strike you as odd, because it was the
6 chief trying to meet expectations --

7 **MR. FAGAN:** That is correct.

8 **MS. CAPPEL:** -- and create his own organization.

9 **MR. FAGAN:** That is correct.

10 **MS. CAPPEL:** Okay.

11 **MR. FAGAN:** That is correct.

12 **MS. CAPPEL:** Do you remember any concerns or
13 issues around how his budget and how he was spending money -
14 - did that come up as a concern?

15 **MR. FAGAN:** The council, or I should say the
16 councils, because this goes back a while -- we have always
17 had concerns with regard to at least overtime. So overtime
18 had -- had been a big issue. I mean, it had been brought up
19 and discussed several times during our first terms.

20 We haven't quite had that opportunity yet, since
21 we are just into the first quarter of, you know, what is now
22 our second terms, for those of us that did get re-elected.
23 And we haven't had an opportunity yet to discuss and dive
24 into, although, you know, the Police Department is well
25 aware that several of us council members are keeping an eye

1 on overtime costs and what's going on there. Go ahead.

2 **MS. CAPPEL:** Are you familiar with Carly
3 Cortright?

4 **MR. FAGAN:** Yes. Yes.

5 **MS. CAPPEL:** And what do you know about Carly?

6 **MR. FAGAN:** Well, interesting thing, because, you
7 know, Carly had been one of the prime representatives from
8 the Police Department to the council when it came time to
9 briefing programs and things to that effect.

10 She was -- I I would say that she was probably the
11 lead presenter on, you know, all things Police Department
12 related unless, of course, it was something that obviously
13 the chief or the assistance chief needed to deal with.

14 She was the one that dealt with budget, dealt with
15 contracting, purchase orders, special events. And, you
16 know, as such, we ended up getting those briefs.

17 **MS. CAPPEL:** So she's making the -- the
18 appearances at council meetings and briefing the council on
19 these various things.

20 **MR. FAGAN:** Exactly.

21 **MS. CAPPEL:** Was the chief usually present?

22 **MR. FAGAN:** I've seen it both ways, where he was
23 there at times and where he wasn't. But again, you know,
24 when you're briefing contract renewals and things like this
25 in the afternoon session, I don't think it was appropriate

1 to have the chief there. Basically, it would be a waste of
2 his time.

3 **MS. CAPPEL:** Okay.

4 **MR. FAGAN:** Now, was there a red flag in my mind
5 when Carly left the Police Department and came over to the
6 city? No. But knowing what we know now, there probably
7 should have been.

8 **MS. CAPPEL:** But at the time it didn't cause any

9 **MR. FAGAN:** No. No.

10 **MS. CAPPEL:** -- discussion or --

11 **MR. FAGAN:** And, you know, I would like to think
12 that I'm very approachable. I've had other city staff,
13 other city employees at all levels approach me for personnel
14 issues and personal issues. And I've advocated on behalf of
15 those, you know, those employees, have had -- got an
16 excellent batting record at getting administration to look
17 at policy, maybe effect a change here and there, and stuff
18 like this.

19 **MS. CAPPEL:** While you're on that subject, just
20 not to go too far astray, but --

21 **MR. FAGAN:** Sure.

22 **MS. CAPPEL:** -- has that included the city's
23 policies on how to respond to employee complaints? Has that
24 been area that people have come to you with concerns about
25 and that you've gone to the city with suggestions or

1 recommendations?

2 **MR. FAGAN:** Yes. But to be real frank with you,
3 real straight up here, I have never sat down and actually
4 taken a look at harassment complaint policies and things to
5 that effect. But, yes, I have had occasion. I was right in
6 the middle of the great, big ombudsman blow-up, you know,
7 the Rachel Dolezal thing.

8 Just so happened that the District 1 ombudsman
9 commissioner, after having or making the attempt to deal on
10 his own level, couldn't do it anymore. So one of the things
11 that he did was he reached out to my seatmate, Amber
12 Waldref, and I.

13 And between the two of us, I was the one that
14 stepped up, gave him the time, listened to what he had to
15 say, and then facilitated meetings with him and the mayor,
16 you know, at which particular point, some semblance of an
17 investigation occurred. I do believe that there was even an
18 opportunity or occasion for Heather Lowe, Scott Richter and
19 I to actually sit down at Heather's desk to bring some of
20 this up.

21 **MS. CAPPEL:** Okay.

22 **MR. FAGAN:** But Heather did make it a point to
23 advise me of the clear delineation of where, you know, how
24 far should I go and then stop and stand by. And then,
25 obviously, HR department would take over at that particular

1 point and deal.

2 I've had occasion to do that with Heather twice, I
3 believe. The second time I do not believe that there was an
4 internal investigation, if you will, but there were several
5 women in our -- in the council office who got tired of
6 hearing the barracks talk that was going on amongst the male
7 legislative assistants.

8 And the way it was reported to me, it was not
9 pretty. There was very frequent F-bombs, things like that,
10 that were being, you know, uttered over the partition walls.

11 **MS. CAPPEL:** Right.

12 **MR. FAGAN:** And the ladies were pretty much
13 getting fed up with it. And one of the ladies happened to
14 be a former legislative assistant of mine, Sheryl McGrath,
15 as well as our budget analyst, Debra Robole. So Sheryl
16 McGrath and I made it a point to sit down with Heather,
17 apprised Heather of what was going on at that particular
18 point.

19 And, you know, the question was posed. And that
20 is, do you want to move forward with an internal
21 investigation, or do you want us to just from the outskirts
22 kind of keep a finger on the pulse and monitor it? And in
23 the event that you folks want to -- you feel as though you
24 want to move forward with a complaint, then let's go ahead
25 and rock and roll.

1 But in that particular case with the, you know,
2 the internal discussions that other people were having in
3 the council office, if memory serves me correct, the
4 decision was made to let's just take a step back and monitor
5 it a little bit and see what happens.

6 **MS. CAPPEL:** So was there any kind of
7 investigation of those females' claims?

8 **MR. FAGAN:** Not that I'm aware of.

9 **MS. CAPPEL:** Did the behavior continue?

10 **MR. FAGAN:** No, it did not.

11 **MS. CAPPEL:** And what do you think happened to
12 address and stop the behavior that was being complained of?

13 **MR. FAGAN:** It may have been -- who knows? Maybe
14 Heather had a talk with the council president offline. I
15 don't know.

16 **MS. CAPPEL:** Okay.

17 **MR. FAGAN:** But I had -- did have occasion
18 multiple times to check back in with both Sheryl as well as
19 Debra, just to make sure that they were okay and that they
20 were feeling fine, and are there changes, is it happening
21 still, you know?

22 **MS. CAPPEL:** And what did you hear from them?

23 **MR. FAGAN:** And I heard that things were getting
24 better.

25 **MS. CAPPEL:** And -- but when you were sitting with

1 staff and Heather, Heather gave the individuals the option
2 of going forward --

3 **MR. FAGAN:** With this.

4 **MS. CAPPEL:** -- or dealing with it in a different
5 way.

6 **MR. FAGAN:** Yeah. That's correct.

7 **MS. CAPPEL:** Did you have any problem with how
8 Heather handled that?

9 **MR. FAGAN:** No. Not at all. Not at all. And
10 again, I mean, through all of this, I'll tell you again just
11 for the record, I haven't sat down and studied the employee
12 manual. I haven't sat down and looked specifically at the
13 policies that we have with regard to, you know, sexual
14 harassment complaints, how are they handled, you know, do we
15 leave it -- you know, is it in the policy?

16 Do we leave it up to the complainant to, you know, hit
17 that switch and go from a red light to a green light and
18 let's move forward with an investigation?

19 But again, judging by the two incidents that I
20 brought to the administration's attention, i.e., the issue
21 with the ladies in the office, things ended up getting
22 better, and we did not have to lodge an official complaint
23 and move it forward with any kind of internal investigation.
24 So that worked out well.

25 And then, obviously, with the issue with the

1 ombudsman commission, you know, that was a little bit
2 different -- little bit different from the standpoint that
3 there, you know, the mayor was aware, because one of the
4 people being harassed happened to be a female staff who was
5 attached to the ombudsman commission as the secretary and
6 clerk.

7 **MS. CAPPEL:** And she was the one making the
8 harassment complaint?

9 **MR. FAGAN:** Yes. Yes. She did bring a harassment
10 complaint, from what I understand, to the attention of HR,
11 and it was investigated. And at the same time all of this
12 was coming together, I was dealing on behalf of Scott
13 Richter, one of the commissioners, bringing his issues and
14 his experiences to the administration's attention. So
15 everything just kind of converged, for the most part, all at
16 the same time. And --

17 **MS. CAPPEL:** Do you know if the investigation
18 encompassed both people's issues?

19 **MR. FAGAN:** I would have to assume so. I wasn't
20 an active part of the investigation. I basically was there
21 dealing with a constituent issue, who happened to have a
22 little bit of higher stature than a regular street
23 constituent, because they have to be serving on a volunteer
24 board and commission. But the interface that I had with the
25 mayor's office on that was -- was what I would have

1 expected.

2 **MS. CAPPEL:** So safe to say you were happy with
3 how they responded to your concerns?

4 **MR. FAGAN:** Oh, yes.

5 **MS. CAPPEL:** Okay.

6 **MR. FAGAN:** Oh, yes.

7 **MS. CAPPEL:** So back to Carly Cortright, she
8 transferred in October of 2013 from Police to city hall
9 under Office of Neighborhood Services, loosely speaking.

10 **MR. FAGAN:** Right.

11 **MS. CAPPEL:** And you said at the time, you knew
12 that was happening?

13 **MR. FAGAN:** Well, we saw what had happened after
14 the fact. I didn't personally approach Carly and -- and ask
15 her why. She did not -- she was not forthcoming, at least
16 to me.

17 **MS. CAPPEL:** Okay.

18 **MR. FAGAN:** And since she ended up making that
19 move and there wasn't anything in the media that, you know,
20 that I recall seeing, there really wasn't any reason to be
21 suspicious.

22 **MS. CAPPEL:** Okay. At the time she made the
23 transfer, did it come to your attention that the police
24 continued to pay her salary for I think what ended up being
25 18 months? Did that come up as a topic?

1 **MR. FAGAN:** Not when it happened, I don't recall.
2 You know, again, all of this is after the fact as a result
3 of PRRs over the last quarter or two, things like that.
4 And, you know, the same thing was the case with Monique when
5 she ended up getting transferred to Parks.

6 **MS. CAPPEL:** Did you learn about it at the time?

7 **MR. FAGAN:** I think it was after the fact. And
8 then, of course, you know, there were a couple of council
9 members who were concerned about that, if I recall. In a
10 public safety meeting, they may have asked the chief a
11 question or two. But again, the answer was insignificant,
12 unremarkable, or -- or else I probably would have remembered
13 it.

14 And, you know, if memory serves me correct, I do
15 believe that part of the answer that the chief gave at that
16 particular point was it was a temporary -- temporary budget
17 move. And what I mean by budget move was that the SPD would
18 continue to pay her salary temporarily, after she ended up
19 going to the Parks Department as the spokesperson over
20 there.

21 **MS. CAPPEL:** Okay. But again, no red flags about
22 that transaction or that transfer at the time it was
23 happening.

24 **MR. FAGAN:** No. No. And, you know, looking back
25 on it, it -- it is a little bit surprising to me, because a

1 couple of our -- a couple of my colleagues really made it a
2 big, big issue with regard to what the city does with some
3 of its personnel.

4 For instance, a big issue with regard to the
5 amount of exempt positions that the mayor had at his
6 disposal. Same thing would be true with the exempt
7 positions in the various divisions, as we now call them.
8 They used to be departments, but now that we're calling them
9 divisions, you know, that allows for more political
10 appointees.

11 So that was a big concern of my colleagues -- so
12 much so that they've changed the policy such that every time
13 we do bring on an exempt employee or a political appointee
14 in, you know -- their words -- we need to have all of it.
15 We need to know. We need the new org chart. We need to
16 know the salary. We need to know if it's a national or
17 local or promote from within kind of situation. And they
18 want to know everything. But interesting enough, money was
19 never really a -- money was never really an issue.

20 **MS. CAPPEL:** You mean what the salary was going to
21 be, or how it was going to be funded?

22 **MR. FAGAN:** Yeah. Yeah. Both, really. You know,
23 it was more -- in my opinion it was more of protection
24 measure for civil service. These guys are way, way high up
25 in the charts when it comes to civil service and what civil

1 service does and what they have done. Same thing with their
2 union supporters, you know.

3 **MS. CAPPEL:** So how long has this been where the -
4 - some of the members of the council have taken a heightened
5 interest in the mayor's appointments and hiring practices?

6 **MR. FAGAN:** Oh, at least a year.

7 **MS. CAPPEL:** So before the Monique Cotton --

8 **MR. FAGAN:** Oh, yeah.

9 **MS. CAPPEL:** -- stuff hit the press.

10 **MR. FAGAN:** Yeah. Yeah. Yeah. At least a year.

11 **MS. CAPPEL:** Okay.

12 **MR. FAGAN:** I mean, you'd have to go back and take
13 a look at when we ended up changing that policy or -- or
14 ordinance. See? There you go. If it's unremarkable or
15 insignificant, it's --

16 **MS. CAPPEL:** Right.

17 **MR. FAGAN:** -- it's very, very hard to -- to
18 retain. I mean, you're just saturated with information day
19 in, day out, and issues day in, day out, it's, you know.

20 **MS. CAPPEL:** So I think we've covered all the --
21 the issues that are within the scope. The last one we
22 haven't really talked about, but that's the city's policies
23 and procedures for responding to public records requests.
24 Do you have any concerns that the city's not handling that
25 correctly?

1 **MR. FAGAN:** Well, I think this is a -- this is a
2 concern that is shared by other council members. But there
3 has been at least one occasion where the council president
4 and I were relegated to the back of the line when it comes
5 to public records requests.

6 Again, dealing on behalf of a constituent who was
7 interested in some of the financials, some of the email
8 communications, et cetera, associated to the city's new
9 police precinct being proposed down at the Intermodal
10 Center, i.e., the Greyhound/Amtrack station house, you know,
11 the council president and I did make a specific request for
12 certain information there. But like I said --

13 **MS. CAPPEL:** Make a public records request?

14 **MR. FAGAN:** Yeah. Yeah. And the city basically
15 put us at the back of the line, just like everyday
16 constituents, and says, well, you know, you're going to have
17 to wait the allotted time that it takes to get that
18 information. And, okay, fine.

19 I mean, you know, I don't think just because I'm a
20 council member I'm privileged or anything to that effect
21 but, you know, there are certain members of the public that
22 seem to think that when the council says jump, everybody
23 says how high. And that's just not reality.

24 **MS. CAPPEL:** Did you eventually get the
25 information you were looking for?

1 **MR. FAGAN:** Yes. We did.

2 **MS. CAPPEL:** How about the public records requests
3 that have been made around the Straub/Cotton issues?

4 **MR. FAGAN:** Yeah.

5 **MS. CAPPEL:** Do you have any concern with how the
6 city is handling those?

7 **MR. FAGAN:** Well, you know, it's my understanding,
8 again, through media reports and, you know, on the street
9 type comments received, that it shouldn't have taken the
10 amount of time that it took for the city to actually release
11 a public records request.

12 You know, understanding that when we get
13 information as a council, we're not only learning about what
14 current backlog is and how long it's going to take to get
15 through that and, you know, the reasons associated as to why
16 it takes as long as it does -- i.e., lack of personnel; we
17 need to go out and start hiring -- but we're also getting
18 the same thing from the Police Department, you know.

19 For instance, the police body cameras. We've got
20 big PRR issues right there not only dealing with the high
21 cost of administering, managing and supporting it, but, you
22 know, issues on the state level with redaction and, you
23 know, what is it and who is it and when is it that we have
24 to deal?

25 You know, I know that when we came into office,

1 there was discussion with regard to public records requests,
2 both sides. I think a lot of the attention was more
3 attention was given to the police public records thing,
4 because we had a significant and remarkable amount of
5 backlog when we first came into office, so --

6 **MS. CAPPEL:** Where people had filed it with the
7 Police Department and the backlog was in the police
8 responding.

9 **MR. FAGAN:** Yes.

10 **MS. CAPPEL:** And then the -- the other side of the
11 house is the request that goes through the -- through the
12 city clerk's office.

13 **MR. FAGAN:** Correct.

14 **MS. CAPPEL:** And do you sense they have the same
15 kind of backlog that the Police Department has?

16 **MR. FAGAN:** All I can do is sense. You know,
17 we've had specific numbers shared by the Police Department,
18 you know, as they were setting up, you know, hiring new
19 clerks, aligning themselves with budget proposals and what
20 not in order to get that done.

21 But I'll tell you, you know, a lot of emphasis was
22 given to the Police Department and their backlog when we
23 initially came into office, because we couldn't even get a
24 police report to a complainant victim in a reasonable amount
25 of time that, you know, is expected by the insurance

1 industry, for instance, in order to settle claims.

2 We couldn't put copies of police reports on the
3 webpage, because there was a couple of years' backlog in
4 those kinds of requests. So, you know, I think a lot of
5 that focus was on the Police Department more than it was on
6 the city's -- the city side with public records requests.

7 You know, obviously, a couple of times through our
8 first term, you know, we've been given the education, if you
9 will, on Open Public Meetings Act, public records requests.
10 And, you know, I think a lot of us are -- a lot of us on the
11 council are -- while we may not be satisfied with the amount
12 of time that it takes, we do understand that there is a, you
13 know, there's a legal time period that everybody has to deal
14 with.

15 You know, and until such time that you surpass
16 that -- that legal time given, then you need to start
17 stomping your feet. Then it becomes a matter of squeaky
18 wheel, so.

19 **MS. CAPPEL:** Two things that are sort of key
20 issues within the work that I've been asked to do. One is
21 how the mayor handled Monique's request for confidentiality
22 when she came forward with her harassment complaint. Do you
23 have concerns with how he handled it at the time?

24 **MR. FAGAN:** Well, subsequent to the executive
25 session, from what I recall, again, the mayor's statement

1 was that -- and again, this is not word for word, but my
2 understanding in hearing it from the mayor himself -- was
3 the fact that, you know, the policy required an official
4 complaint to be made. And Monique Cotton was not
5 cooperating to the extent that she wanted to file an
6 official complaint.

7 So for the most part, his hands are somewhat tied.
8 And again, I have not looked at the policy. You know, I
9 want to wait until these investigations are done so that I
10 can read the investigation reports myself, and that I don't
11 have to rely on the media and anything else, for that
12 matter, that -- that had got covered by the media.

13 But, you know, I've heard the mayor state several
14 times that he's kind of stuck in a little bit of a pickle

15 **MS. CAPPEL:** Okay.

16 **MR. FAGAN:** -- because in one hand, he wants to do
17 right by the public, he wants to do right by the complainant
18 victim. But if the complainant victim is going to be
19 uncooperative, what is he going to do? What is he supposed
20 to do? I mean, if he doesn't have an official, written,
21 formal complaint, how is he supposed to take action on that?

22 **MS. CAPPEL:** Okay.

23 **MR. FAGAN:** No, go ahead.

24 Again, looking back in retrospect, could there
25 have been some things that got done? Yeah, probably. Have

1 I acted on innuendo and rumor control in the past in my
2 official capacity? Yeah. You bet. Has it benefited the
3 complainant victim that I was acting on behalf of? Yeah.
4 I'd have to tend to say that it has. But it has -- has it
5 been to the level as we are seeing now? No. Not really.

6 **MS. CAPPEL:** So what you're saying is you've acted
7 on concerns that were raised by someone without requiring
8 them to file an official complaint, filling out a form.

9 **MR. FAGAN:** That's correct.

10 **MS. CAPPEL:** And you were able to get some
11 satisfaction for them.

12 **MR. FAGAN:** Oh, yeah. Yeah.

13 **MS. CAPPEL:** One of the other primary issues is
14 the timing of the disclosure of certain documents that were
15 disclosed on November 24th, 2015.

16 **MR. FAGAN:** Right. And the allegations that we
17 purposely withheld the documents until the re-election
18 campaign was done.

19 **MS. CAPPEL:** Yes. Do you have any concerns about
20 that?

21 **MR. FAGAN:** Well, yes. Because the allegation was
22 made. But without knowing specifically what kind of backlog
23 that the city clerk was dealing with at that given time in
24 history, I -- I -- I really don't feel comfortable
25 rendering, you know, a comment.

1 I mean, I can give you my personal opinion, but it
2 would be driven by the innuendo that I hear in the office by
3 those that I think have a vested interest in the mayor going
4 bye-bye, you know.

5 **MS. CAPPEL:** So you don't have any independent
6 information on it.

7 **MR. FAGAN:** No. I don't have any independent
8 information. And frankly, you know, like I said, the staff
9 doesn't work for the council. Just because I'm a council
10 member, that doesn't make -- give me any more privileges
11 than you coming off the street. There may have been a
12 tremendous amount of backlog. I do know that, because we
13 see the requests at least weekly, if not every other day,
14 that this, that and the other person is -- is doing a PRR.

15 You know, and it's kind of like, you know, walking
16 into an executive session. You know, you're going to hear
17 some -- some interesting things. You're going to hear some
18 shocking things. And you just need to prepare for it.

19 Does that mean that you're -- you're mentally
20 prepared for it? No. Not necessarily. Are you physically
21 prepared for it? No. Not necessarily. But, you know, in
22 my mind, just because I'm a council member, that doesn't
23 give me any higher privilege than you as a constituent
24 making a request. So if I'm relegated to the back of the
25 line, well, that's just the way it is.

1 **MS. CAPPEL:** Okay.

2 **MR. FAGAN:** You know, others may feel differently
3 about it. You know, obviously, because others are
4 complaining about the release, whether it was deliberate I
5 don't know. I don't have any information that leads me to
6 believe one way or the other.

7 **MS. CAPPEL:** Okay. So now I have exhausted the
8 issues that are in the scope document. Is there anything
9 else that you were hoping to share or you were hoping to be
10 asked that I haven't asked you today?

11 **MR. FAGAN:** Well, you know, again, I'm by no means
12 making a claim that I work in a hostile work environment
13 but, you know, it could be a little bit more cordial than --
14 than it has been. I think that and again, this is just
15 personal feeling, being subjected to innuendo, knowing how
16 political our positions can tend to be -- it would not be
17 surprising if some of the driving force behind going after
18 the mayor that we're seeing from some of the council members
19 over here, is it more politically driven than anything else?

20 You know, a lot of the general public doesn't
21 quite understand how the charter reads. And pretty blunt,
22 the charter basically says if the mayor is not able to carry
23 on with his duties in office, then who moves up? The
24 council president moves up. Couldn't beat him at the ballot
25 box, but we can get him somewhere else. Again, that's just

1 a personal opinion.

2 **MS. CAPPEL:** Okay.

3 **MR. FAGAN:** It hasn't, to my knowledge, come up in
4 any public discussion. I can tell you that we do tend to
5 have our little secret meetings off to the side rooms a lot.
6 I can tell you that a lot of times these go out on the table
7 every time that we have an executive session. I'm making no
8 allegations, no insinuations. I'm just throwing in some
9 what ifs that I think that people who want to know need to,
10 you know, consider. You know, as much as I would like to
11 say we're nonpartisan, that's way, way far from the truth.

12 **MS. CAPPEL:** Okay. Anything else that you think
13 is important for me to know as I keep moving forward in this
14 investigation?

15 **MR. FAGAN:** Well, just know that, you know, we'll
16 cooperate any way that we possibly can.

17 **MS. CAPPEL:** Okay. I appreciate that. All right.
18 So I think we can go off the record.

19 **THE REPORTER:** The time is now 1:46 p.m. We are
20 off record. And, Counsel, you'll be ordering?

21 **MS. CAPPEL:** Yes.

22 **THE REPORTER:** Thank you.

23 **(WHEREUPON, the interview of Mike Fagan was**
24 **concluded at 1:46 p.m.)**

25

1 CERTIFICATE

2
3 I, Erin Evelyn Barnhill, do hereby certify
4 that I reported all proceedings adduced in the foregoing
5 matter and that the foregoing transcript pages constitutes
6 a full, true and accurate record of said proceedings to
7 the best of my ability.

8
9 I further certify that I am neither related
10 to counsel or any party to the proceedings nor have any
11 interest in the outcome of the proceedings.

12
13 IN WITNESS HEREOF, I have hereunto set my
14 hand this 1st day of April, 2016.

15
16 

17
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19 _____
Erin Evelyn Barnhill
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22
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1 CORRECTION SHEET

2 Transcript of: Mike Fagan Date: 03/23/16

3 Regarding: Frank Straub Resignation

4 Transcriber: Barnhill/Payne

5 _____

6 Please make all corrections, changes or clarifications
7 to your testimony on this sheet, showing page and line
8 number. If there are no changes, write "none" across
9 the page. Sign this sheet on the line provided.

10 Page Line Reason for Change

11 _____

12 _____

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DECLARATION

Transcript of: Mike Fagan Date: 03/23/16

Regarding: Frank Straub Resignation

Transcriber: Barnhill/Payne

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Page herein.

Signed at _____, _____

on the _____ day of _____, 2016.

Print Name _____

Signature _____

<u>1</u>	42:22	advise 26:23	14:17
1 26:8	Act 38:9	advocated	Amber 26:11
1:46 43:19	acted 40:1	25:14	among 18:13
43:24	40:6	affair 19:3	amongst
12:49 3:5 3:7	acting 40:3	affairs 13:4	6:18 27:6
18 31:25	action 39:21	afternoon	amount 33:5
<u>2</u>	actions 22:5	24:25	36:10
2 18:18	active 15:5	against	37:4
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2013 31:8	activity 16:8	agent 22:4	41:12
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40:15	5:22	agreed	announcement
2016 3:4 3:9	22:14	16:17 17:2	14:13
21st 18:6	26:3	agreement	answer
18:9	26:19 36:10	17:3	32:11 32:15
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23 3:4	17:24	27:24 39:23	anything 6:12
23rd 3:9	address 22:10	air 18:24	12:7
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24th 40:15	addressed	aligned 17:9	17:20 31:19
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4 18:18	addressing	37:19	42:8
48 13:1	17:13 17:14	allegation	42:19 43:12
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23:2	administratio	allegations	appearances
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